

## **CHAPTER TWO**

### **THE ACT OF 1571**

#### **2.1 The genesis of the idea**

The preamble to the act of 1571 stated that the City of London had sponsored it in order to improve grain supplies to the capital. The population of London was expanding rapidly, and supplies of food from further afield were necessary. The problems were such that the city authorities feared that the normal market mechanisms might not always suffice, so they took steps to ensure adequate supplies in times of dearth and to try and control price levels.<sup>1</sup>

A further response was this interest in improving the river Lea, whilst similar motives stimulated efforts to increase traffic down the Thames from the west.<sup>2</sup>

The earliest evidence of interest in the Lea is that in June 1560 the aldermen appointed a committee to survey the river to its head to see whether it might be cleansed to allow barges to bring fuel, corn, hay and other necessaries down river to London. Within a couple of months the committee reported that it would be beneficial if the river were improved from Ware downwards.<sup>3</sup>

The members of this committee were alderman Thomas Lodge, Richard Springham, a mercer, John Dymock and Thomas Wheeler, both of whom were drapers. In addition Lodge and Springham were also Merchant Adventurers and members of the Muscovy Company, Dymock also being a member of the latter. Wheeler was most probably already the Clerk of the City's Works.<sup>4</sup>

During their investigations the committee had hired two surveyors, Garrett Honrighe and Adryan Tymberman, both of whom were described as 'alyens and strangers born'. Nothing more is known of Tymberman, but Honrighe was also giving the aldermen advice on supplying the city with water from the Thames. On this occasion he was described as a Dutchman, and the identification is definite, but it seems probable that he was also the Gerrard Honrick, a German captain, who brought the secret of making saltpetre to this country in 1561, and the Gherard Henrick of 'Weste freseland' who sought a patent to drain mines in England in 1578.<sup>5</sup>

The precise recommendations of this committee no longer exist, but thirty years later bargemen stated that they had been credibly informed that Lodge had surveyed the Lea 'to seeke reformacon of the annoyance by force of the anncient lawes'<sup>6</sup> If correct this would imply that the committee concerned themselves solely with improving the river and did not formulate any canal plans. The minuting of their report in the Repertories, although brief, confirms this.

The next recorded development is that in September 1566 a Commission of Sewers was issued for the Lea, from Ware down to the Thames. This commission had 91 members,

comprising of several courtesy members, landed gentry from the three riparian counties, and representatives of the City. These latter included the Lord Mayor, the Recorder, six aldermen and several citizens. Of the committee appointed in 1560 only Richard Springham was nominated as a commissioner.<sup>7</sup>

The description and membership of this commission suggest no unusual features except that the City had more representatives than normal. However in October 1566 the aldermen described this commission as being for the 'survey and conveyance of the Rye of Lee unto the Cytie'<sup>8</sup> It is possible this description means that a canal was already under consideration at this date, but further evidence is necessary.

One development was that in April 1567 the aldermen approached Sir Thomas Lodge to ask for information about the survey of 1560.<sup>9</sup> Another was that in February 1567 the Duchy of Lancaster ordered an investigation into all weirs and milldams along the river between Hertford and Waltham.

As owners of the manor of Hertford the Duchy had long enjoyed the right to tolls from road traffic using bridges across the Lea at Hertford, Ware and Stanstead. They were now interested in reviving claims to jurisdiction over the upper reaches of the river, rights which they had enjoyed during the medieval period, but which had since lapsed. These claims had been investigated in 1548 and were not finally relinquished until the late 1580s. However the claims do not seem to have been prosecuted with any vigour, and the Duchy made no attempts to thwart the canal and river improvement schemes which were considered during these decades.<sup>10</sup>

Other than that nothing is known of events during the 1560s. The work of the Commissioners of Sewers, the discussions in the city which led to the adoption of a canal rather than a river improvement scheme are nowhere recorded. All that can be assumed is that it was the City which continued to take the initiative.

