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On Her Majesty's Service

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APPENDIX I.

The Navigation of The River Lea.

Extracted from "Star Chamber Reports"
1593 - 1609

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The book is in the possession of Mr. W. C. Metcalfe
Steward of the Lord of the Manor
Waltham Holy Cross.

A P P E N D I X I.

THE NAVIGATION OF THE RIVER LEA.

Apud Ser-
jaunt Inne
in Fleete-
streate die
Lune vjto die
Maij A^o
xxxvj^{to}
Regine Eliz.

The Ryver
proved and
confessed to
be navigable
and so vsed
for xvj^{ne} or
xvij^{ne} yeres
wthⁱⁿ xxtie
yeres last.

A question.

'Before S^r John Popham, knight, L.
chieff Justice of England, and S^r Ed-
mund Anderson, knight, L. Chief Jus-
tice of the Common Plees, sitting to
here prooffes for the right of the pas-
sage wth barges vppon the Ryver of Ley
from Ware to the Tames, and of the con-
venience and inconvenyence wth the
vsage thereof for most parte of xxtie
yeres last.

It hath benn well proved by the
Plt^s and confessed by the Defft^s that
the Ryver of Ley runninge from Ware to
the Thames is an auncyent navigable
Ryver and one of the great navigable
Ryvers of the Realme, and that there
hath benn common and contynuall passage
vppon the said Ryver wth Barges by the
space of xvj^{ne} or xvij^{ne} yeres wthin
xxtie yeres nowe last past through S^r
Edward Denny's newe Locke, and that
the Bargemen have had libertie to pull
vpp and passe throughe the olde locke
if they coulde not pass through the
newe.

But it is obiected by the defft^s

that the great streame or Ryver run-
ninge along close to the towne of Wal-
tham Abbey should not be the auncyent
Ryver of Lea, but that the little
streame w^{ch} runneth to Chesthunt myll
and so downe to Smalley bridge alias
Smalling bridge should be yt.

The deff^{tes}
prooffes

County boundary

And by waye of argument to mayne-
taine there said allegacion, the said
deff^{tes} saie, wthout shewing any proof
for it, that the auncyent navigable
Ryver of Ley should devyde the Sheres
of Essex and Hertford, and that the
streame that runneth to Chesthunt Myll
and Smalling bridge is the streame w^{ch}
devydeh the said Sheires and therefore
is the auncyent Ryver of Ley, and that
Smalling bridge is in Waltham and is
the bridge w^{ch} is called by the Pl^{tes}
the highe bridge in Waltham Hollycrosse.

The Pl^{tes}
prooffes

The pl^{tes} saie that the towne of
Waltham Hollycrosse is the inhabited
towne of that name wthin the parishe
of Waltham in the Countie of Essex, soe
called to distinguishe it from Waltham
Crucis otherwise called Waltham Crosse
wthin the parishe of Chesthunt in the
Countie of Hertford.

And to prove that the navigable
Ryver of Ley runneth and aunciently
hath run to the said towne of Waltham
Sancte Crucis, they prove that there

was a Commission xxix^o Edwardi terciij
to enquire of the annoyzaunces in that
navigable Ryver by theis wordes In aqua
vocata la Ley que currit a villa de
Ware vsque Waltham Sancte Crucis.

And by an Inquisicion taken by a
presentmt of a Jury of Essex made by
vertue of the said Commission it ap-
peareth that the said streame that run-
neth to Chesthunt Mill, where the
Defftes woulde lay out the said navi-
gable Ryver, was then but a Ditche
running out of the Ryver of Ley to the
Myll of Chesthunt conteyninge xvj^{tene}
foote of bradthe ad magnam diminutionem
dicte aque, wherby it appeareth plaine
that that Ryver wch the Defftes woulde
nowe have to be the navigable Ryver of
Ley was not then taken to be the navi-
gable Ryver of Ley, but was presented
to be a hurte to the Ryver of Ley for
taking to mucche water awaye.

Item, it appeareth by the same
Inquisicion that the navigable Ryver
of Ley did then run downe beneathe the
said Chesthunt Myll ditche by Halli-
feilde in the parishe of Waltham Sancte
Crucis and by Netherlock wch is the
locke in questyon and soe to Waltham
towne and to the highe bridge of Wal-
tham by theis wordes inter alia; Jo-
hannes de Gulford habet in Hallifield

in parochia de Waltham vnum fossatum
currens extra transitum dicte aque de
la Ley; in villa de Waltham iuxta le
Netherlock sunt duo montes de arena in
medio aque de la Ley et impediunt tran-
situm navium ibidem; Thomas Spalding
habet vnum gradum a domo sua in la Ley
que potest impedire transitum navium.
Item Ricardus Collworth fecit purpres-
turam in dicta aqua de la Ley iuxta
altum pontem de Waltham ad magnum im-
pedimentum transitus navium. By this
presentment that Spalding had made
stares from his howse into the Ley to
the hindraunce of passage, it is very
manefest that passage of vessells was
in the Ryver of Ley that runneth by
Waltham Sancte Crucis and under the
highe bridge there, for that at or nere
Smalling-bridge ther neither is nor was
ever any howse.

