

LEGAL MATTERS

Footpaths, Bridleways, Tracks and Roadways

Rights of Way; The 1910 Finance Act



Sometimes a review of old legislation throws up useful information which is of value a century later - the Finance Act of 1910 for example. In this case, the Act provided for levying an incremental tax each time a piece of land changed hands, excluding any increase in value resulting from crops and buildings, and it applied to all land except agricultural land at agricultural value and to some smallholdings of less than 50 acres.

Of course, the initial assessment, which became known colloquially as the “Second Domesday” was hotly disputed, as indeed was the legislation to enact it; nevertheless in the period between 1910, and when the Act was repealed in 1920, the whole country was surveyed by the Valuation Department of the Inland Revenue. The fact of statutory authority meant criminal sanctions against falsification of evidence, and this alone, means that there can be little argument about the legal validity of the plans and records which were produced.

Seven thousand assessors were appointed nationally - local people with local knowledge to undertake the critical task of identifying each hereditament – (why does this remind us of Home Inspectors?); their duty being to plot and record every piece of land; to allocate a unique holding number, and to provide ownership and occupation details.

100 years on, the interest in these old records, where they remain available, lies with the fact that ‘Tax Relief’ was allowed where land was subject to any public ‘right of way’ i.e a deduction would be made from the Gross Value to reflect the amount by which the land value was diminished, if sold subject to the rights of others across it. The deduction could be significant: for instance in *Lumsden-v-IRC* (1914:AC877), £90 was allowed as a deduction from a total incremental value of £215.

The financial implication, or eventual “carrot” thus encouraged landowners to make full and frank disclosure of rights of way, so that valuable information can be deduced from the old records, in circumstances where proof of a right of way is required, subject of course, to the exception of those landowners, who on balance, found tactical preference in paying more tax rather than admitting the existence of a right of way (rather like the initial inverse snobbery of not appealing against a high Council Tax band for fear such a move might diminish ‘market value’ in the eyes of the neighbours).

The view is that the Finance (1909-10) Act 1910 records (ie Field Books and plans, including the 2nd edition O.S sheets) can be useful to rights of way researchers in establishing and retaining public rights of way – or indeed in assisting to disprove such rights if the documents are silent.