

Conflicting Interests: Public Health, Lammas Lands, and Pressure Groups in Nineteenth-Century Kingston-upon-Thames

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In a recent issue of the *Newsletter of the Society for Landscape Studies*¹ Dr. Anthea Brian, of the Hereford Nature Trust, requested information on the survival of Lammas lands and Dole meadows. The unique nature of these areas, she argues, should prevent the Department of Transport from destroying the Hereford Lammas lands by routing the Hereford by-pass across them. A similar assault on Lammas lands was tried in the mid nineteenth-century by Kingston-upon-Thames corporation, when they proposed siting a sewage works on fields with Lammas rights. The proposal was defeated by the strength of the opposition, which successfully used formal channels of protest. It was a victory for 'respectable society'² and a rational approach to a problem, in stark contrast to the tumultuous, undirected and unsuccessful collective actions in nearby Croydon described by J.N. Norris.³

The episode of the Kingston Lammas lands illustrates a clash of interests at various levels; national and local government, local government and its ratepayers, and the town and nearby landholders. The manoeuvres of these groups shows that each had only its own interest at heart, and that the good health of the townsfolk and the cleanliness of the town was of very low priority. The episode also reveals the enduring delays to necessary social change by a lack of resources.

Lammas Lands

The centrality of the survival of rights attached to Lammas lands needs some explanation. Lammas lands were not common lands. Indeed, for six months of the years from Candlemas (February 2nd) to Lammas (August 1st) these lands were enclosed by private individuals. After the hay harvest the fences were removed and designated freeholders and burgesses were free to graze their animals

on the land. These rights were lost if a building was erected on the land. When the land lay on the edge of a town those beholding Lammas rights were in an important position with regard to urban expansion as they could either block or encourage urban development on the lands. W.G. Hoskins described the effects of customary Lammas rights on two Midland towns, Nottingham, and Leicester.⁴ At Nottingham expansion onto the Lammas lands was successfully opposed, resulting in severe over-crowding, with some of the worst slums in the country. In Leicester, by contrast, enclosure and housing development on the lands went ahead, and the town was able to accommodate additional population by physical expansion.⁵

The Lammas lands where Kingston freeholders had rights, lay outside the borough at Ham Fields. There was never any question of using the land to expand the town's boundary. The council merely wanted to use them to solve what seemed at the time an insoluble problem – getting rid of the town's waste as cheaply as possible.

The Problem

The rapid growth of the population in the early nineteenth century created practical problems on a scale hitherto unimagined. Towns were unable to cope with the expanding commensurate demands for space, water and air. The quality of the environment could be smelt in the air, seen in the crowded slums of the cities, the overloaded cesspits and open sewers, and the polluted watercourses that oozed through the towns. The census returns of 1801 and 1841 reveal that while the population of the town of Kingston increased from 3793 to 9760, that of the whole registration district of Kingston rose from 4648 to 21078. All brooks and streams in the town were heavily polluted, the Latchmere typically described as 'stagnant and emitting an offensive smell'.⁶ The Thames itself was a handy dumping ground for all types of waste. When water levels fell the bed could be seen as 'a large mass of putrid and offensive matter . . .',⁷ while conversely heavy rainfall washed this offensive matter back into the wells and basements of houses near the river.⁸ Not surprisingly environmental diseases were rife: it was an outbreak of cholera in 1841 that first stirred the corporation into an investigation into ways to reverse the deplorable condition of the town.⁹

Cholera provided the stimulus for action. Dr. A.P. Stewart, a national figure in the sanitary reform movement, somewhat unfairly characterised common reactions as a 'mop and pail operation', clearing up after a disaster but with little long term effect,¹⁰ but there were wider political issues connected with the public health issue at

this time. The Health of Towns Commission and Chadwick's investigation into the sanitary conditions of the labouring poor, combined to panic many towns into making some efforts to sort out their sanitary arrangements, before parliamentary legislation took the matter out of their hands.¹¹

Local government faced a dilemma over the public health issue. If government financial aid towards environmental improvement would be welcomed, central intervention in local affairs and a loss of local autonomy were feared. Central government too was torn between a *laissez faire* attitude to local government and Benthamite functionalism. Chadwick was the apostle and prophet of Benthamism, a medium which always 'did the same thing in the same way, choosing the best'.¹² A passionate advocate for a centralised system of public health and sanitation enforcement, which he calculated was cheaper and more efficient; if improvement was left to local administrations endless delays would derive from local officialdom's notorious opposition to change. He wanted one solution universally applied.¹³