The next recorded development is that on 25 April 1571 the aldermen approved the draft of a bill about the river Lea before it was submitted to Parliament.<sup>11</sup>

The bill was then first presented to and passed by the Lords. Then during the morning session of 26 May it received its first reading in the Commons, at which stage a committee was appointed to consider it further. Yet the second and third readings of the bill were rushed through that same afternoon, before the committee can have had time to deliberate.

It was not until the following day that further provisos, presumably the work of the Commons' committee, were thrice read and passed. The altered bill was then returned to the Lords, who gave their consent to these changes. By the end of the month the bill had received the Royal Assent.<sup>12</sup>

The bill had been rushed through in this manner because the parliamentary session was nearly over. This speed meant that the final act was badly drafted, for the various

provisos were tacked on, they were not properly integrated, and indeed some clauses were confused and contradictory.

## 2.2 The bill and the act

Fortunately a copy of the original bill does exist,<sup>13</sup> so the changes made by Parliament can be ascertained. The act is reproduced as Appendix 1, and an attempt has been made there to indicate the changes. Quotes in the text below are from the bill except where specifically stated.

The bill first states why it was sought:

For as much as yt ys perceivd by many grave and wise men aswell of the Citie of London as of the Contrie that yt were comodius and profitable bothe for the Citie and the contrie that the river of lee otherwise called Ware River mighte be broughte wthin the lande to the Northe parte of the saide citie of London... for the cariage and conveyinge aswell of all M'channdizes corne and victualls as other necessaries frome the towne of Ware and all other places nere the said River unto the saide Citie of london, and from the saide Citie to the saide places and the towne of Ware, and also for tiltbotes\* and wherries\* for conveyinge of the Quenes Subiectes to and fro

To attain these ends two proposals are made. The City were to build a canal, and a Commission of Sewers were to improve the ' river between Ware and the canal.'

The course of the canal is not specified in the bill, but certain details of the scheme do emerge. The City wished to obtain a strip of land which was nowhere to exceed 160 feet in width. This strip was to contain the canal and allow wide towpaths of 50 or 60 feet to be laid out on both sides of the canal. This land on either side of the canal was also to have an important function during the actual course of its construction:-

all wch convenient breadithe of grounde on bothe sides is thought needfull...as well for the layenge of the earthe that shalbe castowte of the saide trenche to serve in the lower groundes, and especiallie nere the saide River to make Substantiall Banckes for the preservacon and kepinge of the contrie frome Inundacons when fludds shall ariese as also for waye to passe with trouckes and cartes wch mist carrie awaye gravell and other earthe in verie greate quantitie frome the hills, whereas the Cutt must be Verie Deepe, to suche places as shalbe conveniente to helpe to make upp the saide banckes...that the whole grounde on bothe sides of the saide River maye lye in one levill

This quote shows that the City intended to use cut and fill techniques to build their canal on one level so that no locks were required along its course.

No alterations were made by Parliament to these technical proposals, except to insist on additional safeguards to protect local property owners. The City had proposed to build

hedged between their towpaths and adjacent property, but Parliament insisted that they also provide roads and bridges over the canal, accept responsibility for repairing any breaches, and pay compensation to any mill which suffered a reduction in its water supply.

Such was only fair, as was the addition of a clause insisting that the canal be finished within ten years. However other changes to the bill do suggest that some Members of Parliament had far greater doubts or were strongly opposed to the City's scheme.

The City had proposed to acquire the land in perpetuity at a fixed rent, the level of which was to be determined by the then prevailing market rates:-

mayor Comonaltie and citizens and their Successors for ever shall have the saide groundes alongest all the saide whole lengithe to be holden of the Lordes and onors of the soyle and Soyles aforesaide in fee Ferme for ever payinge suche rente for the same ... as the same shalbe lett for by and after the rente of an Acre, at the tyme that the saide Mayor Comonaltie and citizens shall take in the same

It was also proposed that any disagreement over the rents should be settled by a commission with twelve members, six representing the City and six the landowners.

