House of Commons.

SELECT COMMITTEE

ON THE

WANDSWORTH COMMON BILL.

Friday, 21st April, 1871.

PRESENT:

Dr. BREWER.
Mr. FELLOWES.
Mr. GOLDNEY.
Mr. MORRISON.
Mr. LOCKE.
Mr. PHILIPS.
Mr. COWPER TEMPLE.
Mr. PELL.

Mr. GOLDNEY IN THE CHAIR.

Mr. VENABLES: Sir, the case of the Wandsworth Common Bill is a Bill for vesting the management of the open space known as Wandsworth Common, in the county of Surrey, in a body of Conservators with a view to the preservation thereof, and for other purposes. It resembles in many respects the Bill which the Committee have had for some days under their consideration about Wimbledon Common—but I am happy to state the opposition is less—I think that there are no private opponents whatever; and in some respects it is a simpler Bill, I think. No doubt the Wimbledon Common case we had to defend upon special grounds, a somewhat exceptional mode of rating—in this instance, the circumstances are such that we can adopt the usual equal rating. If the Committee have got copies of this small map they will see by looking at it that Wandsworth Common which formerly contained about 300 acres now consists of a set of fragments which look, I think, very like the torn leaves of ~~civil~~ books, as if the whole might at some former time have been preserved, and as if it was quite time now to preserve what is left. About one-half the common has escaped from the control of those who otherwise would have been interested in it; and it is to preserve the remainder that the promoters of this Bill now come forward. Lord Spencer is the lord of the manor, he has all the manorial rights in this, as in the former case, whatever the common rights are will be protected in the usual way. This Bill proposes that a certain arrangement with Lord Spencer shall be carried out, and that henceforth conservators as proposed in the Bill shall be appointed to protect the common.

Probably, from the appearance of the map there may have been

encroachments at earlier times, but in quite modern times there have been some very large interferences with the property.

I think it was in 1852 that some land was sold to the Justices of Surrey, you will see the Justices of Surrey in one part of the map as owners. In 1857 a much more mischievous and injurious interference was effected by that large patch of land, which was sold to the Commissioners for the Royal Patriotic Asylum, which comes right in the centre of the common, and cuts it in two. That was the worsto f all encroachments, whatever might be the patriotic advantages of the Patriotic Asylum.

At a later period, the Brighton Railway Company, or rather the company in whose shoes the Brighton Company now comes, and the London and South Western Company, took powers over the common —I suppose took compulsory powers—and under those compulsory powers, the Brighton Railway Company got, I think, about 29 acres out of the common—that is, the West London and Crystal Palace Railway.

The CHAIRMAN: They claim the "A" and "B" pieces. It is the West London and Crystal Palace.

Mr. VENABLES: Yes, that is now the Brighton; and the London and South Western Railway also took a considerable portion of land by compulsory powers. At a later period the Brighton Railway bought from the lord of the manor, by agreement, a piece of land, which you will see marked "Railway Enclosure"—that was by voluntary contract. It is not marked "Railway Enclosure," but it is put, "See detail of plan in corner." It is the upper part that was bought, and at a later period the Brighton Company contracted to sell a portion of what they had bought to a Mr. Todd, who bought it for building purposes. Up to this time, I believe the neighbouring inhabitants, and probably the commoners, whatever they might have thought about it had acquiesced in the successive encroachments, but Mr. Todd having let a portion or the whole of his land to a builder for building purposes, when they saw the preparations made for commencing building, that at last aroused their alarm, they did not wish the common to be built over, and they then objected. There was a large meeting, I believe took place upon the common, probably, there was some intention of pulling down the fences, however, nothing violent was done, but a large meeting was held to remonstrate against it, and a committee was then appointed to wait upon Lord Spencer, they did wait upon him, it is not material to state what happened, because nothing was done in consequence of that. Afterwards a public meeting was held of the inhabitants of Battersea, there are only two parishes concerned in this Bill, Battersea and Wandsworth, a large meeting was held of the inhabitants, and it was determined that a subscription should be raised for the purpose of trying the legal right. A gentleman of the name of Digby was fixed upon as the plaintiff in the suit, and, as in the case of Wimbledon, a suit was commenced, but like many other suits it lingered, partly perhaps in consequence of the difficulties of the question, and partly perhaps from insufficient funds. As the suit seemed to be coming to nothing, some of the inhabitants of Battersea who were interested in the question memorialised the district board requesting them to apply to the Metropolitan Board of Works to see if they would give them any assistance. Nothing coming of that application, a deputation from the parishes waited upon the Metropolitan Board of Works, who, I believe, intimated their approval of their object, and that they were willing to assist them, but they again did nothing, the reason being, I suppose, if they ever intended to do anything, that if they had proceeded under the Common Enclosures Act, they would have been stopped by the litigation that was going on; evidently they would have been powerless,

