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Town of Brading		
		Сору
V	J	Opinion

Oglander Bart.

Cunliffe & Beaumont

43, Chancery Lane

in the several facto set forth in the Report of Record Commissioners to show that the Inhabitants of the Town of Bracking are a Corporation the proceedings of the leet & of the foy but there are authorities to whew that a for Ya leet are not confrequently connected together in their constitution & proceedings (R. v for Barnwell & freewell 54, 18 . Rowland 3 Barne + alderson 130 12 v Duke of Beaufort 5 Bornes several acts done by the governing body of the Tow some winder any other supposition than that they confronte body Es A withat they contains = 511 0 0000 With regard to the question whether the land the subject of this detion, is the forefrecty of the

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Page 2 Town of Brading v Oglander Bart (Copy Opinion)

I think there is sufficient prima facie evidence in the several facts set forth in the Report of the Record Commissioners to shew that the Inhabitants Of the Town of Brading are a Corporation. ---

There appears to be rather a confused mixture of the proceedings of the leet & of the Corporation, but these there are authorities to shew that a Corporation & a leet are not infrequently connected together in their constitution & proceedings (R. v Jolliffe 2 Barnwall & Creswell 54, R. v Rowland 3, Barnwall & Alderson 130 R. v Duke of Beaufort 5, Barnwall & Adolphus 442) & it is difficult to explain the several acts done by the governing body of the Town under any other supposition than that they are a corporate body. ---

It would be desirable however to have the earlier documents which are referred to in the Report of the Record Comm. ers examined with a view to see[ing] what they contain.

With regard to the question whether the lan[d,] the subject of this Action, is the property of the

to the Report of the Record form to have little moral doubt that such is the case, yet there is no legal evidence on the facts at prevent before me that the Exporation have the property in the land, of the presentments referred to the greater part are without doubt presentments of the Leel Jury in reference to public nuisances & encroachments & cannot The remaining Preventments affect to be in the nature of private entires by the Corporation, or those who refreevented them, in respect of the land in question, I if they were admissible in evidence, woo be strong evidence of the title of the Conferation to the fund, but I think it is clear on the authorities the there batter entries we not admissible in evidence in favor of the Corporate, as they we in effect mere private entries relating to the private property of the Marriage & Lawrence 3. Barnwall & Alderson 142 Brett v Beales & Manning & Ryland 434, 435. other evidence must therefore be obtained of the title of the Corporation to the land in question, I the only -

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Corporation, although some of the Presentments append[ed] to the Report of the Record Comm. ers have leave little moral doubt that such is the case, yet there is no legal ----- evidence on the facts at present before me that the Corporation have the property in the land. -----

Of the presentments referred to, the greater part are without doubt presentments of the Leet Jury in reference to public nuisances & encroachments & cannot affect the title of the Corporation to the land. -----

The remaining Presentments appear to be in the nature of private entries by the Corporation, or those who represented them, in respect of the land in question, & if they were admissible in evidence, woul[d] be strong evidence of the title of the Corporation to the land, but I think it is clear on the authorities th[at] these latter entries are not admissible in evidence in favor of the Corporatⁿ, as they are in effect mere private entries relating to the private property of the Corporatⁿ, & as such have always been rejected. see Marriage v Lawrence 3. Barnwall & Alderson 142 Brett v Beales 5 Manning & Ryland 434, 435. — other evidence must therefore be obtained of the title of the Corporation to the land in question, & the only ------

evidence I should suffere, that can be obtained will be front of acts of ownership over the land as face back in found of time as possible. There acts may either be direct acts of interfere with the land, such as perambulating it, culting down trees on it or other acts of a similar description, or they may be leaves of or with like dealings with the land, Hold leaves or counterfacts found among the munimento of the Corporation will be evidence for within furfice. _ within land there is any common character of localety between the land in question & the other waste lands of the Town, evidence of acts of ownership on the other parts of the waste would be evidence of title & the whole of the waste lands in the Town, encluding the land in question Jones v Hilliams 2 Meeson & Helsby 326) but the evidence of ouch community of character must be very clear & such as to love no doubt that the whole forms one continue property. It would be freudent to deliver the a declaration at once, to avoid the appearance of undue

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evidence I should suppose that can be obtained will be proof of acts of ownership over the land as far back on point of time as possible. -----

These acts may either be direct acts of interfere[nce] with the land, such as perambulating it, cutting down trees on it or other acts of a similar description, or they may be leases of or such like dealings with the land, & old leases or counterparts found among the muniments of the Corporation will be evidence for this purpose. -----

If there is any common character of locality
between the land in question & the other waste
lands of the Town, evidence of acts of ownership
on the other parts of the waste would be evidence of
title & the whole of the waste lands in the Town,
including the land in question (Jones v Williams 2
Meeson & Helsby 326) but the evidence of such
community of character must be very clear & such
as to have leave no doubt that the whole forms one continuous
property. -----

It would be prudent to deliver the ----declaration at once, to avoid the appearance of undue

dolay but it will be friedent also not to go further ant the proceedings until a fall enquery has been made as to what legal evidence can be forder of the Tette of the Corporation to the land & a full examination has been made of the forpocation have ventured to make one alteration in the declaration by striking out the words "that is to vay the Corporation of the said Flown" as I think the foist description of the Corporation is sufficien I the introduction of the Catter words might seen to emply a doubt of the sufficiency of the first description & of the tette of the Corporation to sue by that description is the wall sall is I think the forferation cannot tax the town for the looks of this action - There being no charter extant, the former of taxation must I then be limited by the wage which has prevailed, I that wage is confined to taxation for the repaires of the corporate buildings & highways, but I can see no objection to the Corporation raising money for the Costs of the action on Mortgage of their property.

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delay, but it will be prudent also not to go further into the proceedings until a full enquiry has been made as to what legal evidence can be produced of the Title of the Corporation to the land & a full examination has been made of the Corporation ------ muniments. ------

I have ventured to make one alteration in the declaration by striking out the words "that is to say the Corporation of the said Town" as I think the first description of the Corporation is sufficient & the introduction of the latter words might seem to imply a doubt of the sufficiency of the first description & of the title of the Corporation to sue by that description. -----

I think the Corporation cannot tax the

town for the Costs of this Action – There being no
charter extant, the power of taxation must I think
be limited by the usage which has prevailed, & that
usage is confined to taxation for the repairs of the
corporate buildings & highways, but I can see no
objection to the Corporation raising money for the Costs of
the Action in Mortgage of their property. ---

T. K. Kingdon Temple Dec^r 7th 1863