In a time of high inflation such proposals were advantageous to the City, at the expense of the landowners. A Parliament dominated by the latter was unlikely to allow such a precedent. These clauses were rewritten so that the City were merely empowered to obtain the land on whatever terms they could negotiate, and it was stipulated that all the land had to be acquired before construction could begin.

The arbitration commission was also altered so that it had sixteen members, only four of whom represented the City. The other twelve were to represent the three riparian counties of Middlesex, Essex and Hertfordshire.

Such alterations increased any estimated costs of construction, but also allowed any landowner to delay or permanently thwart the whole scheme by refusing to negotiate. The exact powers of the arbitration commission in such a case are not clear. A further setback for the City was that Parliament added the following clause:-

That all the Queenes Subjectes theyr Boates and Vessells shall have free Passage through the said Ryver, aswell the newe Cut as the older Ryver, without interruption molestacon by reason of or for his or theyre Passage, as in other comone Ryvers and Waters they lawfully may do

In the following century the bargemen argued that this clause was intended to ban the collection of tolls along the river (see 11,2), but it is more likely that Parliament were insisting that once built the canal must be forever maintained by the City, that they could not close it down or allow it to decay. If the venture failed, and nothing is known of how

the City intended to finance the canal, then the City had no way of divesting themselves of the liability.

The bill also included proposals for improving the river between Ware and the mouth of the canal. The exact improvements were not specified, but they were to be effected by a commission with members representing the three riparian counties, but not the City. Members were to be the local sheriffs and J.P.s, and any others chosen by the Lord Chancellor or the Lord Keeper of the Great Seal. Such was the normal format for a Commission of Sewers, but the name is not mentioned in the bill, nor was it to be in the act.

It was proposed that this commission should scour and cleanse the river so that boats using the canal would have no difficulty using the river. To achieve this end the commission were to remove all buildings and obstacles which 'maye be founde impeachements or lettes to this good worke'. This implied powers greater than those normally associated with any Commission of Sewers.

Parliament made two changes to these arrangements. They specified that the commission could not improve the river until the canal had been completed, and added a proviso that no building or obstacle should be removed if a majority of the commission felt that it did not impede the passage of barges.

However other changes to the bill confused this situation. The arbitration commission, proposed by the City merely to settle disputes over acquiring land for the canal, were given powers by Parliament to scour and cleanse the river between Ware and the mouth of the canal. Thus the act empowered two separate commissions, with a differing membership, to carry out the same task of improving the river. The confusion was then compounded by the addition of a clause which stated that the act awarded no powers to improve the river beyond those 'compellable by the Lawe or by the Statute of Sewers', a direct contradiction of an earlier clause. Such slipshod drafting can only be explained by the speed with which the bill was rushed through Parliament.

It should be noted that the bill made no provision for navigation along the river below the mouth of the canal. Since the proposed canal left the Lea at Hoddesdon, this was a substantial neglect of the rights of communities further downstream. Parliament made no provision to protect these rights.

### 2.3 Parliamentary opposition

The Commons' committee which changed the bill had thirteen members. Two were London members responsible for guiding the bill through Parliament, Sir John White and Thomas Norton. Two were officials of the Duchy of Lancaster, Sir Ralph Sadler, the Chancellor, and William Humberstone, Surveyor of the North Parts. Four more were active parliamentarians with no specific local interest, Sir Henry Gate, Thomas Boyer, Edward Grimston and William Holstock.