By an other Inquisicion taken by
vertue of the said commission at Wal-
tham Crosse by a Jurye of the Countie
of Herts, it was presented as followeth
by theis wordes, inter alia: Item le
damme mowthe molendini de la Chesthunt
mylle est maioris latitudinis quam anti-
quius esse solebat, de latitudine xvj
pedum per quod, &c. By this it appear-
eth plainely that the streame that run-
neth to Chesthunt mylle is but Chesthunt
mylle dam and not the navigable Ryver

of Ley, and it seemeth that the navigable Ryver of Ley in that place devideth the Sheeres, because the Jurors of both Sheeres did present the fault of Chesthunt myllstreame.

It is also presented by the said Jury of Herts in theis wordes: Item est in predicta aqua contra solum dicti Abbatis apud le Netherlock vna insula magna per quod, &c. By this it appeareth that the Ryver of Ley is found by the Jury of Herts, like as it was by the Jury of Essex, that the navigable Ryver of Ley did run by the Nether locke nere to the towne of Waltham Sancte Crucis, w^{ch} is the Locke in questyon, and it seemeth by the presentment of bothe the Juryes that the Ryver in that place devideth the Sheres.

By the same Inquisicion it is also presented thus: Item est in piscaria Abbatis ad caput ville de Waltham vna fractio in aqua per quod cursus aque de la Ley maxime impeditur. By this it appeareth plainely that the very inhabited towne of Waltham Sancte Crucis is ment and not the large parishe of Waltham.

By an Inquisicion taken xxij^{do} Edwardi quarti it is presented by a Jury in the Countie of Hertford that the heade at the entry of the Abbott of Waltham's Myll, where water goethe

out of the king's streame, is of xvj
foote broade wher it should be but fower
foote, by the w^{ch} the king's streame
is sore hurte. Also the said Abbott
hath a locke w^{ch} is but xv^{ne} foote
broade where it should be xvij^{ne} foote,
for which cause it must be broken vpp,
for it is great Jeopardy to all manner
of Barges and boates that goe vppon the
water there; by this presentmente it is
also very manifest that the navigable
Ryver of Ley did run the same waye that
the Pl^{tes} affirme, viz: to the locke
in questyone and to the highe bridge
of Waltham Sancte Crucis w^{ch} was riot-
ously throwen downe by the said Defftes,
and that the same Ryver or some parte
of it at the same locke was taken to
be wthin the Countie of Herts, for that
the Jury did there present it.

It is also presented by the said
Inquisicion that there is a bridge in
Waltham called the Highe Bridge wthin
the liberties of Chesthunt w^{ch} must be
made newe, for there maye noe barge
passe except that the bridge be made
in height that the barges maye goe there
wthout any letting, or ells that there
be a man redy to drawe the same bridg
att all times wthout any charge of the
Passengers or commons, for the streame
oweth to be free wthout any Custome or
dutie taken at any place in the said

water and there the Passengers be compelled to paie a Dutie for drawing of the said Bridg by the w^{ch} there shall growe a dutye and a charge to the Passengers and the Country, wheras ther oweth noe such to be. Also beneath the said bridge in the Ryver there benn certaine stakes, hyses, (1) &c., w^{ch} noyeth the king's streame sore, w^{ch} must be pared, rydd and scowred by theis persons following every man during his grownd (that is to saie) Conesby of London the holder of the next tenem^t, &c. By this it appeareth plainelie that the high bridge in Waltham presented by this Jury is the same highe bridge that standeth over the navigable Ryver of Ley, and was late layed lowe by the deff^{tes}. And wheras the Deff^{tes} doe object against this presentm^t, that Smalling bridge that standeth vppon Chesthunt Myll streame is higher then the bridge in Waltham towne and is also wthin the parishe of Waltham and standeth vppon the Ryver that devideth the Sheeres, therefore this is Waltham highe bridge presented by the Jury. This obiection is allreadye aunswered fully by that w^{ch} goeth before, and is further aunswered thus, viz. that Smalling bridge was ever called by the name

(1) Qy. hays, hedges.

