



COMMONS REGISTRATION ACT 1965

Reference No. 268/U/345

In the Matter of Bradley (or Braidley) Moors Bradley Bents  
High Pasture and Bradley Low Pasture (but excluding Cowside)  
Carlton Highdale

## DECISION

This reference relates to the question of the ownership of the land mentioned above being the part of the land comprised in the Land Section of Register Unit No. CL.78 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 Geoffrey Lambert 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 Richmond on 20th July 1990.

The hearing was attended by Mr J S Huntingdon of Scotts, Solicitors of Leyburn (representing Mr Geoffrey Lambert) and Mr Geoffrey Lambert and Mr William Lambert in person.

The land was registered as common land in consequence of a Rights application. There were formerly 9 entries in the Rights Section of the Register, all but one relating to grazing sheep and cattle. The exception was Entry No. 5 in the name of R H Chapman-Robinson in respect of sporting rights over the whole of the land comprised in the Register Unit. All these Rights (both grazing and sporting) have however been extinguished and the entries in the Rights Section deleted.

There is one entry in the Ownership Section - that of Dorothy Helena Clarke who is registered as owner of the part of the Register Unit known as Cowside. This registration was made following a previous ownership inquiry before Chief Commons Commissioner Mr George Squibb at Richmond on 21 July 1977.

Mr Huntingdon produced the originals of the following documents:-

22nd July 1968	Vesting Deed	(1) R H Whitehead (2) R G Freeman (3) R A Chapman-Robinson
31st December 1971	Conveyance	(1) R H Chapman-Robinson (2) R H Whitehead and E Willis (3) Geoffrey Lambert
27th October 1987	Conveyance	(1) R H Chapman-Robinson (2) R H Chapman-Robinson and H T Thornton-Berry (3) Geoffrey Lambert
18th December 1987	Statutory Declaration	William Lambert

The first of these deeds (that of 1968) was a vesting deed under a settlement of 1886 whereby substantial settled estates were vested in R H Chapman-Robinson as Tenant for Life. Part 9 of the schedule comprised Bradley Hall Farm "now in the occupation of Geoffrey Lambert" and 14 Cattlegaits "on Bradley Bents (which includes Bradley Low Pasture)" 27½ Cattlegaits on Bradley High Pasture and 32½ sheepgaits on Bradley Moor. Part 11 of the schedule comprised another farm at



Bradley and 7 Cattlegaits on Bradley Bents 13½ Cattlegaits on Bradley High Pasture and 16½ Sheepgaits on Bradley Moor. Adding the two parts together makes a total of 21 Cattlegaits on Bradley Bents (including Low Pasture) 41 Cattlegaits on High Pasture and 49 Sheepgaits on the Moor. These numbers correspond (with one small difference) with the rights registered in 1968 at Entries No. 4, 9 and 3 respectively in the Rights Section of the Register. The difference was that only 37 Cattlegaits were registered on High Pasture.

The next deed (that of 1971) is a Conveyance by R H Chapman-Robinson as Life Tenant and Messrs. Whitehead and Willis as Settled Land Act Trustees to Mr Geoffrey Lambert (the Claimant) of Bradley Hall Farm (of which he was already in occupation) together with the totality of the Cattlegaits and Sheepgaits referred to above.

Next comes the Conveyance of 27th October 1987 between R H Chapman-Robinson as Tenant for life, himself and another as Settled Land Act Trustees and Mr Geoffrey Lambert as purchaser. This deed was made supplemental to the 1971 Conveyance, and recites that immediately before the 1971 Conveyance R H Chapman-Robinson was seised of Braidley Moor Braidley Bents and Braidley High Pasture and full sporting rights thereover for an estate in fee simple, and that the 1971 Conveyance was intended to convey the freehold interest therein. These three pieces of land and the sporting rights thereover were then conveyed to Mr Geoffrey Lambert.

The 1987 Conveyance is wholly inconsistent with the earlier title. If in 1971 R H Chapman-Robinson had owned the freehold, the conveyance by him to Geoffrey Lambert of the Cattlegaits and Sheepgaits in 1971 would have been superfluous as they would have merged in the freehold. The earlier title however relates only to the cattlegaits and sheepgaits, and the first mention of the fee simple is in the 1987 Conveyance. This deed, being only 3 years old, is by itself of little or no value in showing title to the freehold.

These deeds are supplemented by the Statutory Declaration sworn on the 18th December 1987 by William Lambert, the father of the claimant, Geoffrey Lambert. I summarise his Declaration as follows:-

1. He was 76 years old, had resided at Braidley for 49 years, and had been Chairman of the Carlton Highdale Parish Council since 1956.
2. As a result of his life spent in the area and his job as gamekeeper he had a good knowledge of the owners or reputed owners of the lands in the area.
3. In 1937 he was engaged as gamekeeper to the late W R Burrill-Robinson. During the years of his employment he worked on the land of Mr Burrill-Robinson including Braidley Moor Braidley Bents and Braidley High Pasture ("the Braidley land").
4. In the course of his employment he collected rents due from tenant farmers and for letting grazing rights on the Braidley land. He also organised the shooting on the Braidley land for Mr Burrill-Robinson and his shooting parties. Prior to his death in 1962 Mr Lambert verily believed Mr Burrill-Robinson was in receipt of the rents and profits of the Braidley land without any adverse claim.
5. Following Mr Burrill-Robinson's death the Trustees of the settled estate continued to let the trust farmlands and moors including the Braidley land and on their behalf he continued to keep game on the Braidley land.