It is probable that the two Duchy officials were concerned to protect any Duchy property rights affected by the scheme. In addition the five remaining members all had their own private property rights to look after. Robert Wroth's family owned Enfield Mills and a manor in Enfield. Edward Bashe owned the manor of Stanstead, Stanstead Mills, and several fisheries along the river. George Dacres and Henry Cock owned manors in Cheshunt, whilst Cock also owned the manor of Broxbourne. Finally Thomas Wilson possessed property in Edmonton.<sup>14</sup>

Such interest in properties along the river or through which the intended canal might pass would explain the sensible safeguards which were added to the bill, but does not necessarily explain the changes which effectively emasculated the bill. Of the faction which must have opposed the scheme in committee only Robert Wroth and Henry Cock can be identified as possibles.

Wroth was later to emerge as the champion of the road carriers who violently opposed the river improvement scheme introduced later in the decade (see 7.1). It is reasonable to assume that he opposed the canal scheme in 1571. In 1587 Henry Cock was interviewed along with Wroth about their opposition to the barge traffic. Cock may also have opposed the bill.<sup>15</sup> They must have had the support of other members, but further evidence is necessary if the parliamentary struggle is to be properly determined.

## APPENDIX 1

13 ELIZABETH c.18

An Acte for the brynging of the Ryver of Lee to the Northside of ye Citie of London

N.B. Clauses marked (A) are to be found in the original bill. Any substantive changes to these clauses are underlined.

Clauses marked (B) are those clauses added during the the passage of the bill through Parliament.

(A) Forasmuch as yt ys perceaved by many grave and wyse Men, aswell of the Cytie of London as of the Countrey, that it were very commodious and profitable both for the Citie and the Country that the Ryver of Lee otherwyse called Ware Ryver, might be brought within the Land to the North Part of the saide Cyty of London, the same to be cut out of the saide Ryver in the most aptest and meetest place of the said Ryver of Lee, to have from thence the leadinge and passage of the saide Water throughe such a convenyent and meete cut as may serve for the Navegation of Barges and other Vessels, for the caryag and conveying aswell of all Marchaundizes Corne and Victuals as other Necessaries from the Towne of Ware and all other Places neare the said Ryver, unto the saide Citye of London, and from the said Cytye to the saide Places and the Towne of Ware, and also for Tyltebotes and Whyrryes for conveying of the Queenes Subjectes to and fro to theyr great Ease and Comodytie: In Consyderation of the Premisses

and of dyvers sundry Commodious profytable and beneficiall Causes which are lyke to ensue to the Bodye of thys Common wealth, and so incidently to many ptticuler parsons; Bee yt enacted by the Queenes most excellent Majestie with thassent of the Lordes Spyrytuall and Temporall and the Comons in this present Parlyament assembled, and by thauthority of the same, That it shalbe lawfull to the Lord Mayor Comynaltie and Citizens of the Citie of London and theyr Successors, at any time or tymes hereafter, to begynne and contynue the layeng out of such convenyent Lymites of Grounde for the making of the Trenche for the said Ryver, at suche Breadth as to them and theyr Deputyes and Wourkemen shalbe seene convenyent and meete for the same, and in that Place that they shal fynd to be most apte and meete for that purpose, to have take and use for the purpose abovesaid such and so muche Grounde during and by all the Leuggt as the said newe Channel Cutt or Ryver shall passe, as shalbe requysite for the conveying of the said Water, and also fyfthe or threescore foote in Breadth on each syde of the said Ryver, by all the Length of the same, so alwaye that they do not in any one place take in Breadth, both in Channel and in Ground on both the sydes of the Water, above the Breadth of eight score foote in all; which convenyent Breadth of Grounde on both sydes is thought needefull to be had, for that Grounde and Soyle of necessitie must be occupied on both sides of the said Ryver, aswell for the laying of the yearth that shalbe cast out of the said Trench, to serve in the lower Groundes, and especially neare the sayde Ryver, to make substantial Banckes for the preservation and keping of the Countrey from Inudations when the Fluddes shall arise, as also for waye to passe with Troukes and Cartes, which must carry awaye the Gravel and other Earth in very greate Quantitie from the Hylles, where as the Cut must be very deepe to such places as shalbe convenyent, to help make up the saide Banckes and otherwyse to bestowe the same; and also for that when it shall please God that the same shalbe brought to passe and full effect, that the whole Grounde on both sydes of the said Ryver maye lye in one Levyll from the said Citie of London to that place where the said Ryver or Trench shall have his begynning out of the mayne Ryver of Lee; and to thend also that in al place within that Lymyt and Dystaunce al People maye with great Ease and Comoditie go in and out of theyr Tyltebotes and other Vessels whatsoever without prill, and so walke by foote as long as it shall please them, and also that Bargemen maye upon the same Grounde without offending any other, draw theyr Vessels from place to place alongest the same, as of lyke they shalbe dryven to do agaynst the Streame being loden.

