

INTEPRETING OLD MAPS and THE MEANING OF THE WORD PRIVATE

I have attended many public inquiries over the years, and am concerned at how various experts and inspectors are interpreting historical documents, especially as regards the word "private". I am worried that they are in effect re-writing the transport history of this country; a transport history which was built on the back of the horse and the donkey. I think that it is important for us to visualise what life was actually like at the period of the document, rather than seeing things through the eyes of the twenty first century. More learned people than I, have covered this subject from a legal perspective, so I have regarded it from a social history angle.

MY UPBRINGING

Between 1956-1972 I lived and rode in seven different counties, and in 1965 under took my first long ride. I rode from my uncles' farm on Exmoor down to visit my grandmother on Dartmoor. The following year I rode from Exmoor up to Oxford and from thence on, each year rode my horse between various agricultural student jobs on farms in Berkshire, Hampshire, Wiltshire etc.

I was supported in all this by my late father, a professional man, (an Oxford scholar and D.Phil with a photographic memory) who had been brought up and taught about roads by his grandfather, (born in 1842 with the same academic credentials, and custodian of an estate held by the family since the Domesday Book); he always insisted that all roads on the old OS maps were public. This was also drummed into me by my great aunt, born in 1877, who still referred to the roads, either being Turnpike or Parish Roads. During the 1960s I rode extensively across southern England with the aid of my fathers old War Maps dated 1932, or the first edition 2 1/2" maps. Where ever I was, I used to ask the oldest inhabitant about the local roads and bridleways; and their advice always corresponded with the roads depicted on the OS maps. These old gentlemen having been born at the end of the 1800's, had verbal knowledge going back to their grandparents of the early 1800's. It should be remembered that during my rides, the fields were populated by men hoeing turnips by hand, folding sheep etc. and that the countryside was not the barren landscape of today. If I had been riding in the wrong place there were plenty of people to correct me. They never did. My father also reiterated that the OS disclaimer about not depicting rights of way, was to absolve the OS from litigation.

On these rides I was told by these elders that there was no such thing as a private (using the modern meaning of the word) road in the country. They also told me that private had a slightly different meaning from that used today. As a rider I was fascinated by these people since they had known the horse as the main means of transport. Since they all said the same thing, I had no reason to doubt them or to consider that I should record what I was being taught. Some decades later it was a surprise to hear others espouse a completely different transport history to my upbringing.

DEFINITIONS

1. **The Oxford English Dictionary (British Library)** has a definition of **Private**: “of a place: retired, unfrequented, secluded.” This equates with the definition of a private way as described below.

2. **Websters International Dictionary 1903** gives the definition of **Road** as “A place where one may ride; an open way or public passage for vehicles, persons or animals”.

PRIVATE ROADS

For us to interpret the meaning of “private” in previous centuries, we need to study the writings of the period that we are studying. The following extracts are from professional publications and diarists of the eighteenth and nineteenth centuries.

1. **The Compleat Parish Officer 1734** SURVEYORS etc “Of Surveyors of the Highways and Scavengers, their particular Business etc. Before I come to the Office of Surveyors of Highways, I shall let you know what are Highways, and what are private Ways in the Eye of the Law.

A private Way is that which leads from the Village etc to the Parish Church, or Fields, without communication with a great road; which is repaired by the village or hamlet and sometimes by a private person (contra of highways, the whole Parish shall be charged). If such a way be out of repair, every inhabitant may bring an Action.”

2. **The Complete Parish Officer 1772** “Of the Surveyors of the Highways.....”

Before I come to the office of surveyors of highways, I shall let you know what are highways, and what are private ways in the eye of the law.

And first, any cart, horse or foot-way, common to all people, in the king’s highway, (whether it directly lead to any market town or not) and a nuisance in any such ways is punishable by indictment. 6 Med 255. And if there be a highway in an open field, when the fields are bad in the winter, travellers may go on the outlets of the lands adjoining, being warranted by custom; For the king’s subjects are to have a good passage, and such outlets are parcel of the way. Rel Abr 390 Dalt.98

A private way is that which leads from a village etc. to the parish church or fields, without communication with a great road, which is to be repaired by the village or hamlet, and sometimes by a private person (contra of highways, the whole parish being charged). If such a way be out of repair, every inhabitant may bring an action.....”

