

Chislehurst and St Paul's Cray Commons

Proposal for a Scheme of Management

Public Inquiry

A short time ago a number of the inhabitants of Chislehurst presented a memorial to the Land Commissioners for a Scheme of Management, under the Commons Preservation Acts, for Chislehurst and St. Paul's Cray Commons. The public inquiry respecting the scheme, as directed by the Acts, was held at the Chislehurst Village Hall on Tuesday [November 10 1885], before Mr G Pemberton Leach, Assistant Land Commissioner. Mr Channell, QC, and Mr Morton Smith, instructed by Mr Birkett (Messrs Horne and Birkett, Lincoln's Inn Fields), appeared for the promoters of the Scheme; Mr Bary, instructed by Mr Warrens, for Earl Sydney; Mr Janson watched the proceedings on behalf of six opposing inhabitants of Chislehurst; and the Rev GL Langdon for the opposing inhabitants of St Paul's Cray. The inquiry was attended by a large number of the inhabitants, and much interest was manifested in the proceedings. Amongst those present were the Revs FH Murray, GL Langdon, JB Parker, AL Pitman, and A Welch, Mr RB Martin MP and Mrs Martin, Mr Patterson Nickalls and Miss Nickalls, Mr Tidman, Mr W Cook, Mr Murton, Mr J Pears, Mr Field, the Misses Gould, Mr FH Janson, Miss E Janson, Mrs F Powell, Mrs Joseph Allen (Shepherd's Green), Mr Thomas Watt, Mr Arthur Allen, Mr Morney, Mr Lewis Wing, Mr H Honey, Mr Gower and the Misses Gower, Mr Travers Hawes and Mrs Hawes, Mr and Mrs Nettleton Balme, Mr C Balme, Mr Thomas Townend, Mr Arthur Townend, Mr S Ashby, and Mr G Ashby, Mr Hamilton, Mr Hamilton jun, Mr Chattell, Mr Webster, Mr Franklin Adams, Mr Mitcham, Mr Charrington, Mr Charrington jun, Mr Edlmann and Miss Edlmann, Mr Wilkinson, Mr Thornton, Mr Bowen, Mr J Bowen, Mr Waters, Mr C Morley, Mr Duncan, Miss Nussey, Mr HF Tiarks, Dr Ashe, Dr BP Matthews, Mr I Wall, Dr Bull, Mr Warren, Mr Mahoney, Mrs Boyce, Mr A Allen, Mr Chivers, Mr Allen, Mr Powell, Mr E Vinson, Mr G May, Mr T May, Mr Lindridge, and others

The Commissioner, in opening the proceedings, said that the meeting was held to consider the Scheme which had been prepared by the Land Commissioners, under the "Metropolitan Commons Act," for the regulation of Chislehurst and St Paul's Cray Commons. As stated by the notice the meeting was held for the purpose of taking and receiving any evidence or information either in respect to the Scheme or the Commons. He would state shortly the effect of the Scheme, copies of which had been distributed to the memorialists and in the neighbourhood. First of all it was with reference to Chislehurst Commons and St Paul's Cray Common and certain roadside strips, and two small pieces of Common known as Shepherds Green and Place Green. When he went over the Common on Saturday, attended by persons interested in the inquiry, the roadside strips were withdrawn from the application, with the exception of two – one a small piece near Leeson's-hill, and the other opposite Petts Wood, both adjoining St Paul's Cray Common. [The places were pointed out on the map by Mr Chilvers] The Commissioner then read the abstract of the draft Scheme, which had been affixed to the Church doors and also has appeared in our advertisement columns. He proposed first of all to deal with the land which was to be included in the Scheme. Objections had been received to the Scheme on behalf of Lord Sydney (the lord of the manor), some inhabitants of Chislehurst, and the Rector and several inhabitants of St Paul's Cray. He would then deal with the Scheme under different heads. As to the conservators they were to have the management of the Common, and then there was the question as to the persons who claimed rights over the Common. He thought the most convenient thing would be for those who represented the memorialists to state briefly what was their desire, and then the objectors or anyone else would have a opportunity of stating

their views on the subject. He was quite ready to hear any remarks bearing upon the Scheme or the Commons, for that meeting was held for the purpose of ascertaining the feeling of the inhabitants in reference to the Scheme. The memorial sent to the Land Commissioners was signed by 220 persons resident in Chislehurst, with the exception of three from St Paul's Cray, three from Sidcup, and four from Bickley.

