

## **SECTION TWO**

### **THE RIVER LEA:**

**AN ADEQUATE**

**SEVENTEENTH CENTURY**

**FLASH-LOCK NAVIGATION?**

## INTRODUCTION

The evidence for the late Tudor and mid-eighteenth century periods in Sections One and Three is presented in a sequential narrative form. But for the period now under consideration in Section Two, the seventeenth and early eighteenth centuries, the very nature and complexity of the evidence available means that a different approach has been adopted.

Initially consideration is given to the Commissions of Sewers operating along the river, for it was one of these bodies which had the ultimate responsibility for preserving the rights of navigation, even though other groups might take the initiative and other bodies might be involved.

The narrative is then split into three chapters, detailing events along three separate stretches of the river. Such a separation is not that artificial, for the three stretches do have different and unique features which allow of this treatment.

The short stretch between Hertford and Ware was always less important than the rest of the navigable river, was often outside the jurisdiction of the Lea commissioners, and was the object of special attention from the Borough of Hertford.

The lower Lea below Hackney was tidal, the navigation did not depend upon flashes from weirs and mills, and it came within the purview of a different Commission of Sewers from the rest of the river, and was eventually to become the object of special interest from the City of London.

In between lay that stretch of the river, from Ware to Hackney, which was the flash-lock navigation par excellence, which was always ultimately the responsibility of the Lea commissioners, and for which no other body ever acquired a closer involvement.

It remains to stress that it for this stretch of the river and for this period in particular, that the evidence available is at its worst. The almost complete absence of records of the Lea Commissioners of Sewers for the seventeenth century is a serious problem. As a result both the narrative and the conclusions drawn must be hedged with more reservations than is desirable.

Finally an attempt is made to describe the workings of the whole navigation, and to argue that despite the numerous problems described in the previous chapters, and despite the admitted deficiencies of the system of flashing, that the Lea navigation during this period was adequate to the demands placed upon it, and that it might well be compared with the concept of Appropriate Technology which is discussed in contemporary debates about development policy in under-developed countries.

## CHAPTER NINE

### COMMISSIONS OF SEWERS

#### 9.1 Marshland commissions

The pattern, which had first emerged during the mediaeval period, whereby separate commissions supervised the estuarine marshlands and the navigable river, continued throughout the seventeenth century and the first half of the eighteenth. Commissions of Sewers for the marshlands were primarily concerned with the problems of flooding and drainage, the commissions for the navigable river with the task of maintaining the navigation.

The varying boundaries of these separate commissions did sometimes overlap, so there was the possibility that they could issue conflicting decrees. Such fears were expressed, and measures to prevent such conflict were taken, but there is no evidence that these commissions did ever disagree or even interfere with each other's separate responsibilities.

There were three drainage commissions with a responsibility for specific marshes along the lower Lea, and some of these marshes also came within the purview of the commission for the navigable river. With regard to the Lea, the most important drainage commission was that which became known as the Commission of Sewers for the Levels of Havering and Dagenham.<sup>1</sup>

- In the first decades of the seventeenth century there were separate Commissions of Sewers for the Levels of Westham, Eastham, Barking, Ripple and Bromley, and for the Levels of Havering and Dagenham. From 1625 these two bodies were amalgamated under the name of the latter and issued regularly thereafter: Westham etc:- 1601: C231/1 fo.198; 1604: C181/1 fo.169; Hatfield House, CP 122/26; 1609: C181/2 fos.97-98; 1613: *ibid*, fos.192-93; 1622: C181/3 fos.42-43; C231/4 fos.270.  
Havering and Dagenham:- 1606: C181/2 fos.28-29; 1612: *ibid*, fo.167. Amalgamated Havering and Dagenham:- 1625: C181/3 fos.158-59; 1632: C181/4 fos.76-77; 1633: *ibid*, fos.136-37; C231/5 fo.106; 1642: C181/5 fos.454-55; C231/5 fo.512; 1650: C231/6 fo.182; 1660: C181/7 fos. 47-49; 1666: *ibid*, fos.390-91; C231/7 fo.303; 1676: C231/7 fo.524; 1685: C231/8 fo.140; 1694: *ibid*, fo.322; 1702: C231/9 fo.75; 1713: *ibid*, fo.275; 1715: *ibid*, fo.35 1723: C231/10 fos.40,48; 1727: *ibid*, fo.130; 1737: *ibid*, fo.259.*

This commission had responsibility for the Lea from the mouth of the Fleet, the head stream of Walthamstow Mills, to the Thames, and supervised the levels of Walthamstow, Leyton and West Ham in Essex and the level of Bromley in Middlesex. Such boundaries meant that the commission supervised the tidal stretches of the Lea and all tidal mills fed by the river.