but whether that was the particular reason of their doing nothing I am not aware. It was, at any rate, a sufficient reason, and it is rather a reason, whatever was their ground for not interfering, it is a reason if there were no other reasons for not depending upon them to protect the common.

In the year 1870 Mr. Peek, the same gentleman who took so active a part in the Wimbledon matter, being evidently here not personally interested, at least, not to any great extent, because he is not a resident on the borders of the common as he was at Wimbledon, but Mr. Peek made the extremely munificent offer that he would give £1,000 to a fund for protecting the common on condition that the other persons interested would raise £4,000 so as to make up the sum of £5000, and Mr. Peek's offer was received with great approval by the inhabitants. Meetings were held, and steps were immediately taken to collect further subscriptions, a large fund was raised—I do not think it ever reached the £5,000, but arrangements were afterwards made with Mr. Peek by which there would have been a large fund available for the purpose. A meeting having been held in the neighbourhood, Alderman Besley, who as the Committee remember, took a part in the Wimbledon business, and who is a resident in the neighbourhood, happened at the time to be Lord Mayor, and offered those persons who were interested in it the use of the Mansion House to hold a meeting on the subject. The meeting was held, with the Lord Mayor in the chair, at the Mansion House; and at that meeting, where the subject I suppose was generally discussed, Alderman Besley, the Lord Mayor, announced to the meeting that communications had been entered into with Lord Spencer, and that his lordship was willing to make an agreement, as in the case of Wimbledon, for the transfer of the common to the proposed conservators. Of course this was immediately felt to be the best way of dealing with the matter. And, gentlemen representing the promoters of this Bill had various interviews with Lord Spencer, and in the first instance it was intimated, I think, not by Lord Spencer himself, but by the agent, that he would require £500 a year for his rights on the common. This was thought a very large sum; and after further negociations, which I will not trouble the Committee with, because they will probably be stated by the witnesses, the result is more important than the details of the negociation. Lord Spencer made this alternative proposition, that a pond called the "Black Sea" should be either taken or not taken by the conservators. You will see Mr. Wilson's estate, purchased by Lord Spencer. There is an outline which represents the pond. Lord Spencer at that time intended to fill up the pond, and use the land for building purposes; and he was willing to include the pond in the property which was to be transferred. But if the pond was included, the consideration was to be £500 a year; and if the pond was excluded, and left to Lord Spencer, it was to be £250 a year. In either case the pond was to be filled up, and the only question was whether they would give £250 a year additional for the property of the soil of that pond, They decided to take the offer which was smaller in point of money consideration, and it was arranged. There was a give and take line made, by which Lord Spencer got a little addition to the Black Sea, and gave up a little of the Black Sea, but substantially the pond remained his property; the conservators covenanted that they would make no other pond within a certain distance of that pond. This agreement having been come to, it became necessary to deal with the London and Brighton Company, and with Mr. Todd, who was their purchaser. I think I will not go into the details of that arrangement, because the object was this, not to take back the land which Mr. Todd had, but he or his

lessee had the power of building up to the edge of his property," and I believe he intended to exercise that power. If he had done so, he would have destroyed the very ornamental row of trees which is adjacent to that building, and which is on the ground to be preserved by the conservators. An arrangement was ultimately arrived at, which will be given in detail by one of the witnesses; but the effect of it was this, that Mr. Todd agreed to remove his boundary backwards sufficiently far to protect these trees, on the consideration of getting a strip of land which the London and Brighton Company were to give up; and after a good deal of negotiation, the London and Brighton Company, who appear, I suppose, to protect their interests here, came to an agreement with the conservators, and are no longer opponents of the Bill. The schedule, which is now before you, I believe, which was not originally scheduled to the Bill, contains the agreement which has been arrived at with the London and Brighton Company.