of Smalleybridge alias Smallingbridge and is knowe by that name onely and not by the name of Highebridge and is wholly wthin the Countie of Hertf. as by a Collection made wthin late yeres for the repaying therof wthin the Countie of Hertf. by order taken amongst the Justices of that Shere, and as was testified before yo^r LL^s by the viccar of Chesthunt, and it is further manifested that the Jury might well present the Highe bridge in Waltham towne to be wthin the Liberties of Chesthunt for that the parishoners of Chesthunt haue of longe time and still doe pretend that theire liberties doth extend to that Bridge and that they have gonne thether wth there presession of late yeres, but there is noe meaninge nor necessarye to take knowledge of theire controuersye, because it is not materiall to the proof of the navigable Ryver of Ley; But to make the matter plaine that th'other is the navigable streame and not this small streame that runneth to Chesthunt mylle, it hath bene sufficientlie proved by the presentm^t aboue mencioned and many others that vessells haue passed vppon the Ryver of Ley from Ware to the Thames, but none coulde passe through Chesthunt Myll streame by reason it is but a shallowe narrowe ditche and by reason

that the Myll dam of Chesthunt Mylle standeth crosse the streame, soe that noe vessell be it never so little coulde ever passe that waye, and therfore the passage was vnder Waltham highe bridge, and throughe the olde locke otherwise called Netherlocke of Waltham, as is before alledged.

The Comission of Sewers directed to the L. Treasurer and others Anno xvij^o d^{ne} Regine nunc Eliz. for the scowringe of the Ryver did declare the Ryver to runne from Ware to Waltham, from Waltham to Templebridge, from Templebridge to Bullyfant, and from thence to Clobbes Hill, and from thence to the olde Forde and soe to Bowebridge and to the Locke, and soe to Leymouth to the Ryver of Thames w^{ch} Comission was made by former Presidentes and sufficient proves (proofs), and it is to be gathered thervppon that the course of the auntyent Ryver of Ley was lymitted to runne by places of name standing vppon it, and not by parishes, in w^{ch} sence Waltham is to be taken for the very village or towne through w^{ch} the Ryver runneth, and not for the whole parishe of Waltham, and in none of the olde or newe Inquisicions the Ryver of Ley is declared to run through any parishe but is called the water of Ley in the Counties of Hertford, Essex and

Commissio
iiiij^{ti} H.
quinti.

Middelsex. Quequidem aqua se ducit a
ponte ville de Ware vsque ad aquam
Thamisie. The Jurors of the Counties
of Essex and Hertford that were charged
to inquire according to this last Com-
mission have presented the Ryver of
Ley that was navigable to goe through
Waltham locke and Waltham high bridge
according as other Jurors had donn be-
fore and as it is nowe alledged by the
pl^{tes}.

The owner of the Manno^r of Theo-
baldes paied xxvj^s viij^d per annum to
the L. of the Manno^r of Perryers for
the course of the water goinge throughe
his grounde from Ley to Chesthunt Mille
vntill both the Manno^{rs} came to my L.
Treasurer.

It is alledged in the bill of
Compl^t in the Starr chamber that the
locke and bridge wher the Ryottes were
commytted doe stand vppon the Ryver of
Ley, and the deff^{tes} doe not denye the
same, and some of them, namely, Henry
Cokarelle, Myller of Chesthunt Mylle,
and Ralph Curle of Chesthunt, beinge
examyned vppon the Ryott doe confesse
that they thinke the said Mylle and
highbridg doth stand vppon the said
Ryver of Ley, and Thomas Robynson of
Waltham Hollicrosse, one other of the
Deff^{tes}, confesst vppon his oathe that
he knoweth the Ryver of Ley, w^{ch} is her

Mat^e's Ryver, and saiethe that the
highe bridg in Waltham doth stande over
the mayne streame of the said Ryver,
and Rob^te Browne of Waltham Hollicrosse,
one other of the Deff^tes, age lxx yerres,
saieth vppon his oathe that he knoweth
the Ryver of Ley, w^{ch} he taketh to be
one of the greatest Ryvers of the land,
and that the highebridge in Waltham
dothe stand over or vppon the Mayne
streame of the said Ryver, and that
the olde locke w^{ch} is aboute three
q^rters of a Myle beyonde Waltham, w^{ch}
of late hath benn stopped, did stand
vppon the Mayne streame of the Ryver
of Ley.