(A) And bee yt enacted, That the said Mayor Comynaltie and Cityzens and theyr Successors for ever, shall have the said Grounde alongest all the sayd whole Lengh, for such Composition as they shall make with ye Lorde Owners and Occupiers of the Soyle and Grounde. Provyded alwayes and be it enacted, That yf in the newe Cut there happen any Breaches Inundations or Hurtes, the Mayor and Cityzens of London shall stop the Breaches at theyr

owne Charges, and so mayntayne them from tyme to tyme.

(A) And bee yt also enacted, That the said Lord Mayor Comynaltie and Cytizens, shall have the whole Jurisdiction Conservyce Rule and Government, aswell of the saide newe Cut ryver and Grounde of each side, as also the Royaltie of the Fyshe and Fyshing of the same, and Pfites of the said Grounde Soyle and Water, to them and theyr Successors for ever; and also shal have aucthoritye to punishe aswell all such Transgressors as shall offend in the breaking of such good Orders as shalbe hereafter made, for suche of the Queenes Majesties Subjectes as shall have occasion to travayle and passe by the same new cut Ryver as also every other person and persons which shall breake such good and holesome Rules and Orders, as shalbe pvyded and ordeyned for the preservation keping and maynteyninge of the said Ryver and every part thereof.

(A) And further bee yt enacted, That the Shyriffes and Justices of the Peace, and such other as it shall please the Lorde Chancellour or Lorde Keper of the Great Seale to put in Comysion for the same, aswell of Middlesex, Essex as of Harford Shyre, or the more of them, by theyr discretions shall at the Costes and Charges of the Countrey, after that the said newe Cut shalbe made and fynshed, cause the same, from such place where as the saide newe Cut shall begynne unto the Towne of Ware alongest the said Ryver, to be suffyciently clynsed of all the Shelfes and Shallowes, and to bring the same to a convenyent Deapth in al Places for the Passage of Barges Tiltbootes and other Vessels, in as good and convenyent Deapth al the Waye of the same as shalbe made and contynued in the aforesaid newe Ryver by the Mayor Comynaltie and Citizens of the said Cytie of London, and so to contynue the same from tyme to tyme, upon the Paynes therefore to be lymyted and levyed by discretions of the sayde Commissioners or the more part of them; And also that all other Buyldinges and Obstacles standing in or upon the said Ryver, which may be founde Impeachmentes or Lettes to this good Wourke, may be removed and taken awaye, to thend that this may be a good and pfyte Worke, and by the Grace of God to such good Effect and Comodity as is hooped and loked for. Provyded alwaye and bee yt enacted, That this Act shall not extend to take away any Buyldyng Locke or Obstacle which by the said Comissioners, or the more part of them, shalbe thought not to hynder the Passage of Boates and Vessels by and throughe the saide Ryver.