Now here all the parties who are really concerned at least most of the parties really concerned seem to be of one mind in that matter. This rather complicated business with the Brighton Company and their purchasers might have caused some trouble; but it has been finally settled by agreement, and probably it will be thought that the conservators have made the best bargain that they could, and that it desirable that that bargain should be confirmed. The inhabitants of Battersea and of Wandsworth are, I believe, the only persons interested in this, except that, of course, the inhabitants of the Metropolis and all the country round the Metropolis are interested in keeping it open. And as our interests happen to coincide with the public interest, we submit that we shall be the best conservators of the public interests as well as our own. We propose, as I say, in this case to have an equal rate, which is to be limited to the maximum of a halfpenny rate. The halfpenny rate, as it will be stated by the witnesses who have examined the rate book, will produce from the two parishes about £600 a year. Of course, if £600 a year is not required, the whole rate will not be levied; but £600 a year will provide the £250 which is to be paid to Lord Spencer, and the remainder will be applicable to the different purposes of the conservators, who will, of course, not spend more than is required for the purpose. The reason for taking an equal rate here rather than in Wimbledon perhaps hardly requires defending, because it is the natural and obvious course. In the Wimbledon case we had a somewhat up-hill, besides defending an exceptional kind of rating, which we did by endeavouring to show that the person who were to pay the rate were the persons whose property would be improved. Here I apprehend partly from the configuration of the residue of the common, and partly from other local circumstances, that the advantage of this work will be not so much in giving the advantages of frontage to their houses, as in giving aid to a considerable number of roads, and smaller houses. Also the smaller pieces of common are of very great value to all the inhabitants of the neighbourhood, which is rather a populous neighbourhood; the parish of Wandsworth having at the time of the last census upwards of 13,000 inhabitants; and the parish of Battersea, in 1861, nearly 20,000 inhabitants. Since that time, it has not been ascertained what it is under the present census; but it is known to have increased very rapidly; and consequently there is a very large population. The conservators had reason to believe that the general body of the inhabitants would have been disposed to think themselves rather aggrieved than otherwise if they had been excluded from the contribution and therefore excluded from a share in the management. A remarkable proof of the interest which the poorer classes take in this is furnished, and I think it is a very extraordinary thing

by this fact. I mentioned the fund which was collected to meet Mr Peek's subscription. In one factory only where there was a canvas made for subscriptions the workmen in the factory actually contributed £40 or more to that subscription. I think that when we find workmen contributing with such extraordinary liberality, appreciating so highly the advantages which it confers upon them, and their neighbours, it would have been an invidious thing for the wealthier classes to have appropriated to themselves either the burden or the control. They appreciate the benefit highly; and therefore, it is right that they should have a share in the direction, which of course they cannot have unless they contribute. Of course we have taken steps to ascertain the feeling of the inhabitants on this subject. We have got a petition in our favour from the vestry of Battersea. I regret to say that the vestry of Wandsworth have petitioned against us; but having reason to believe that in this matter for some reason or other, which I do not understand particularly, the vestry of Wandsworth did not represent the wishes of the inhabitants, the promoters of the Bill took steps to call a public meeting of the inhabitants of Wandsworth, and gave it every possible kind of publicity by putting up handbills, and in every way making it as public as possible. A gentleman in the neighbourhood was called to the chair; and an unusually large and crowded meeting, which I think the Committee will be satisfied, really represented the feeling of the inhabitants, voted in favour of the Bill. The chairman on that occasion, requested a certain number of persons who were not inhabitants of Wandsworth, being inhabitants of Battersea, not to vote; and there is reason to believe that his wishes were attended to; because a show of hands was first taken, in which all voted; he then said that it ought to be a vote of the inhabitants of Wandsworth only, and he requested those who were not inhabitants of Wandsworth not to vote; and a considerable number who had previously voted answered his appeal by not voting on the subsequent division; but notwithstanding their abstension, on the final division there was no doubt whatever that the feeling of the meeting was in favour.