Extant records for the commission, minutes for the years 1691 to 1724,<sup>2</sup> show almost no concern with the problems of navigation. Notes extracted from earlier records which are now lost seem to confirm this, although if the actual records turn up, a different conclusion might emerge.<sup>3</sup>

During the 1620s a major rebuilding of Temple Mills to the head stream forced the commissioners to consider the effect on the navigation and issue orders to protect the bargemen's interest.<sup>4</sup> Between 1690 and 1715 there were discussions over whether to build a tumbling bay next to the Three Mills to ease the problems of flooding above Stratford Causey, and the navigation was considered during these debates (see 12.3), but only after the bargemen forced such consideration. Otherwise nothing.

The prime concern of this commission was with maintaining banks and walls, with scouring ditches and with ensuring that the numerous tidal mills did not pen back water to the extent that floods occurred or other mills were adversely affected. To cope with such problems the commissioners and juries met at intervals of six months and kept proper records. This efficient organisation did not regularly review the state of the navigation along the lower Lea, and were not regularly approached by the bargemen. The tidal navigation was obviously adequate without such supervision. Temporary problems could be avoided by the bargemen unloading at Hackney, which many bargemen preferred anyway.

Some estuarine marshes in Middlesex were supervised by other commissions. A commission variously described as the commission for Limehouse and Blackwall or the commission for Stebenheath or Poplar Marsh supervised the Isle of Dogs.<sup>5</sup> The commission for Tower Hamlets also included marshes at Hackney within their jurisdiction.<sup>6</sup>

Their records show no concern whatsoever with the navigation along the lower Lea, one rare exception being that in 1708 the bargemen complained to the Tower Hamlets commission about a new waterworks at Hackney.<sup>7</sup>

## 9.2 Commissions for the navigable Lea

It was these commissions for which the preservation of the navigation was a prime objective. Traditionally they had enjoyed jurisdiction over the river between Ware and the Thames, but from the beginning of the seventeenth century, this pattern changed. Thereafter the limits of jurisdiction changed frequently, and at times there was confusion over their very existence. Indeed authority was severely affected by the political squabbles of the seventeenth century.

Under such circumstances it is important to catalogue the various commissions which were issued after 1600, with some attempt to explain any variation or confusion. It should be noted that Commissions of Sewers were issued under the Great Seal, and that they automatically expired after ten years or on the death of the reigning monarch. Renewal was not automatic, but depended upon local initiative to ensure that a new commission was issued.

An additional factor was that the seal of the Duchy of Lancaster was required for any commission which had jurisdiction over any property of the Duchy.<sup>8</sup> Since the Duchy

had property at Hertford and Enfield, some of the commissions which were issued after 1600 had to be granted their seal as well.<sup>9</sup>

9. *At Hertford the Duchy owned most of the property until in 1627 they granted Great Hartham, Kings Mead, Little Hartham, Butchery Green and the Sessions House to the Borough, and then in 1630 granted the rest of the manor and castle of Hertford to William, Earl of Salisbury, who thus obtained the fishing in the Lea within the town, and the toll rights at bridges over the river at Hertford, Ware and Stanstead. At Enfield the Duchy possessed the manor of Enfield, the largest of 8 local manors.*

The authority of the Tudor improvement commission had expired in 1585 (see 5.3), and it was not until August 1607 that a new commission was issued. This had 44 members, and enjoyed the traditional limits of jurisdiction, Ware to the Thames.<sup>10</sup> Thus no Duchy seal was necessary.