(A) And bee yt further enacted, That the Mayor Comynaltie and Citizens of London shall make and mayntayne at theyr Costes and Charges such suffycyent Hedges and Fences as shalbe requisite, betwene the Groundes so by them to be taken to thuse abovesaid and the Groundes of other Owners, and also convenyent Bridges and Wayes for the Passage of the Queenes Subjects and theyr Caryages

(A) Provyded alwayes and be it further enacted by thaucthority aforesayd, That the Lord Chauncellor or Lord Keper of the Great Seale of England for

the tyme beyng shall and maye by his discretion, and at the Request of the said Lord Mayor Comynaltie and Citizens for the tyme being, appoynt and aauthorize by Comission under the Great Seale of England, Syxeteene Comissioners whereof Foure to be of the said C t e of London and thother Twelve to be of the Counties adjoining to the said Ryver of Lee, (That is to sae Foure of every of the Sheires of Essex Middlesex and Hartforde Sheyre, and every of the said Twelve having Landes Tenements or Heredytamente of the cleare yerely value of fourty Markes in the same Shyres or some of them, and not beyng Citizens of London using the Trade of Merchaundize; which Syxteene Comissioners, or the more number of them, shall have full Powre and lawfull Aauthoritie to treate agre and compounde with such Numbers of the Freeholders and Inhabitanes of the said Counties, as to theyr Discretions shall seeme meete and convenyent, for the scowring clensing repaying and keping of the said Ryver of Lee, from suche Place whereas the said newe Ryver or Cut shal have the begyning unto the said Towne of Ware, in such sorte as that the same may be navygable for Botes, Barges and other Vessels

(B) And further be it enacted, That untill or before such Order or Meanes be devysed and agreed upon by the said Comissioners, and the said Comysson returned into the High Courte of Chauncery, yt shall not be lawfull to the said Lord Mayor Citizens and Comynalty to put the said diggyng trenching or newe cutting of the said Ryver in Execution, nor to cut or take in any Ground by force of this Statute; Any Thing in this Acte to the contrary notwithstanding

(B) And bee yt further enacted, That the Mayor Citizins and Comynaltie of London shall not by vertue of this Acte take any mans Grounde untill they have compounded with the Owners of the same Grounde, and shall within tenne yeres next after thend of the Session of this Parliament cut and fynishe the same

(B) Provyded alwaye and be it enacted, That all the Queenes Subjectes theyr Boates and Vessells shall have free Passage through the said Ryver, aswell the newe Cut as the older Ryver, without interruption molestacon, by reason of or for his or theyre Passage, as in other comone Ryvers and Waters they lawfully may do

(B) Provyded alway, That this Lawe shall not extend to make the said Ryver to be cleansed, otherwyse then, any psons be or shalbe compellable by the Lawe or by the Statute of Sewers to cleanse the same

(A) Provyded also and be yt enacted, That yf any pson shall refuse to be reasonably compounded with for Ground to be taken in for the said newe Cut and Bankes, then the said Syxteene Comyssoners or the more part of them shall appoynt and determyne the Composition and Bargayne betwene both the pties, and the Satisfaction for such Grounde, and all Wayes Bridges and

other thinges to the same partyning

(B) Provyded alwaye and be it further enacted, That yf the said newe Cut shalbe the meane and occasyon that any Milles, beaneth or above the begyning of the said newe Cut, shalbe by vertue of this Acte destroyed or the pfite decayed by the want of Water, then ye said Lord Mayor Comynaltie and Citizens of London shall yeeld and paye to the Owners of such Mylles so decayed, and to such psons as shall have any Detryment or Losse by such Decaye, such reasonable Recompence in Monye or yerely Rent or otherwise as the said Syxtene Comissioners in lyke fourme to be chosen and aauthorized, or any Twelve of them, shall determyne and appoynte; And that suche Owners theyre Heyres and Assignes shall have such reasonable Remedie, by Action of Debt or Distresse or otherwise to recover have and obtayne the said Recompence as the Lord Chauncellor or Lorde Keaper of the Greate Seale of England for the tyme being, together with the said Syxtene Comissioners or with any Twelve of them, shall appoynt; Any thing in this Acte to the contrary notwithstanding

#### NOTES TO CHAPTER TWO

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