Now the district board, so-called, of Wandsworth is also opposed to the Bill; but although it happens to have the name of the district board of Wandsworth, it represents six parishes, of which Wandsworth and Battersea are two, and four others, Tooting, Streatham, Clapham, and Putney, of which the inhabitants are not at all concerned in this matter. Some of the inhabitants of Putney, no doubt, are very favourable to it, but the great body of the inhabitants are indifferent to it. The Committee are perfectly familiar with the argument which would induce the district board to object to any rate being put for a purpose in which the majority of the board took no interest. If at the meeting of the board the representatives of the two parishes had been only present voting, there would have been a majority in favour of it. The board have not petitioned, but of course it will be mentioned to the committee that they passed a vote against it. They have not petitioned, and the only opponents to the Bill are, I believe the Metropolitan Board of Works. I should say that in addition to the public meeting there has been a canvass systematically gone through, of which we have here the result. This is a petition in favour of persons rated to the poor rate of Battersea and Wandsworth, and it is simply a petition in favour of saying—"Your petitioners are persons rated to the poor rate, and who, according to the 42nd clause of the Bill, and other provisions, are liable to be rated for the purposes of the Bill" (*reading the same to the words*) "attaining this object." This petition was sent round by canvassers appointed for the purpose, who will be called before you, and this is the result. Parish of Battersea, total rateable

value of property, £256,774. Then rateable value of property in respect of which the petition has been signed in favour, £75,384. Public buildings and similar property, which of course must be excluded, as those parties would not vote, £96,000. Residue, including void houses, £84,000. Therefore we have of the whole voting population, £75,384 in our favour, and those who have not signed the petition in favour, but who very likely may, nevertheless, indeed, most likely, be in favour of it would amount to £84,000, which is larger than the real amount, because it includes the void houses. In Wandsworth the total rateable value is £101,000—£45,000 in favour; void houses and public buildings, £22,000; residue, £34,000. Therefore, in that instance we have a large majority of the whole rateable value, if it can be called a majority. We have a great part of the whole rateable value.

The CHAIRMAN: Taking out the public buildings and void houses, you have got half positive assents.

Mr. VENABLES: We have that exactly. Then we give the number of assessments in the two parishes, which is 8,199. We have got there a large majority. Of the total number assessed, we have 55 out of 82.

Now, Sir, the only opponents of the Bill are the Metropolitan Board of Works; and I will now refer to their petition. I believe Messrs. Frere and Cholmondly appear for them, and when I have referred to that petition, I will refer more fully to the agreement with Lord Spencer, which was scheduled to our Bill, and which is now distributed into clauses. The Committee will see that the actual terms of the agreement are as between us and the Metropolitan Board of Works not very material. The Committee of course will see that the agreement is one which ought in the public interest to be confirmed, or otherwise—but as between us and the Metropolitan Board of Works Committee will find there is no question. The first is a rental as to the main sewers, the power of supervision, and so on. Now I am not going into a discussion of the statement, in paragraph 5: "That by the Metropolitan Commons Act, 1866, your petitioners are constituted the local authority for the purposes of the Act for Metropolitan Commons." They are the local authority for the purpose of applying, as many other persons besides the local authority may apply to the inclosure Commissioners and they are in no instance the local authority for the management of commons, unless they are so constituted by a special Act, or by a proceeding of the Inclosure Commissioners. And in the latter part of the paragraph, they practically admit that they are not the local authority in certain cases, because they are as such authority, empowered to contribute. Now, no person can contribute to that of which he pays the whole. It is perfectly evident that when Parliament authorised them to contribute, Parliament contemplated that there should be somebody else to provide the proper funds, that we are to contribute. I may say in the first instance that we should not object to one conservator being appointed to represent the Metropolitan Board. Then they refer to the subject of a scheme for local management, which as we have said in the former case, means management by persons who live in the locality, and not management by the Metropolitan Board. They may be proposed by the lord of the manor, or by any commoners, or by the local authority and so on. Then they say that they may be heard, which, no doubt, they may. They say this, which is really a mere figment—a form. "Your petitioners will be injuriously affected by the said Bill, and object thereto." It is absolutely impossible that they can be injuriously affected, because we propose to relieve them from any possible rate. They may, if they like,