Chadwick had many supporters, especially from the medical profession whose members were directly concerned with the effects of zymotic epidemics. Apart from its medical side, public health was seen as a moral as well as a hygienic issue. 'Men of broad and enlightened views thoroughly comprehend the close and reciprocal relations that subsist between dirt, disease, drunkenness, pauperism and crime', wrote Dr Stewart in his pamphlet on the medical and legal aspects of sanitary reform. He felt that 'the sanitary state of our large towns, and the conditions, physical as well as moral of our labouring population are matters of imperial interest . . .'. His co-author Edward Jenkins, a barrister, went so far as to state that 'Public health is public wealth. Every person laid aside by ill health is so much subtracted from the power and capacity of the State'. Like Chadwick, Stewart and Jenkins were advocates of state intervention over public health. Like Chadwick they felt that left to their own devices local authorities would do nothing. Legislation should be compulsory, rather than permissive – and unsuccessful. Jenkins, the lawyer, made a nice distinction between central supervision and central administration. The former, he wrote, encouraged, the latter compelled, and to be effective public health legislation had to compel, swiftly and summarily.¹⁴

This view confronted the prevailing free-market ideology of mid-nineteenth century capitalism. Centralisation attacked the very foundations of the 'liberty of the subject' and democracy.¹⁵ Increasing central control of local issues was seen as 'impairing self-reliance, independence, and national liberty'.¹⁶ Self-help was the dominant

doctrine of the day, and interference in local affairs by central government raised popular opposition. An attempt to regulate public health through the General Board of Health was wound up in 1858, partly because of this opposition. Furthermore, successive governments anxiously restrained levels of central expenditure, particularly Gladstone, who as Chancellor of the Exchequer in the Liberal administration of the 1860s, resisted any measure which would conceivably encourage local dependency on central funds, and thereby effectively delayed reforms financed by Whitehall. Government reluctance to spend money was paralleled by the local government resistance to rate rises, and the rate-payers aversion to footing the bill for social reform. Thus an impasse occurred.¹⁷

Kingston corporation stood almost alone amongst local authorities in supporting a centralised public health system. The corporation minutes show that the corporation knew exactly what it wanted – central money to drain the town. The town's MPs were mandated to support every general public health measure introduced into parliament, no matter by whom or by which party, and no matter how far it would reduce the town's power over its own affairs.¹⁸ Although this attitude was almost unique there was a precedent; in 1839 the corporation jettisoned its existing borough police, and opted for policing by the Metropolitan force.¹⁹ In the much more complicated and expensive business of draining the town, outside help looked even more attractive, especially as the corporation had no statutory powers, and unless a general enabling act was passed, would be forced into the extremely expensive procedure of obtaining a local improvement act. On the 1847 foundation of the Metropolitan Commission of Sewers, the corporation applied to join, but was turned down, and two more cholera outbreaks occurred before any further action was suggested.²⁰ However, once the panic had died down the matter was again left to lapse until a further cholera attack in 1852 decided the corporation that there was no alternative to a local act. It took three years to get through Parliament,²¹ and it was not until 1863, twenty-two years after the first call for an inquiry into town improvement, that work started on providing the sewerage system.

The system was ideal from Kingston's perspective, as it comprised simply piping sewage to the river bank, which as it also served as the town boundary, meant that effluence once in the Thames was no longer the town's problem. Ironically, work had but recently commenced on laying the sewerage pipes, when the First Thames Conservancy Bill went through Parliament in 1864, with the key clause forbidding the emptying of untreated sewage into the water.²²

The town's investment extended to excavated trenches, laid pipes, and the construction of the main outfall from Surbiton Road to the river. The town's MPs were mandated to vote against the bill; corporate deputations were sent to the Board of Trade. All to no avail, in June 1864 the town clerk was served with an injunction forbidding the town emptying its waste into the Thames.²³ Notwithstanding the final pipe was wilfully connected, and raw sewage was pumped into the river. If the corporation's defiance was also predicated as an anticipation that the system's operation would guarantee its survival, its conviction was quickly dispelled by another cholera outbreak. In 1867 another injunction was served with a time limit for disconnecting the pipe, with crippling fines in the event of a refusal.²⁴ The town was back where it started in 1841.