This means that since every inhabitant could bring an action, the ways were open to everybody to use, i.e. they were public (using the modern sense of the word), one cannot have a section of the public. It is interesting that these guides have pages of advice as to who is to repair the roads and remains silent as to type of user. They were concerned by the width of wheels, the number of horses and the type of carts. I think that it was the state of the roads which was important rather than who could use them; which confirms my upbringing.

3. History and Antiquities of York 1736 page 398 "...from its situation in the most publick high road..."

The modern meaning of public cannot be coupled with the adjective "most", hence the meaning of public at this time must have been slightly different.

4. In The Review and Abstract of the County Reports of the Board of Agriculture 1818, Mr Marshall quotes from an earlier edition by Joseph Granger in 1794

"PUBLIC WORKS- ROADS "The public roads are in good condition, but the private township roads are in a very indifferent state; for the Surveyors appointed in the present mode, in each township, wishing to avoid quarrels with their neighbours, are apt to be remiss in the execution of their authority. But it is probable these roads would soon be improved, if the Justices would please to appoint Surveyors, with a salary, for a few adjoining townships throughout the county....."

This quite clearly shows that private roads were in fact used by the public and under the responsibility of the Surveyor who was holding a public office. Historically, private did not have the modern meaning of exclusive.

5. The Torrington Diaries: John Byng 1781-1794 edition 1954 page 191 This illustrates Byng using a private road "A private road, which we sometimes mistook a little, brought us to the summit of Hopewell Hill....."

page 34 when discussing Cheltenham " The walks both public and private, are shady and pleasant...."

6. The Illustrated Journals of the Reverend John Swete (1789-1800) Having read journals 1-10 (bar 3, which is missing) it is very obvious that the meaning of public also had a slightly different meaning. That is, he constantly refers to crossing or joining the "public road", but the road he was on was public in the modern meaning of the word. In practice it was quite impossible for him to get

permission. For one thing how was he to know who owned the land, and even if he did, he did not have the advantage of speedy communication such as telephones or e-mail. Everything was dictated to, by the speed of the horse.

Journal 10 page 151 "Crossing now the public Road leading from Haldown to Kenton and Starcross, I strike another rural lane from wence....."

Journal 8 page 73 "From this bridge the road begins to rise, and after an ascent of near half a mile, on its top, I quitted the more public track...."

Journal 9 page 109 "Having by a steep ascent got into a more public and better road...."

Journal 18 page 164 "The roads around it are less public and not more than convenience would require.."

page 182 "I rode on the road....we turned to the left over a private lane, which being no exception to the rule of the neighbourhood, was rather more than indifferent".

page 183 "by the modern turnpike road....I cross'd it, taking a more private one which soon brought me to..."

The modern meaning of public and private do not allow them to be coupled to the adjectives "more" and "less", hence the meaning in Swetes case must mean "main" for public and "lesser" for private, which in turn means that all roads and not just those described as public were used by the public.

7. Plan of the City of York and Ainsty by Francis White 1785 This map which covers a large area south of York known as the Ainsty only depicts "Turnpike Roads or those which pay toll" or "Private or Occupation Roads" and of these some are marked as "Open or unenclosed Roads". The villages are only served by the second category of road, which if private had the modern meaning of the word, would mean that the villagers were prisoners in their own homes. It also shows the turnpike roads turning into "private roads" as they enter the city of York. This logically means that during this period the adjective "private" when applied to roads meant public.

ESTATE ROADS BEING PUBLIC

Estates often argue that their drives are private, but from diarists and literature from the 18th and 19th centuries we have examples of this not being the case.

1. Two on a Tower by Thomas Hardy 1895 1920 edition page 24 "...crossing the park towards Welland house by a stile and path, till he struck into the drive near the north door of the mansion. This drive, it may be remarked, was also the common highway to the lower village..."

2. The Sea Voyages of Edward Beck Diaries 1820's page 44 "The country a short distance from the town is very pretty, abounding with fine walks and views. The one in particular, to Squire Ettrick's....from the carriage road which runs to the old-fashioned mansion.....the carriage road runs before the house and is a public path..."

COUNTY MAPS

Landowners agents tend to try and dismiss the small scale county maps as inaccurate and irrelevant. They forget that until the accuracy of the Ordnance Survey (OS) these privately produced maps were all that was available. Some of these maps were somewhat schematic, but they showed that there was a route from A to B. The landed classes tended to be subscribers and their users. These maps simply would not have been acceptable if they showed both public and "private" (modern meaning) roads.