contribute; we shall be very glad if they will; but how they are injuriously affected by not contributing, I do not know. Then they say, "That by section 6 of the said Bill, it is proposed to confirm the agreement set forth in the schedule and by such agreement Earl Spencer, in consideration of an annuity of £250, agrees to convey to the Conservators his estate and interest in Wandsworth Common." And then they recite certain clauses of the agreement, which I say is now turned into clauses, and it is proposed to enact that "the Conservators shall at all times keep the common open, unenclosed, and unbuilt on, except as regards such parts thereof as are at the passing of this Act enclosed or built on, and except as otherwise in the scheduled agreement, or this Act expressed, and shall prevent, resist, and abate all encroachments on the common," "but there is no power by the said Bill to prevent the exercise of the rights of the commoners and others which might be inconsistent with the intended purpose of the said Bill, to preserve the said common for the use and enjoyment of the said public." We certainly do not want to get into conflict with the commoners. I will not recall the arguments of the Committee on open spaces—they expressed an opinion that it was better to leave the commoners—at any rate it is better not to have the commoners to fight. "That by section 42, of the said Bill, it is proposed to enact that the Conservators for the purpose of paying the annuity stipulated for in the scheduled agreement, and their expenses of management, and other expenses of executing this Act shall from time to time issue their precept to their respective overseers of the parishes of Battersea and Wandsworth requiring them to pay the amount therein specified to the Conservators," and so on. Then they say "that the whole of the said Wandsworth Common is within the whole of your petitioners' jurisdiction." So it is for the purposes for which they have jurisdiction, of which this is not one; "And it it would be attained at less cost by proceeding under the Metropolitan Commons Act," which, as I say, the Board of Works declined to prosecute, probably on the very sufficient ground that the Inclosure Commissioners could have done nothing as long as it was in litigation, and very probably they would not have troubled themselves in any case, but at any rate that would have prevented them from doing it. Now they say that they have memorialised the Inclosure Commissioners, and I suppose as they say so it is true; they say they "have proceeded to memorialise the Inclosure Commissioners to apply the same to a large number of commons and open spaces in and near the metropolis," but I believe there is only one single instance in which they have got a decision.

The CHAIRMAN: All that we can enquire into if necessary.

Mr. VENABLES: Then they say that "there is an agreement between Lord Spencer set forth in the schedule to the Bill which is in many respects disadvantageous to the public, and contains provisions in favour of his lordship which you ought not to sanction; and that the proposed payments to Lord Spencer are too large. And then they say that the agreement does not in fact include the whole of the lands which of right belong to Wandsworth Common; and then that Parliament ought not to sanction the raising of money by an addition to the poor rate of the parishes of Battersea and Wandsworth, which parishes form a portion of the metropolis, and as such contribute to the expenses incurred by your petitioners in putting in force the provisions of the Metropolitan Commons Act of 1866; and, inasmuch as the inhabitants of the said two parishes are liable to contribute to the metropolitan improvements in which they have no special local interest, they ought not to be at the same time rated under a special Act of Parliament." This is an argument which the Committee have heard

in a former case, and which perhaps will appear again now. It is proposed to empower them to contribute. "Very many of the ratepayers of the parishes of Battersea and Wandsworth strongly object to the provisions of the Bill." I take it that many of the ratepayers supposed that the Board of Works had the power to undertake the management, and that they would do it without any expense to the parish, except their share of the common thing. The Committee know how it stands, and they know also that the Metropolitan Board of Works have not applied their funds in that way, and are not likely to apply them.

Now, sir, the most material allegation there is, that the agreement with Lord Spencer is disadvantageous; but to that I have a complete answer, as far as the Board of Works are concerned, because they have forwarded us an amended Bill amended in their sense, which I daresay is before the Committee, of which the substance is, that they adopt the agreement with Lord Spencer, and that they adopt the whole of the Bill, I may say, in substance, including the agreement with the London and Brighton Company, who are the purchasers, and to put themselves in the place of conservators.