Mr Channell, QC., said he appeared with his friend Mr Morton Smith on behalf of the memorialists. His remarks, in the first place, would refer to the question as to what was to be included in the Scheme, and would preface his subject with a few remarks upon the Act of Parliament they were proceeding under, inasmuch as it appeared to him that those persons who had presented the objections had somewhat misunderstood the object and the operation of the Act of Parliament. The Act of Parliament related to Metropolitan Commons – Commons within the police area – and it was sufficiently obvious that those Commons were selected for separate treatment. The reason undoubtedly was not only that the population in the immediate neighbourhood were near to the populous Metropolis, but that there were Commons within that area where new houses were rapidly growing up around. The consequence of it was that the lots in respect of which the Common rights at one time were exercised were gradually being built over, and the rights could be less exercised. The advantages which the residents of the neighbourhood had enjoyed were much more valuable when the neighbourhood became populous; and of course as the rights of the Common could be less and less used there was great probability that the rights enjoyed de facto would be taken away from them. The object of the Act of Parliament was to preserve the Metropolitan Commons for the benefit of the inhabitants of the neighbourhood and, no doubt, incidentally, for the benefit of the inhabitants of the Metropolis to some extent. And the Scheme which was carried out was to establish a system of what was called local management, and it operated by giving powers to a body to be created under it – a body of conservators who would have power to prevent nuisances upon the Common, and to regulate its preservation for the benefit of the neighbourhood. Therefore the Act of Parliament differed essentially from the ordinary Enclosure Acts, which related to a sort of common property in parishes. This Act was totally different in its application – it was to preserve the Commons in their entirety for the benefit of the neighbourhood, and that those persons who had rights should not be interfered with without being compensated. Therefore he submitted that the objections which were made on the grounds that the memorialists had no rights over St Paul's Cray Commons or other places were absolutely immaterial. It seemed to him that a greater part of these objections had been misconceived. The question before them was as to whether there was sufficient ground for saying that the Commons ought to be preserved, and he thought that the Commissioners would come to the conclusion that they ought to be preserved. If they were not protected, in all probability before very long they would be altogether destroyed. That would be proved from witnesses whom he would call. For another thing, there was a very extensive taking away of gravel, and not only was gravel taken away but rubbish was deposited. He presumed the lord of the manor had power to prevent the deposit of rubbish if he pleased. As to the taking of gravel, he had no power, because the General Highway Act of William IV gave power to surveyors of highways acting for the Highway Boards, to come upon any Common or waste land and take materials for the repair of roads without any compensation. Under the Commons Act, 1876, it was expressly stated that the power of the surveyors of highways to take gravel from Commons should not be exercised without the consent of the conservators. The result, therefore, under a body of conservators, would be that they would either be stopped or regulated so as to prevent the Common being taken away as it was now. The another very material matter was the preservation of the furze on the Common. The fires which occurred occasionally could be stopped, and this would be assisted by summary proceedings being taken against the offenders. Lord Sydney had appointed a Common keeper and so on, who did