1. County Atlases of the British Isles by D Hodson 1997. In 1786 The Monthly Revue for December, commentated that "In our Review for April last, we made mention of Mr Carey's Actual Survey of Middlesex, and recommended it to the notice of the Public, as being peculiarly convenient for occasional consultation- both as a county map, and as a road directory". 1788 the frontispiece of Cary's New and Correct English Atlas (containing the maps of Dorset...Yorkshire (from actual survey) stated that they covered all the direct and principle cross roads.

In 1792 Cary's maps retailed for £1.4s.0d plain and £1.10s.0d coloured. Only the landed gentry and the professional classes would have been able to afford them and they would have expected them to be accurate for travelling purposes.

2. Discovering Antique Maps by Alan Hodson 1996 John Cary and Charles Smith were regarded as fine craftsmen for their period. Cary was commissioned by the Postmaster-General to make an accurate survey of the road network of England and one of his volumes was titled "The Traveller's Companion".

3. The Torrington Diaries, Hon. John Byng 1781-1794 edition 1954 page 33 "We are tolerably well accompany'd with touring, road books, maps, etc...."

page 70 " No information of my road could be got here, so I must proceed by the map....."

page 242 "I travel by map, for none can inform you; the only people who become acquainted with counties are tourists...."

page 391 "Tho' I should not forget an excellent map of Yorkshire by Tuke which hung in the parlour, and afforded me many hints of my near and distant progress."

Page 404 "and then pored over an excellent map of Yorkshire, till supper time."

4. Cobbett's Rural Rides 1826 edition 1992 page 187 "A route, when it lies through villages is one thing on the map, and quite another on the ground. Our line of villages, from Cheltenham, to Fairford, was very nearly straight on the map; but, upon the ground, it took us round about a great many miles."

5 Mr Knox's Map 1820 A review in the Scarborough Gazette of 1st July 1852 stated:

"Knox's Map of the Vicinity of Scarborough- Some years ago Mr Knox published a map of the vicinity of Scarborough embracing a circuit of 25 miles, and recently a new edition of this useful work was issued. This map is so compendious and elaborate in its construction, as to suggest at once to the careful peruser, even the histories of the localities it indicates and in it nothing appears to have been omitted: whatever features of interest...are all clearly laid down. Topography it is complete and accurate: the market towns, villages, railroads, turnpikes, rivers, prominent erections and every feature of interest being most faithfully pointed out; in this department of the weapontakes and the liberties in the circuit are also shewn....To our townsmen Mr Knox's map will be a valuable work of reference, and to the visitor, it will prove equally valuable as a guide."

The above examples all show that the travellers of the time, did rely on the maps of the period.

CROSS ROADS

Many still try to infer that "cross roads" as depicted on these county maps were not public or vehicular. It is also a widespread myth that coaches were only used relatively recently. But the following indicate otherwise.

1. Carriers & Coachmasters (Trade and Travel before the Turnpikes) by Dorian Gerhold 2005

page 41 "Conveyance of letters by carriers and coachmasters was well organised, as the following report of 1680 makes clear 'Tuesday last a gentleman coming from Bedford in ye stage coach lay that night at St Albans. There was that night two stage coaches that came thither from Bedford town. Three more from other parts of that country. And also 7 waggon carriers from those parts..'"

2. A Tour through the Whole Island of Great Britain 1724-1726 by Daniel Defoe edition 1991 page 223 Referring to the Fosse Way "Here it is still the common road.....We observed also how several cross roads as ancient as itself, and perhaps more ancient, joined it, or branched out of it....."

3. The Old Coaching Days in Yorkshire by Tom Bradley 1889 edition 1968 page 59 "The White Horse....was the principal of the three Tadcaster coaching inns..... A goodly number of cross-road coaches were also worked from this inn."

4. English Home-Life (Holidays and Travel) 1500-1800 by Christina Hole edition 1947 page 150 "Mrs Freemantle, travelling in 1800 from Kington to Swanbourne, records in her diary 'from Stoney Stratford we ventured to go the cross road to Swanbourne, which we found very bad indeed....one of the horse fell, we were obliged to get out sunk in the mud and snow up to our knees.'"