By an Inquisicion taken apud Wal-
tham sancte Crucis in Com' Essex anno
quarto Henrici viij^{vi} coram Henrico
Frowicke Escaetore, &c., virtute offi-
cii sui, remayning in the Exchequer,
it is presented inter alia thus: Quod
Abbas exempti Manerii Sancte Crucis de
Waltham et eiusdem loci conventus sunt
seisiti de Manerio siue dominio de Wal-
tham sancte Crucis in Com' predicto, &c.
Et dicunt vltorius iidem Juratores quod
predictum Manerium siue dominium de
Waltham Sancte Crucis extendit se per
metas et bundas, viz: a quodam ponte
vocato Smalleighbridge que est in con-
finio Com' Essex' et Hertford' per par-
vam riperiam ibidem vocatam le Smalleighe

quequidam riperia est de parte occiden-
tali in extrema parte Communis Marisci
de Waltham predict', &c., Quiquidem
mariscus iacet de parte orientali dicte
parve Riperie et sic predictum Manerium
siue dominium se extendit in longitu-
dine per parvam Riperiam predictam voca-
tam Smalleigh et vsque ad pratum vocatum
Frithey, &c.,

and it is plaine that vessells called
'Cimbe' then passed vppon Highe Leigh,
wherevppon it may be necessariye con-
cluded that they passed through the
olde locke and the highebridge at Wal-
tham Hollycrosse where the passage hath
benn lately stopped by force, for other
waye they coulde not passe. This In-
quisicion beinge taken for the benefitt
of the Abbott of Waltham and noe doubt
by his privitye and good lyking, ioyned
to the other proofes maye suffice to
satisfye S^r Edward Denny, knighte, who
hath the Manno^r of Waltham wth like
liberties as the Abbott had, and may
move him to desist from theis wronges
and yelde to right.

Towchinge
the burthen
of Shutes
and barges;
obiectiōns
and
aunsweres

Wher it was alledged that certaine
vessells called Shoutes, w^{ch} were proved
of auncient time to have passed downe
the Ryver, were of very small burthen,
it was proved by Recordes that in kinge

Edward the thirde time ther passed
three Shoutes downe carryinge xij loades
of tymber, w^{ch} is fower tonne to a
peece, and in kinge Henry the fowerthes
his tyme a Shoute carryed xij tonne of
tymber atte one time downe the Ryver,
and the barges lately passinge that
waye be some of sixe or seaven tonne
burthen, and some of less burthen and
yet doe passe wth a shallowe water.

Towching
towing of
Barges; ob-
iections and
aunsweres

It was alledged by the Deff^{tes}
that allbeyt the Ryver was navigable,
yet it was not lawfull for the Barge-
men to goe a lande to towe there barges.
To this aunswere was made that the Ryver
being one of the great Ryvers of the
Realme hath such liberties and privi-
ledges as other great Ryvers haue, and
that Bargemen and keelemen have all-
wayes vsed and do goe a longe by the
bankesside to drawe there vessells by
the Ryver of Thames, Severne, Trent,
and the Ryver betweene Wisbich and Cam-
bridge, and all other great Ryvers, and
in some places they vse the helpe of
horses to towe vpp ther vesselles and
that the like libertie is allowed to
all the navigable Ryvers in Holland and
Zeland and all forren partes. The
auctoritie of Bracton that the vse of
the banckes of Ryvers is publique de
Jure gentium like as of the Ryvers them-
selves, and also the auctoritie of the

booke case in the time of kinge Edward
the fowerth that alloweth Fishermen to
goe a land vppon any man's grownde to
drye ther nettes because it is good
for the Common welthe, were alledged.
It appeareth by the said Inquisicion
taken in kinge Edward the fowerthes
time that the owners of the ground one
either side of the Ryver should take
awaye all the trees, bussches and hedges
growing vppon the banke of the said
Ryver w^{ch} could serve to noe other ende
but that the Bargemen might goe vppon
the banckes to towe there barges. It
appeareth also that the Lord Treasurer
and others late Commissyoners of Sewers
attending vppon him, following that ex-
ample, caused all the trees, willowes
and bussches, and other ympedym^{ts} vppon
the Ryver banckes to be taken awaye,
and bridges to be made over the mouthe
of Millstreames for the Bargemen to goe
along the banckes and towe there barges.
And it is alledged that for asmuch as
it is vnpossible to carry vpp barges or
boates against the streame wth owers
(oars) onely that be of any conveyent
burthen, nor almost any other wth any
conveyent number or in any conveyent
tyme, and for that vessells wth good
burthen haue allwayes heretofore passed
vpp and downe the Ryver as is afore
proved, therefore it cannott be but

that they were towed. And lastlie it is said and cannott be denyed that the Bargemen going one land one the bancke side to towe ther barges and keeping one pathe can doe but little or noe hurte to the land.

The con-
venyencie
and incon-
veniency

The Defft^{es} counsell said that they would saie nothing towching the conveniencye or inconveniency of the passage but leave the consideracion thereof to the LL^s (Lords) the Judges.'

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