something in that way, but the protection which he afforded to the Common had not been considered by any means to be effective. In St Paul's Cray Common there had recently been a very great destruction to the turf upon the Common. That had been done by the lord of the manor himself. Whether he had the right to do it or not was a matter which he apprehended would not be in question there, because that again was one of the matters in which, as he apprehended, the persons objecting to the Scheme had misconceived the operation of it. He understood that the parties moving in the case would be prepared to pay compensation where it was justified. The object of the memorialists was to preserve it in its natural state. With respect to the manner in which the money was to be provided for working the Scheme, the vestries of the parish had the right to vote a certain sum or various sums from time to time, to be raised out of the poor rate, and paid to the conservators. There were provisions in the Scheme with reference to that matter, but there was no compulsion – even to the vestry of Chislehurst – to provide the same, although he was instructed that the feeling was such that they would do so. Nobody in the parish of St Paul's Cray could be rated for that purpose unless the vestry chose that they should be. The result therefore was that the funds for carrying out such a scheme would be to be provided from some voluntary source. As St Paul's Cray Common was near to Chislehurst, and a great way from the parish of St Paul's Cray, it was clear that the inhabitants of Chislehurst had an interest in it, far greater than those of St Paul's Cray. He was instructed that a great number of the signatures to the objections from St Paul's Cray were given under a complete misapprehension.

Rev. GL Langdon: No, no, sir.

Mr Channell said he would see Mr Langdon in the witness box, and question him there upon the matter. These people were told that expenses were to be put upon them for the benefit of the inhabitants of Chislehurst. The inhabitants of St Paul's Cray who lived near the Common were in favour of the Scheme. If the two Commons were under one Scheme there would be less expense, and the bye-laws would be more effective. The rateable value at which the memorialists were assessed at was £21,000; that of the objectors a little over £2,000. The memorialists considered that that they could provide the money for carrying out the Scheme. They did not say that they did not hope the St Paul's Cray Vestry would eventually contribute something, but for the present it was not unreasonable that they should be without it. The land would be more valuable and the Common rights more sacred in course of time.

The Commissioner asked if any other gentleman wished to say anything.

Mr Bray said he appeared for Lord Sydney, and he should be willing to assent to any course the Commissioner thought fit to adopt. As regarded St Paul's Cray Commons, the onus of shewing the advisability of including St Paul's Cray Common in the Scheme laid with the memorialists.

The Commissioner said if there was a general feeling of the inhabitants of St Paul's Cray that the Commons should not be included, he thought it was a matter which should be taken into account by the Land Commissioners. No expression of feeling on the part of St Paul's Cray had been produced by the memorialists.

Mr Channell said that since the memorial was signed 13 others had supported it.

Mr RB Martin MP was then called, and having been sworn, was examined by Mr Morton Smith. He said he had lived at Chislehurst for seven years. He was a freeholder in the parish to the extent of 14 acres, his house being situated on Chislehurst Common. He often used St Paul's Cray Common for walks, and many Chislehurst people did the same. He thought St Paul's Cray Common should be included in the Scheme, because to all intents and purposes it was a portion of Chislehurst Common. (Applause.)

Mr Hawes having been called, Mr Janson said he was one of the signatories to the objection, and he appeared as the spokesman for the objectors. He was an opponent to the Scheme, and also wished to suggest some precautionary provisions.

The Commissioner: Does any one represent St Paul's Cray?

The Rev. GL Langdon: I represent them.

Mr A Travers Hawes having been sworn, Mr Smith proceeded to examine him. He said he was a freeholder, and since he had been in the parish had taken great interest in the Common. During that time it had been very much neglected. – Mr Smith: I believe you are the secretary of the society which has been formed for the preservation of the Common. Who was it who first suggested to you the preservation of the Common? – I think Mr Watt first suggested that we should have a meeting. The first meeting was held at his house – Mr Smith: And he put himself in communication with Lord Sydney for the purpose of forming a Scheme, but that was abortive? – Yes. Continuing the examination, Mr Hawes said that all the people residing near St Paul's Cray Common, with one exception, had signed the memorial, and one – Mr Lubbock – had agreed to be a conservator.

In answer to the Commissioner, Mr Hawes said that all those who signed the original memorial were in Chislehurst parish.