This long interlude without a commission, the existence of the act of 1571, and the subsequent introduction and setting aside of the experimental improvement scheme all combined to introduce some element of confusion and concern about the exact legal position of this new commission. There may also have been conflicting opinions over the policy to be pursued. The available evidence hints at this confusion, but there is insufficient to provide a clear picture.

One writer expressed fears that the commissioners either by choice or force of precedent might choose to remove all weirs and locks as the Tudor commissioners had done. He was of the opinion that the 'kings pleasure must be signified to ye Lo Chancelor absolutely in yt behalfe, otherwise he cannot make a comission directly to cross a former albeit the kings Consell be of opinion (contrary to the Lo Chancelors dowbt) yt the Statutes for Sewers will beare this Commison',<sup>11</sup> The exact nature of these doubts and conflict of opinion cannot be determined.

The 1607 commission did not follow the precedent of the Tudor improvement commissioners, but there may have been a body of opinion pressing them to do so. A document, which can be dated no more precisely than that it was compiled after August 1604, lists 18 names and is endorsed 'Comissionrs for ye River'. The names are displayed in a manner suggesting 4 commissioners each for Hertfordshire, Essex, Middlesex and the City of London, with one alternative name for both Hertfordshire and Essex.<sup>12</sup>

12. *Lists Sir Michael Hicks who was knighted August 1604. Mistakenly calendared as a commission for the New River in 1605*

Such a deliberate reference to the commission specified in the act of 1571 suggests either confusion over the legal requirements of any new commission or a concerted attempt to revive the powers enjoyed by the improvement commissioners. It should be noted that of the 18 names cited in this undated list, only 9 were appointed as commissioners in August 1607, and the City only had two representatives on the commission, not four.

Further doubts about the new commission were raised by Thomas Fanshawe of Barking, the second eldest son of Thomas Fanshawe of Ware Park. He was concerned that the commissioners would overrule the decrees of the commission which had surveyed the estuarial marshlands four years previously. He thought the new commissioners would have scant regard for the differing problems of the lower river. He wanted a separate commission to reconsider these matters.

His request was not granted, but he was assured that 'Though it be true this Commission repeals the former yet it alters none of the laws or orders made by them, unless the new Commissioners find just cause'. It is unlikely that Fanshawe's fears were allayed. The option of appointing him to the new commission was not taken <sup>13</sup>

It would be expected that the authority of the 1607 commission would not expire before August 1617, yet in July 1609 a new commission was issued. This commission was identical to that of 1607 except that five new members replaced four who had died since 1607 and one who was otherwise occupied at the time, that Sir Thomas Foster was promoted in the order of precedence to reflect his promotion to a justice in the Court of Common Pleas, and three members were promoted to the quorum for the first time. <sup>14</sup>

14. *PRO, C181/2 fo.94. Thomas Sackville, Earl of Dorset, and Lord Treasurer died April 1608. Sir John Fortescue Chancellor of the Duchy of Lancaster died 1609. Israel Amice died March 1608. In July 1609 Robert Booth recorded as being 'in another commssion':*

The only explanation for the new commission was that it was renewed because prominent members had died, which was the normal pattern for Commissions of the Peace. This was not to be the normal practice with Commissions of Sewers subsequently, and is further evidence of confusion over their exact legal status.

Unless further deaths were considered as affecting its authority, this commission's authority should have lasted until July 1619. However the position was radically altered in July 1618 when a Special Commission, not a Commission of Sewers, was issued to authorise the New River Company to take water out of the Lea (see 10.2). The decisions of this Special Commission were to have important consequences for the subsequent Commissions of Sewers. <sup>15</sup>

In June 1623 it was reported that King James wanted a commission to level the low grounds round Waltham, and the following month a new Commission of Sewers was issued 'for certen lymittes of the Marshes and lowe groundes of the River of Lee'. This commission enjoyed a jurisdiction over the river between Hertingfordbury and Walthamstow. <sup>16</sup>

Thus the upper limits had been extended to include the intake of the New River Company at Chalk Island, and the lower limits altered so that the new commission had no jurisdiction over the tidal Lea, which was left to the Commission of Sewers for the Levels of Havering and Dagenham.