The crux of the town's problem was that it had no space on which to site an alternative system. The 1840 Tithe Commission shows that the borough consisted of 4765 acres of which the corporation owned 125 acres and the parish seven.²⁵ The residue was held by aristocrats or the wealthy middle class. On one side the town was bounded by the river. There were three royal parks in the vicinity, as well as Hampton Court and forty gentry seats. Any land that came on the market was quickly snapped up at prices the town could not hope to meet. Where could the borough site a sewage works without investing in many miles of pipes? The answer appeared to be Ham Fields, where the corporation claimed Lammas rights as free tenants of the Manor of Kingston.

The Solution

The idea of utilising Ham fields for a sewerage farm came originally from evidence given to the Commission appointed to inquire into the best means of preventing the pollution of rivers (River Thames). The commissioners, Robert Rawlinson, John Harrison and Professor John Wray visited Kingston in December 1865. The Town Clerk, Walter Wilkinson's view that there was no available adjacent land for the necessary irrigation works was confronted by another witness, a solicitor, Hans Nelson, domiciled at Hampton Wick on the opposite side of the Thames to the Fields. He argued that the latter were distinct from Ham Common, owned by Lord Dysart, and advocated compulsory purchase by the corporation. In fact Nelson was self-interested; his proposed site was well away from his own land, the foreshore of which was heavily polluted by sewage currently piped into the river, which would cease if his scheme materialised. In the meantime, he invited the Commissioners to inspect the filth and to estimate its adverse effect on the value of his property.²⁶

Ham Fields were closer to the town than an alternative site at Tolworth, and Nelson's suggestion was investigated by the Town Clerk. This revealed that the land, while unsuited for residential or other building, could accommodate a sewage works, but that would necessitate the buying-out of the other freeholders. In April 1868 the corporation's special drainage committee adopted the proposal, which was eventually unanimously endorsed by those ratepayers at a poorly attended public meeting in January 1869.²⁷ Thus encouraged the authority confronted what members hoped was the last stumbling block. Under the Sewage Utilisation Acts of 1865 and 1867, the Home Office had to be satisfied by the corporation, that it possessed borrowing powers adequate to the costs of the designated 154 acres of land and the construction work. The legislation stipulated a public enquiry.²⁸

It was at this point that freedom of information took a hand. The Acts compelled the corporation to advertise their intentions, and to formally notify every owner, and freeholder with rights in Ham Fields. The temerity of the corporation in intending to site the works on these fields can be fully appreciated when the status of the owners, freeholders and surrounding residents becomes known. The first to voice opposition was Gilbert Scott the architect, who lived in Ham. His map unambiguously revealed the case against suitability of the site. It was surrounded by houses; it adjoined Ham House, the home of Earl Dysart, and the residence of the Duc de Chartres. Across the river lived members of the French Royal Family whose houses looked directly onto Ham Fields. 'In the midst of these it is proposed to introduce the filth of Kingston' wrote Scott.²⁹ It would drive out the wealthy inhabitants, thereby lower the tone of the neighbourhood, and reduce property values. The Duc de Chartres himself petitioned the Home Office against the scheme, but Kingston corporation pressed ahead by notifying all relevant freeholders.³⁰

There were thirty-six private owners of property in the Fields, and three public bodies. Twenty-seven owners dissented. A further 182 individual Lammas rightholders were traced in Ham. If ninety-two did not reply, of those who did only one assented, one expressed neutrality, and eighty-eight objected, none more vehemently than the most socially elevated, including Earl Russell and the Duke of Cambridge. The sixteen people whose rights derived from Kingston manorial tenancies were somewhat more supportive, for seven consented while only six expressly objected.³¹

Whatever mitigation came in the form of non-engagement by some powerful residents including Earl Spencer, was countered by corporate objections. Teddington Local Government Board claimed that

the scheme would compromise the profits of river boat proprietors, and more seriously would totally jeopardise the building of extensive further residential properties for which land had already been sold. Ham Local Government Board asserted that the works would adversely affect the health of residents, a claim also advanced by its Twickenham counterpart, who mobilised the support of wealthy residents including three prestigious Orleanists. Finally, no less than 115 Kingston ratepayers and burgesses formally opposed the scheme on the grounds of costs and greatly inflated rates. Their solution was a joint-venture with the government – the government paying of course.³²