By Mr Smith: St Paul's Cray Common had suffered a great deal during the past years by the paring off of the turf. Representations were made to the lord of the manor respecting the damage, but he only stopped it on the 17 January last year. He found that where the turf had been cut away the trees died off. There had been fires on St Paul's Cray Common and the sticks had been left until they rotted away. The rateable value of Chislehurst parish was over £40,000; St Paul's Cray was just under £6,000. In the former parish there were 497 ratepayers, and in the latter 51. He had estimated that the expense of the Scheme would be £120 a year, and if it was defrayed from the Chislehurst rates he thought it would not exceed a rate of 1/2d in the £, and the majority of the inhabitants would be quite willing to meet that. The two Commons should be under the same management. The Commons had suffered very much from cocoa-nut men, donkey drivers and excursionists. He was unsuccessful in trying to get a voluntary Scheme with the lord of the manor.

Cross-examined by Mr Bray: There was a large fire almost in front of the entrance to Scadbury about 18 months ago. He was afraid the furze had been destroyed. He did not object to people walking across the Common, but to new footpaths being made. He did not object to the people going across, but when a footpath got worn it might be stopped up temporarily. His estimate of the £120 for the cost of keeping the Common in order was – One keeper for all the year round for both Commons, £60; an extra one in the summer, £30; extra help on Sundays and Bank Holidays, £10; and the remainder for contingencies. The business of the Scheme would be done without salaried officers. Lord Sydney had kept a Common keeper, but he did not think he had had proper instructions. He had noticed a large amount of waste paper and other refuse left on the Commons by excursionists. He had written to Lord Sydney about it, and he believed his answer was that the inhabitants had better pick it up.

By the Rev GL Langdon: He had noticed the birch trees (15ft high) die owing to the turf being cut. He had seen the Common looking better than it did at present, though Lord Sydney had for the last fortnight made every effort to make it look clean.

Mr Watt: You said, Mr Hawes, that your attention to the Common was directed by me in the first place? – Mr Hawes: Yes, that was so, and I can give you the conversation which took place outside Mr Martin's.

I had then written to the Village Magazine and your words to me were, "I am glad you have had the pluck to take this matter up." – Mr Watt: You say you wrote a letter to the Village Magazine and at the same time say that I put it to you first. I think you cannot reconcile the two statements. – Mr Hawes: I wrote the letter to the Village Magazine, and Mr Watts suggested that the meeting should be held at his house – Mr Watt: My only aim is that a wrong impression should not go abroad in the parish. For some purpose Mr Hawes has thought well to introduce me as the originator of the agitations, and as far as I know, I am not the originator.

Examined by Mr Janson, Mr Hawes said he thought if the two Commons were placed under one Scheme the majority of the ratepayers would be in favour of finding the £120. Something might be added to the estimate, for the secretary, in course of time. He thought the estimate a fair one.

Cross-examined by Mr Channell: People favourable to the scheme had not signed the memorial for private reasons. There had been cutting of peat on St Paul's Cray Common.

Rev. FH Murray, having been sworn, was examined by Mr Channell. He considered it extremely necessary that the two Commons should be included in the Scheme because, if not, when a nuisance was stopped on one it would be increased on the other. There were only two houses belonging to St Paul's Cray parish which adjoined the Common. The conservators' attention had been called to many matters which had not been attended to. Throughout the proceedings of the memorialists, it was their endeavour not to interfere with Lord Sydney's rights.

Cross-examined by Mr Bray: If Lord Sydney did not do more than he had done it would be perfectly useless as a prevention of nuisances. He considered there was neglect on St Paul's Cray Common with regard to the furze.

Mr Wilkinson Marlings, examined by Mr Channell, said he lived in the parish of St Paul's Cray. He thought when the "rough class" came on to the Common they should be regulated. There was nobody in the parish who lived near the Common excepting Mr Lubbock and himself.