Then in May 1624 a new commission was issued, identical to that of the previous year except that the whole of the New River was for the first time included. Eight new members were added, three to represent the City, which had had no representation in 1623.<sup>17</sup> Since the Duchy had property within these new limits, a Duchy seal should have been affixed, but none has been found for either of these commissions.<sup>18</sup>

The 1624 commission expired automatically on the death of James I in March 1625. A new commission was issued immediately, receiving the Great Seal in July 1625. A Duchy seal has been found for this commission, but it was not granted until February 1626. Membership was identical to that of 1624 except that three new members were appointed, and there were some minor changes to the quorum. One new member was Lord Brooke, a valued political adviser and poet, but the Lea was not to reawaken his muse.<sup>19</sup>

A new commission was issued in July 1635, once more with changed limits of jurisdiction. The upper limits were extended once more, to Welwyn near its source, whilst the lower limits were extended down to Bow Bridge, specifically including estuarine marshes such as East Marsh, Bromley Marsh and Stebenheath (Stepney) Marsh. This meant possible conflict with the Havering commissioners, but this was precluded by instructions to the Lea commissioners that they had no powers to supersede the decisions of the Havering commissioners.<sup>20</sup>

*20.. Duchy records for this period incomplete, no seal found.*

Problems may have occurred over the unnavigable upper river, for in February 1636 a writ of supercedas was granted to members of the 1635 commission who represented the parishes of Welwyn, Digswell and Tewing.<sup>21</sup> This was the only time such an exception was ever made, and this stretch of the river never had a separate commission when the Lea commissions did not extend above Hertford.

The exact legal position of these commissions on the outbreak of the Civil War is not clear, but their renewal did cause constitutional problems, for the King had taken the Great Seal with him when he withdrew from London. The parliamentary authorities wished to retain the ancient symbolism of the seal, and sought agreement with the Lords whereby commissions could be issued under a newly made seal. Such agreement had been reached by the end of 1643.<sup>22</sup>

With this seal a new commission was issued for the Lea in May 1645, with exactly the same limits as that issued in 1635. However no instructions about the Havering commission were given. Neither was any Duchy seal granted. This was because the much of the Duchy administration fell into abeyance during the Interregnum, but also more specifically because the manor of Enfield had been confiscated by the new regime (much of the Duchy property at Hertford had been disposed of during the 1620s and 1630s).<sup>23</sup>

There were further rows over the constitutional position of Commissions of Sewers following Charles' execution, but in June 1649 it was left in the powers of the Lord Commissioners for the Great Seal to grant commissions to such persons as they should

think fit without vetting by the committee of the army. Later it was decided that members had to subscribe to the oath of engagement of fidelity that the Rump tried to impose on the population.<sup>24</sup>

Whether the Lea commissioners were affected by these developments has not been ascertained. There is no evidence of new commissions being issued subsequent to these decisions. Yet there is evidence of a commission at work in September 1655, several months after the legal ten year limit had expired. Either such constitutional niceties were ignored, or a new commission had been issued during the intervening period, of which no record now remains. Then in December 1656 the Hertford burgesses instructed their Steward to obtain a new commission, and this was granted in March 1657, with the same limits of jurisdiction as in 1645.<sup>25</sup>

The authority of this commission was thrown in doubt on the death of Oliver Cromwell, but in May 1659 an act specified that all commissioners either acting on or appointed since 19 April 1653 should continue to act until new commissions could be appointed. No new commission was thereafter issued during the Interregnum and the authority of the 1657 commission ceased on the Restoration.<sup>26</sup>

A new commission was issued under the Great Seal in December 1663, but the Duchy Seal was not awarded until September 1664 (the manor of Enfield had been repossessed). In the intervening months membership increased by 10, and minor changes to membership, to the precedence and to the quorum were made, the most important being that the Chancellor of the Duchy of Lancaster and a second alderman to represent the City were appointed to the commission. The limits of jurisdiction were the same as those awarded in 1636, obviously a deliberate reversion to immediate pre-Civil War practice. One important change however, was that the size of the membership was greatly increased (see Table 3) by the appointment of numerous courtesy members drawn from the ranks of the most prominent politicians, judges and state officials.<sup>27</sup>