The whole scheme is impracticable, if it were expedient, because this Bill could not be passed as a Bill substituting the Metropolitan Board and imposing a new charge upon the rates of the Metropolis of which no notice has been given—they certainly could not do that, therefore the thing is absurd,—but it is valuable for this purpose, that it is an admission, that all our arrangements are just, except the arrangement which makes us the rating body, which imposes a burden on the two parishes, which gives the power to the representatives of the two parishes. In every other case, I need not go through the terms of the Bill, but if the alterations suggested by the Board of Works are examined, it will be found to amount to that, that they adopt the whole of the Bill, except the rating clauses and the administative part. I say the effect of assenting to the present view of the Metropolitan Board would be that no Bill at all would be passed, because this Bill, that is to say, the draft Bill, which they have made here in red ink is an impossible Bill for this year. They might hereafter, if they like, promote a Bill in some sense, but this Bill cannot be passed in that shape. I should probably have argued at some length if you had not heard the argument at some length already in favour of the reasons for local management. We have the opinion of the Committee on open spaces, which is the highest authority which has yet expressed an opinion on the subject. We have their distinct opinion that it is better not to impose this duty, or give the power to the Metropolitan Board of Works. We have their opinion that it oughi to be local management, we have their opinion that it would be a waste of the money of the ratepayers of the Metropolis to impose upon them heavy rates to manage these things; at least until it is ascertained whether the inhabitants, who are more nearly interested in the matter, are willing to find the funds. We have got the concurrence of the authorities, and we got in this way the opinion of the Metropolitan Board themselves; because they have repeatedly expressed an opinion, that the sound policy is, wherever a park or open space is acquired for the general benefit of the ratepayers of the Metropolis, and for the more particular benefit of the ratepayers within the immediate neighbourhood, that it is just to the more distant ratepayers who get no advantage from it to relieve the rates, by disposing of a part of the land for building. In the case of Finsbury Park, the inhabitants of the neighbourhood represented that it was a hardship that a part of the land which had been intended by Parliament for an open space for their enjoyment, should be sold and built upon

to pay the expenses of the park; the Board of Works expressed formally their opinion which they have never varied, either in that or in any other case, considering that the distant ratepayers constituting the great majority, had little or no interest in the opening of any particular space away from their own neighbourhood, it was just to make that neighbourhood pay its own expenses as far as possible in the shape of selling a portion of the land; therefore their policy would be undoubtedly in this, as in any other case, instead of increasing to the full amount necessary the rates of the Metropolis, to make the Wandsworth Common pay for the preservation of Wandsworth Common. The inhabitants certainly, therefore,—the promoters of this Bill, who are certainly among the most active and intelligent of the inhabitants who have shown their right to be heard by the large sums which they have contributed for the purpose of preserving the common—are of the opinion that they would rather have the common open than be saved a certain contribution to its maintenance by the sale of lands. Now under these circumstances, I think——

The CHAIRMAN: We quite understand that theory, it has been argued.

Mr. VENABLES: Having said so once, I think I shall best discharge my duty to my clients, and shew my respect to the Committee by not troubling them by arguing any general principle. Any facts which I have not mentioned, no doubt, will be supplied by the witnesses.

Mr. LOCKE: Sir John Thwaites gave evidence before the Open Spaces Committee.

The CHAIRMAN: The same principle has been argued before.

Mr. VENABLES: I thought I would not pass it over, but that I would not trouble the Committee with it at length. Any facts or details which I have not mentioned for the sake of brevity, and to avoid a waste of time, the Committee will be supplied with by the witnesses. I hope, having heard that statement, the Committee will think that ours is a fair and reasonable Bill. I think, perhaps, I ought to refer more particularly to the agreement with Lord Spencer, which is contained in a number of printed clauses. You have got, I suppose, the printed clauses, which are technically called "manuscript" clauses, I suppose, because they are not manuscript. "Whereas it is expedient that provision be made"—

The CHAIRMAN: The whole effect of it is in the agreement.

Mr. VENABLES: The whole effect of it is in the agreement. It has been converted into clauses, as in the former case, and as the Committee have the agreement before them, I may say it really amounts to this, that everybody's rights are, as far as possible, to be preserved, and that on the whole Lord Spencer has got £250. The other agreement with the Brighton Railway Company which is of a slightly complicated nature, is put in the schedule.

The CHAIRMAN: Lord Spencer is a party to that, is he?

Mr. VENABLES: Yes, and as I say I am not bound to defend either one or the other against the Board of Works, because they propose to adopt them.

(*Vide Minutes of Evidence.*)

HOUSE OF COMMONS.

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WANDSWORTH COMMON BILL.

MINUTES OF PROCEEDINGS,

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