6. After the death of Mr Burrill-Robinson Mr R H Chapman-Robinson became entitled to the settled property as tenant for life and he employed J C Thwaite as his agent and to collect the rents. He (Mr William Lambert) believed that Mr Chapman-Robinson then received the rents and profits of the Braidley land until he sold the majority of the settled estates in the early 1970s.

7. He believed Mr Chapman-Robinson was the owner of the Braidley lands at the time he sold Braidley Hall Farm to Mr Geoffrey Lambert in December 1971, and he knew of no claim to any part of the Braidley lands being made by any person other than Mr Burrill-Robinson the Trustees of the Settlement and Mr Chapman-Robinson during their respective periods of ownership. He had no doubt that if any such claim had been made or any dispute had arisen over any parts of the Braidley lands it would have become known in the Parish and especially to him.

Mr William Lambert was sworn and gave evidence supplementing his Statutory Declaration. He kept the vermin down on the Braidley land. He protected the game. There was a small number of black game (grouse) but very little else except rabbits. In the last week of October or first week in November he put chemical down the rabbit-holes - Ranadine, a repellent, on the day before the shoot. It was paraffin and creosote. They shot 350 to 450 rabbits, Mr Burrill-Robinson and 4 or 5 friends. The tenants shoot was a fortnight later. 150 rabbits was the normal run. There were also foxes stoats and weasels. He burnt the heather in strips wherever possible in spring, but not on the Braidley land. The estate was all totally enclosed. Mr Burrill-Robinson provided the materials on the outside fencing, the tenants did the repairs. Mr Burrill-Robinson employed 3 estate workers in addition to his game-keeper. After Mr Burrill-Robinson's death the whole of the sporting rights were let to Mr Chater, who employed him (Mr William Lambert) as game-keeper on the whole estate. It was a full-time job looking after about 8,000 acres.

As further evidence Mr Huntingdon produced a Wayleave Agreement dated 1st June 1957 between (1) W R Burrill-Robinson and (2) The North Eastern Electricity Board. Under this agreement the Board agreed to pay a rent of one shilling a year in respect of the electricity lines and poles shown on the plan thereto. These pass across the narrower section of Low Pasture for about one-third of their total length. Mr Huntingdon also produced specimen Payment Advices from Northern Electric showing that in the years 1972 and 1973 sums of £6 gross were tendered to the Robinson Trust and in 1988 and 1990 sums of £7.14 gross were tendered to Mr Chapman-Robinson or his Executors allegedly under the same wayleave agreement.

Mr Geoffrey Lambert was sworn and gave evidence that there were also telephone wires on poles across the land- 28 poles in total, approximately 10 on Bradley Bents along the line of the road. He had received a first payment of £19.38 in respect of these. The poles had been there approximately 40 years. He was born in 1938 and had lived at Bradley the whole time. He knew the land well. He was the purchaser of Bradley Hall Farm in 1971. He had ever since kept sheep and cattle on the Braidley land and exercised the shooting. There were a few pheasants and partridges. He shot the vermin, foxes and stoats. There was no specific rabbit shoot. Nobody else had used the Braidley land for any purpose since 1971. Nobody had objected to his use of it. He objected to use by the public, who interfere with farming. All the walls were now stock proof.



As I have said above, the 1987 Conveyance to Mr Geoffrey Lambert is by itself of little or no value in establishing title to the freehold of Bradley Moor, Bents and High Pasture. Prior to the 1971 Conveyance to Mr Geoffrey Lambert the estates of which M Chapman-Robinson was tenant for life included the sheepgaits and cattlegaits referred to above, and the sporting rights over this land. By the 1971 Conveyance Bradley Hall Farm together with the sheepgaits and cattlegaits (but not the shooting rights) were conveyed to Mr Geoffrey Lambert.

The evidence put before me in support of Mr Geoffrey Lambert's claim to the freehold falls into 3 categories. First is the evidence of the acts done by his father - William Lambert on the land. Secondly, there is the evidence concerning the receipt of the rents and profits of the land by the successive tenants for life of the Robinson estates. Finally, there is the evidence concerning the way-leaves.

I find that all the work done on the land by Mr William Lambert in performance of his duties as game-keeper was done in furtherance of the sporting rights over the land to which his employers were entitled. I find nothing in the acts done by him which go beyond this.

As regards the receipt of the rents and profits of the land by Mr Burrill-Robinson and Mr Chapman-Robinson respectively (see paragraphs 4 and 5 of Mr William Lambert's Statutory Declaration), the grazing rights were let with their farms to tenant farmers and it was the rent for these which Mr William Lambert collected. In addition after Mr Burrill-Robinson's death Mr Chater paid rent for the sporting rights. I find that the only receipt of rents in respect of the land claimed shown by the evidence before me was rent in respect either of the grazing rights or the sporting rights.

There remains the evidence concerning the wayleaves. As regards the telephone wires, there was no evidence as to any payment before the recent payment to Mr Geoffrey Lambert. As regards the Electricity Poles and cables, the evidence shows that since 1973 gross payments of £6 or £7 per annum have been made by the Electricity Company, apparently in respect of the line of wires and cables of which perhaps one-third pass over Low Pasture. It does not seem to me that receipt of this small sum is sufficient evidence on which to found a claim to a substantial area of land.

In the circumstances I am not satisfied that the freehold interest in Bradley Moor, Bradley Bents, Bradley High Pasture or Bradley Low Pasture was ever vested in the owners of the Robinson settled estates; all they ever owned were the sheepgaits, cattlegaits and sporting rights. It follows that the claim of Mr Geoffrey Lambert to the freehold as their successor in title must fail.

On this evidence I am not satisfied that any person is the owner of the 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

7<sup>th</sup>

day of

December

1990

Mati Roth

Commons Commissioner