GUIDEBOOKS AND ORDNANCE SURVEY MAPS

Having been brought up to regard everything on OS maps as being public, the following are extracts from guidebooks between the wars inferring that this was correct. My father said that the OS disclaimer was to absolve them from litigation, which also appears to have been so.

1.The Great Outdoors by Rambler 1931 states " There are many kinds of maps available, but most ramblers and hikers pin their faith to the Government's one-inch sheets of the Ordnance Survey. These cover the whole of the country and they show all roads down to the merest cart-track, most bridleways and a great many footpaths, and, especially important, the long connecting routes in rural and out-of-the-way places".

2. A Key to Maps by Brigadier HSL Winterbottom 1936 stated that early County and OS maps did not show footpaths, meaning that they only showed roads and bridleways. Since he had been a Director General of the OS he should be regarded as knowing his subject matter.

3. Exploring by Gilcraft 1939 mentions the loss to the public of many routes through illegal obstructions. And that the public have a right of way over a locked gate. I quote, "As a general rule a stile is good evidence of the existence of a public path, and so are bridle or wicket gates, footbridges or other erections to facilitate the passage of the public. It is further desirable to recognise that the public frequently possess a right of Footway or Bridleway over estate or accommodation roads, which are rigorously protected from general vehicular traffic. The words

“Private Road” therefore, do not necessarily imply that it is denied that the public have a right of footway, though the words “No Thoroughfare” would have that meaning.”

4. The Countryside Companion 1948 : Rights of the Wayfarer by Tom Stephenson page 320

What is a Right of Way “When we go into the country we may occasionally have some difficulty in determining whether an apparent path is actually what is known as a right of way. We may see a stile on the roadside giving access to a field across which there is a well trodden track. That seems evidence of public use, yet near the path there may be a notice saying, ‘Trespassers will be Prosecuted.’

Sometimes one may see such a notice with another nearby saying ‘Footpath to Blakham.’ In all such cases one, of course, accepts the latter as the true indicator. The fact is that it is not an uncommon practice to erect a prosecution sign near a public path for the purpose of deterring strangers from passing that way.

If we consult the one-inch Ordnance Survey Map it may show the path in question, and that seems conclusive, but then we remember reading in the map margin a statement that ‘The representation on this map of a Road, Track or Footpath, is no evidence of the existence of a right of way.’ You might well say how am I to know what is a footpath, and what use is a map which shows a path and then implies that it might not be a path?

In practice the qualifying statement of the Ordnance Survey may be regarded as a safeguarding clause to absolve them from being involved in any footpath litigation. A road or track shown on the map may be a private road to a farm or dwelling. A path which is shown, may, however, generally be presumed public. On the other hand, the fact that a path is not shown on the map does not mean that such a path is not public.

If a path is furnished with stiles and gates, and if there is no notice stating private, it is usually safe to assume it is a right of way.At the worst it should be remembered that for inadvertently intruding on a private path you cannot be boiled in oil, flung in prison or even arrested.”

This book completely endorses my upbringing.

5. Camp and Trek by Jack Cox 1956 under Cycling it says “ A more scientific way of exploring a stretch of country is to cover every road and track in a selected area. For weekend camping runs we could choose the country covered by one Ordnance Survey map on the one-inch scale.....”

Not one of these books refers to some of the roads marked on OS maps as being private. If that had been the case they would surely have warned their readers. There was no general outcry at this time by either the public or landowners that these maps were inaccurate.

HORSE TRANSPORT

With our fast modern motor transport it is difficult for many to imagine what things were like in the days of the horse and donkey. Unless steep hills were to be negotiated with heavy loads, where a longer route following the contours was preferable, then the shortest route was used. As Paddy Baker, one of my late mentors said when we were discussing the arguments over path status today, compared with riding in her youth during the 1930's. "What a lot of nit picking; if you could get along on a horse, then you got". This is how I remember it being as a youngster in the 1960's, riding around the Brendon Hills in Somerset attending Young Farmers dances; my dance frock squashed into my saddle bag!

In earlier centuries the breeding of horses and the fairs where they were sold were big business. The average life of a horse due to poor working conditions, especially on the roads was only 4-5 years. Literally thousands of horses were required for transport, troops, pleasure and industry, which meant hundreds of horses per village. The breeding of horses was a successful exporting business as far back as the middle ages. London had weekly horse fairs, whilst Yorkshire was renowned for its' breeding of horses, with large annual horse fairs at Howden, Northallerton and Bedale and the largest nationally was at Horncastle in Lincolnshire.