Mr T Charrington, Mayfield, examined by Mr Morton Smith, said his house fronted that piece of the Common which was reserved for cricket. He took a great interest in the Common and had removed paper and rubbish himself and also employed a person to do so. He was pretty well known as carrying a stick or staff for that purpose. He thought St Paul's Cray Common far more beautiful than Chislehurst. It would be better and more economical to have the two Commons under one scheme.

Cross-examined by Mr Bray: Excursionists had been known to bring baths down. He believed that a great deal of rubbish, such as worn-out kettles and saucepans, was constantly thrown out by cottagers at night. The rubbish was never thrown out in the day-time because they had an order from the sanitary inspector to clear their cesspools, and they did not take the trouble to write to the persons whose duty it was to remove the rubbish. Eight or nine months ago a large quantity of rubbish was shot out of a cart on Chislehurst Common. He mentioned the fact to Lord Sydney's then bailiff, but the rubbish remained for months, and at last he (Mr Charrington) employed a man to remove it. There was a cartload.

The proceedings were then adjourned for luncheon. Upon resuming:

The Commissioner said he thought he had heard sufficient evidence on the part of the Chislehurst inhabitants with the respect to the inclusion of St Paul's Cray Common in the Scheme.

Mr Frank Charrington was called by Mr Channell in order to shew the state of feeling in St Paul's Cray, but upon commencing the examination Mr Bray objected on the ground that the evidence was inadmissible. The Commissioner ruled that Mr Bray's objection was valid. Mr Charrington, examined by

Mr Channell, said he believed a certain number of the objectors in St Paul's Cray were not ratepayers. He obtained eleven signatures to the memorial from the parish, four of whom had made an objection previous to his visit.

Mr Channell said he was instructed that a certain number of the people signed the objection in St Paul's Cray under a misapprehension. They promised to attend the inquiry, but as they were not present he could not call them.

The Rev GL Langdon said that not one person in St Paul's Cray who signed the objection was in any way unduly influenced.

This closed the case for the memorialists.

Mr Bray said he appeared on the part of Lord Sydney, who never had opposed and did not oppose the Scheme so far as it related to that Common.

Mr Channell said he had his letter to say that he did.

Mr Bray pointed out that he was opposed to a Scheme for the management of St Paul's Cray and Chislehurst Commons. – Correspondence was here read which took place between Mr Hawes and Lord Sydney in December and January last, in which Mr Hawes called his Lordship's attention to a meeting called for the purpose of considering a Scheme of management and asking him to accept the presidency. In reply his lordship said that the Scheme did not commend itself to him, and he was consequently opposed to it. Continuing, Mr Bray said that his lordship make inquiries and he found at least five or six landowners in the neighbourhood opposed to it. If a fair Scheme were provided, with proper representation, Lord Sydney would not desire to oppose it, so far as regards Chislehurst. He had for several years consulted the inhabitants with regard to the preservation of Chislehurst Common. (Several voices: "Oh, oh!"; "Never.")

The Commissioner requested that no interruption should be made.

Mr Bray said he was going to call the steward. He had no doubt that it was at the suggestion of the inhabitants that his lordship had, for several years, employed a Common keeper. In his objections Lord Sydney stated that he did not wish St Paul's Cray Common to be brought into the Scheme; that the inhabitants had no right to interfere with Common. He also objected to the roadside strips being included in the Scheme which, however, had been excluded from it. He objected to the Scheme on the ground of its vagueness with regard to his rights. With respect to the gravel, mines and minerals he thought that was generally understood, and would be done as a matter of course. If the Commissioners were of opinion that the Scheme was a fair and proper one, and after some modification had been made to meet the views of the objectors, he did not desire to oppose the Scheme so far as regards Chislehurst parish. But so far as St Paul's Cray Common was included he opposed that altogether. He did not say that his lordship would oppose that part of the scheme if the inhabitants of St Paul's Cray came forward in support of it. Mr Bray then criticised at some length the evidence brought by the memorialists' counsel and the witnesses. It was true that his lordship had cut turf from the Common, but that perfectly harmless if done in a moderate way, as it had been done up to the present. There were thousands of birch trees, and he could not take the word of the witness who said that taking away the turf killed the trees. There was not a Common in England which had been better preserved than St Paul's Cray Common. (Rev GL Langdon: "Hear, hear") There had not been a rag of evidence to the effect that if it was not protected it would soon be destroyed. In respect to the cost there was an objection to the inclusion of the scheme with St Paul's Cray. Certainly he would put that as the last objection because others were much