The inquiry was held before Robert Rawlinson, who had already been to Kingston on the pollution of rivers commission; he was familiar with the problems facing the town. As a civil engineer specialising in public health he had designed sewage systems for towns, and had published on this topic. A government inspector under the terms of the 1848 Public Health Act, he had also led a sanitary commission to the Crimea during the war. He became chief engineer for the Local Government Board, and headed many inquiries on urban sanitation including Wigan, Birmingham, Tynemouth, West Ham and Aldershot. Rawlinson advocated compulsory powers to compel councils to purify their town's sewage before disposing of it. Moreover, he also felt that local boards should pay their own way by constructing sewage disposal works so that purified waste could be profitably sold as fertiliser. At the same time he opposed draconian use of compulsory purchase powers, and Kingston corporation might have been forgiven for thinking that the circumstances of the inquiry were against them from the start.³³

Rawlinson closed the inquiry almost immediately, simply informing the Home Office that the price of the work, and the legal costs of compulsorily purchasing the land, would be more than the entire rateable value of the borough.³⁴ The Town Clerk, however, was convinced that it was the formidable and influential character of the opposition that had alone stopped the scheme, and stung Rawlinson with an accusation of partiality.

Privately Rawlinson explained that the peculiar tenure of the land would make the entire process of compulsory purchase prohibitively expensive through necessitating obtaining a local Act which itself would bankrupt the borough. The Town Clerk's appeal to the Home Office failed to do more than elicit further details of difficulties from Rawlinson. Five public footpaths crossed the site, which was also too close to the Thames. The scheme was not technically viable as it was a mixture of tanks, pumping and carting.³⁵ It took another twenty five

years to find a suitable site and viable system, during which time the town continued to pump sewage into the Thames, despite incurring heavy fines.

The experience of Kingston was not unusual. A similar saga took place over providing a drainage system for Farnham.³⁶ Neither town was industrial nor were others in southern Britain, including Chichester and Cheltenham, where deplorable conditions were publicised by Stewart and Jenkins.³⁷ These examples prove that it was not only industrial towns and cities which faced massive social problems in the nineteenth-century. In the south-east these problems were compounded by inflated land prices, and lack of space to site public works.

Conclusion

The Lammas lands at Ham were saved. Part of the area is still an open space. But the lands were saved by the expense of acquiring them, and not through any environmental considerations. These played no part in commissioner Rawlinson's deliberations, or in the reasoning of the opponents to the scheme. The episode shows, however, that formal channels of opposition were probably more effective than the tumultuous collective action of the mob. It was indeed a triumph for 'respectable society'. It was also a triumph for self-interest. Nobody wanted a sewage works in their back garden, and it was unfortunate for Kingston corporation that the owners of the back gardens it wanted to use were articulate, influential and wealthy. Indeed, the Town Clerk was very near the truth when he wrote that 'personal and private interests are allowed to conflict with the efforts of public bodies to meet the requirements of the law'. The law stopped the town from emptying its raw sewage into the Thames, but made no provision to help it find a viable solution. It was not surprising that on 30 August 1870 the special drainage committee felt 'Utterly incapable of devising any new scheme of sewage irrigation in the present state of the law'.³⁸ It was a cry from the heart that vindicated the campaigns of Chadwick, Stewart and Jenkins for a unified sanitary system, and showed how *laissez faire* attitudes failed to produce social reform at a local level, owing to conflicting interests. The ratepayers, corporation and landowners went on arguing over where a sewerage works should be sited and who should pay, while the town continued pumping untreated sewage into the Thames and surrounding water courses until 1888, when Earl Dysart sold Down Hall Meadow for a sewerage farm. Until that date Kingston mortality rates were inflated by typhoid, enteric fever and dysentery.

Notes

¹ A. Brian, 'Letter', *Newsletter of the Society for Landscape Studies*, (Summer 1990), pp. 3–4.

² F.M.L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain, 1830–1900* (1988), esp pp. 29–30.

³ J.N. Norris, 'A Disappearing Crowd? Collective Action in Late Nineteenth-Century Croydon', *Southern History*, 11 (1989), pp. 90–113.

⁴ W.G. Hoskins, *The Making of the English Landscape* (1955 repr. 1983), pp. 279–287.

⁵ *Ibid.*, pp. 282–287.

⁶ Surrey County Record Office, KB 1/6, Court of Assembly Book, becoming the Borough Council Minute Book, 1834–1859, 6 May 1852.

⁷ *Ibid.*

⁸ For example, S.C.R.O. KB 1/6, 9 Sept. 1846.

⁹ S.C.R.O. KB 1/6, 1 Jan. 1841.

¹⁰ A.P. Stewart and E.P. Jenkins, *The Medical and Legal Aspects of Sanitary Reform* (1867), p. 21.