1. Carriers & Coachmasters (Trade and Travel before the Turnpikes) by Dorian Gerhold 2005

page 94 "Undoubtedly the most common form of travel was riding on horseback. According to Guy Miege in 1691 (The New State of England 1691 part 2 page 46) 'travelling on horseback is so common a thing in England, that the meanest sort of people use it as well as the rest'"

2. A Tour through the Whole Island of Great Britain 1724-1726 by Daniel Defoe edition 1991

page 260 Discussing a horse fair in Staffordshire "We expected nothing extraordinary; but was I say surprised to see the prodigious number of horses brought hither, and those not ordinary and common draught-horses.....but here were really incredible numbers of the finest and most beautiful horses that can anywhere be seen; being brought hither from Yorkshire, the bishopric of Durham.....we were told that there were not less than a hundred jockeys and horse-copers, as they call them from London, to buy horses for sale."

page 337 "I met with nothing at or about Bedall, that comes within the compass of my enquiry but this, that not this town only, but even all this country, is full of jockeys, that is to say, dealers in

horses, and breeders of horses; and the breeds of their horses in this and the next country are so well known, that though they do not preserve the pedigree of their horses....”

3. The English Fair by David Kerr Cameron 1998 page 95 “To Howden, one of the largest horse fairs of Europe in the Middle Ages, came not only dealers, from the Continental countries but even representatives from the royal houses. Howden would endure: 4,000 horses a day were said to be sold at the fair in 1807 and into the last quarter it was still going strong.”

page 97 “By 1871 the dealing had become more dispersed- anywhere within a 25 miles radius of the town.....Forty years earlier, the old timers recalled, a hundred locally bred animals could come to Howden Fair from just one of the surrounding villages.”

page 98 “Another of Yorkshire’s legendary horse fair, Lee Gap-still being held after 800 years-was equally international.”

page 102 “In 1881 the august Daily Telegraph described the ‘stirring spectacle’: “The high road in the vicinity of Barnet station commands an uninterrupted view of the broad spread of hill and dale where thousands of cattle and horses are collected for buyers to pick and choose from.....”

page 105 “In London alone nearing the end of last century, some 15,000 hansom cab horses.....The London General Omnibus Company, which had started buying out its competitors in the 1850’s had 10,000 on the road at any one time and around 20,000 in total, while tram horses in the capital totalled another 14,000. The railways owned an estimated 6,000; carriers such as Carter Paterson and Pickfords had 19,000, making 25,000 animals on carrier work.....1,500 pulled the capital’s rubbish carts; 3,000 drew it’s brewers wagons; 8,000 coal merchants and 700 for hearses.....Count the private carriages, milk floats.....the capital’s working horses population was probably around 300,000.”

page 107 “Horncastle...by 1820 was the largest fair for horses in the kingdom and unquestionably one of the greatest in Europe....By 1825 huge droves of unbroken colts were driven to it, thundering through the narrow twisting streets at the gallop, thirty or forty at a time....Horse dealers and buyers in their thousands thronged its cobbled streets....”

4. Brensham Village by John Moore 1946 edition 1966 page 50 “The spectacle of a young man in blazer and white flannels, carrying a bat, trotting down the village street on a lanky chestnut didn’t at all surprise the people of Brensham; for almost everybody in the place was a horseman, and the neighbouring farmer’s sons would often ride to the village dances in white waistcoats and tails.”

5. A Tour through the Whole Island of Great Britain by Daniel Defoe 1724-1726 It is also often inferred that the welfare of the common man was not given any consideration by those in power. But as regards highways Defoe thought otherwise. Page 83 "Hampton Court....and on the road from Stanes to Kingston Bridge; so that the road straightening the parks a little they were obliged to part the parks, and leave the paddock, and the great park, part on the other side of the road; a testimony of that just regard that the king's of England always had, and still have, to the common good, and to the service of the country, that they would not interrupt the course of the road, or cause the poor people to go out of the way of their business, to or from the markets and fairs, for any pleasure of their own whatsoever."

Over the past few years I have become aware that the new, younger generation of highway officers and civil servants have no grounding of the horse or our transport history. They and clever lawyers for the landowning fraternity are gradually airbrushing the horse out of our cultural heritage. Apart from equestrian access to the countryside, we need to address the education of future generations, as regards the importance of the horse to our civilisation.

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