higher. It was quite clear that the Chislehurst people could not compel the St Paul's Cray people to contribute in the smallest degree. From his friend's case it did not appear that the latter would subscribe and therefore they would have this anomaly, that it would be done at the expense of the Chislehurst people. The fact that the Chislehurst people wanted to have the Commons preserved for their benefit was practically of no weight at all. Mr Bray, by the aid of the map, proceeded to show the situation of the property of the objectors. There was no road adjoining the property round the outside of the Common, and if the scheme was carried a road would have to be made, which could not be done unless the inhabitants agreed to it. Other matters were mentioned shewing the litigation which might accrue from the Scheme. The evidence of the memorialists was criticized, particularly Mr Hawes's statement respecting the proposed conservation.

Mr Janson wished to offer a few observations on behalf of the gentlemen with whom he was acting. The points that he desired to urge were that there should be proper provision for the prevention of nuisances, that care should be taken for the preservation of the natural beauties of the Common. There he was on common ground with the memorialists, but there was the ominous word "improvement" which he hoped would be withdrawn. He would draw attention to the 17th clause.

Mr Channell referred him to the Commissioners.

Mr Janson said he thought the powers entrusted to the conservators should be very carefully considered. He thought there should be a proper recognition of the vested rights of the lord of the manor, and of the people. The cricket club was one.

Mr Channell said that the promoters of the Scheme had not the slightest intention of interfering with the cricket club; and Mr Bray said he thought Lord Sydney would not wish it to be disturbed.

Mr Janson then referred to the question of the expense. They were at present as they thought grievously burdened with rates, and here they were asked to embark into an unknown quantity. Mr Hawes' estimate of £120 he looked upon as perfectly elusive.

Mr Hawes: Thank you.

Mr Janson, continuing, said he had been furnished with the names of the memorialists, but he did not think them sufficiently representative. In settling the list of first conservators he thought that some provision should be made for ex-officio members to be drawn from the landowners.

The Commissioner asked the Rev. GL Langdon if he wished to say anything, but he replied in the negative, and Mr Janson then proceeded to call his witnesses.

Mr Edlmann, of Hawkwood, examined by Mr Janson, said he had been a member of the West Kent Cricket Club for many years. He remembered its traditions from the previous generation. It came to Chislehurst in 1822 and the late Lord Sydney was the first to grant the club its present privileges, which had been continued without interruption by the present Lord Sydney. The whole of the ground enclosed had been assigned for the purposes of the cricket club, who had the exclusive control and management.

By Mr Bray: He opposed the Scheme so far as it united St Paul's Cray Common with Chislehurst. He had not seen any neglect on St Pauls' Cray Common.

Cross-examined by Mr Channell: If Lord Sydney chose he might turn out the club. The club had spent a considerable amount of money on the ground. He was not aware that the club as a body were in favour of the Scheme. The Club had not been called together on the question and he had no authority from the club as a body.

On conclusion of Mr Edlmann's examination the Commissioner said that he was afraid the case could not be finished that day. This led to considerable discussion between the counsel and the promoters of the Scheme, during which Mr Bray retired. Mr Hawes called attention to the great expense which an adjournment would cause and he was supported in his remarks by Mr H Honey. Mr E Vinson was in favour of the adjournment as most of the inhabitants from St Paul's Cray were not present. Ultimately it was decided to adjourn until Friday next at 10.45