¹¹ E. Chadwick, *Report on the Sanitary Condition of the Labouring Poor* (1842).

¹² E. Chadwick, *On the Evils of Disunity in Central and Local Administration especially with relation to the Metropolis and Also on the New Centralisation for the People with Improvements in Codification and in Legislative Procedure* (1885), p. 2.

¹³ *Ibid.*, p. 6.

¹⁴ Stewart and Jenkins, *Medical and Legal*, pp. 5–6, 81–2.

¹⁵ *Ibid.*, p. 22.

¹⁶ Chadwick, *The Evils*, p. 95.

¹⁷ For a fuller discussion of these points see esp., M.W. Flinn, *Public Health Reform in Britain* (1968); D. Fraser, *The Evolution of the British Welfare State* (1973); R. Gutchin 'Local Improvements and Centralisation in Nineteenth Century England', *Historical Journal* IV, (1968); R.J. Lambert, 'Central and Local Relationships in Mid-Victorian England', *Victorian Studies*, VI (1962); O. MacDonagh, 'The Nineteenth-Century Revolution in Government: A Reappraisal', *Historical Journal*, 1, (1958); R.M. MacLeod, *Treasury Control and Social Administration* (1968).

¹⁸ S.C.R.O. KB 1/6 for example, 20 May 1841, 22 March 1844, 9 Sept. 1847.

¹⁹ S.C.R.O. KB 1/6, 1836–1839.

²⁰ S.C.R.O. KB 1/6, for example 2 April 1850, 15 Feb. 1853.

²¹ S.C.R.O. KB 1/6, 21 Dec. 1856, 13 Oct., 1 Dec., 1854, 5 Oct., 1855, 5 April, 3 July, 4 Sept. 1855. (Parliamentary Papers), Local and Private Acts, Kingston Improvement Act (1855), Cap. xlv.

²² P.P. First Thames Conservancy Act (1864), 27–28, Vic. Cap. 113, Section 74.

²³ S.C.R.O. KB 5/15, Minutes of the Improvement (Improvement, Sanitary and Property) Committee, 30 June, 1864.

²⁴ S.C.R.O. KB 1/7, Borough Council Minute Books, 1859–1971, 9 Aug. 1867, Report from the Drainage Committee.

²⁵ *Official Guide to the Royal Borough of Kingston upon Thames* (1970).

²⁶ PP Commission appointed to Inquire into the Best Means of Preventing the Pollution of Rivers (River Thames), *First Report of the Commissioners*, (1868), evidence of Wilkinson, and Nelson.

²⁷ S.C.R.O. KB 5/15, Special Drainage Committee Minutes, Oct. 1867, Resolution No. 3, and 2 April, 1868. KB 1/7, Minutes of Public Meeting, Jan. 21, 1869.

²⁸ S.C.R.O. KB 1/7, Special Drainage Committee report, 8 May, 1869.

²⁹ P(ublic) R(ecord) O(ffice), General Board of Health, Local Government Office, M.H. 13/105, 27 Oct. 1868, Scott to the Board. Many such inquiries held in the 1860s are documented in P.R.O. MH 13/series. These provide a valuable insight into mid-Victorian attitudes and expectations. All material pertaining to the inquiries should be extant, including the newspaper advertisements advising residents of a scheme, and all petitions and letters sent to the Board.

³⁰ PRO MH 13/105.

³¹ PRO MH 13/105, Circular detailing rights from Kingston corporation.

³² PRO MH 13/105, Petitions all dated Feb. or March 1869.

³³ S. Lee ed. *Dictionary of National Biography*, Vol. XXII (1909), Supplement, pp. 1164–1165. PP. Select Committee on the Thames River, *Proceedings and Evidence* (1868), Rawlinson evidence.

³⁴ P.R.O. MH 13/150, Report on the Rawlinson Inquiry respecting the compulsory purchase of Ham Fields. *Surrey Comet*, 23, 24 and 27 March 1869.

³⁵ PP MH 13/150, Correspondence between the Town Clerk, Rawlinson, and the Home Secretary, 23 March–28 April 1869.

³⁶ A.S. Wohl, *Endangered Lives, Public Health in Victorian Britain* (1983), pp. 105–107.

³⁷ Stewart and Jenkins, *Medical and Legal*, p. 19.

³⁸ S.C.R.O. KB 5/15, Special Drainage Committee Reports, 6 May 1869, and 30 Aug. 1870.