The next commission was issued in April 1675, with no changes from the pattern that had been introduced in 1663-64.<sup>28</sup> Thereafter a period of confusion arises, which can be only explained by the political conflicts which emerged during the last decade of Charles II's reign. Commissions of Sewers along the Lea experienced exactly the same pressures that Glassey has described for Commissions of the Peace during these years.<sup>29</sup>

These problems first came to light in July 1681 when bargemen complained to the Privy Council that they had approached the commissioners as the King had advised, but had found that the commissioners were unable to consider their complaints 'by reason their Commission was expired'.<sup>30</sup>

30. *The bargemen had petitioned the King in June, perhaps it was then that they were advised to approach the commissioners.*

No explanation is minuted, but it must be that several members appointed in 1675 were in political disgrace. Thomas, Earl of Danby had been impeached and resided in the Tower,

the Earl of Arlington had retired to his estate in 1678, the Earl of Lindsey and Lord Newport had been dropped from the Privy Council in 1679. In addition Robert Read was removed from the bench in 1676 for refusing the oath of allegiance, and four more members, Sir Thomas Byde, Sir Harbottle Grimston, Sir Robert Clayton and Sir Thomas Clarges were noted as 'worthy men' by Shaftesbury in 1679 and may have been considered unsuitable when the Court began to move against the Whigs. Furthermore purges of the bench in July-August 1681 removed another commissioner, the Earl of Essex.<sup>31</sup>

31. *In fact Clarges career prospered, but the others were dropped.*

A new commission was issued in December 1681, further members being added in March 1682. The membership of this commission is not known, so the expected changes as a result of the purges can be confirmed. However it should be noted that Nicholas Rainton and Sir Eliab Harvey who were added in March were considered to be opponents of the King.<sup>32</sup>

Further purges of the bench took place in May 1682. Nine Hertfordshire justices were removed, including three who had been appointed commissioners in 1675, John Ellis, Sir Humphrey and Sir John Gore, and one who may have been appointed in 1681, Sir Robert Jocelyn. Despite this, Jocelyn and Sir Humphrey Gore attended Courts of Sewers in June 1682.<sup>33</sup>

This confusion continued. In July 1683 bargemen's complaints to the Privy Council were referred not to the 1681 commission, but to Lord Chief Justice Pemberton. Then in September 1683 a new commission was issued under the Great Seal, with the Duchy seal being added in November. This commission had the same limits of jurisdiction as those in 1663-4 and 1675 (those of 1681 are not known). Comparison between 1675 and 1683 shows considerable changes amongst the courtesy members, and confirms that those purged from the bench were no longer appointed as commissioners.<sup>34</sup>

Yet whilst this 1683 commission was in the process of being issued, the bargemen complained to the Privy Council once more, and these complaints were referred not to the new commissioners, but to Lord Chief Justice Jeffreys and Justice Wythens. These two then held a Court of Sewers to consider the rows about Waltham Turnpike (see 11.2). Wythens was a member of the commission appointed in 1683, Jeffreys was not.<sup>35</sup> Just why this sequence of events took place is not clear.

The death of Charles II in February 1685 meant this 1683 commission expired. A new commission received the Great Seal in November 1685 and the Duchy Seal in December. The local membership was identical to that of 1683 except that one new member was added, and there were a few changes amongst the courtesy membership, reflecting political changes since November 1683.<sup>36</sup>

36. *Sir Francis North, Sir Leoline Jenkins and Sir Francis Pemberton were dropped, Jeffreys was brought in:*

Events during the previous decade would suggest further changes to the 1685 commission, similar to the policy pursued by James towards the local justices, first admitting Catholics, then purging opponents and supporters as his policy vacillated. No relevant evidence about the commission has been found. Perhaps it had become moribund before James' flight in 1688) and 'demise' meant its authority ceased.<sup>37</sup>

It should be noted that no new commission was immediately sought, and when one was, in June 1695, it was different from those which had been issued since the Restoration. One important change was that large numbers of courtesy members, a distinct feature since the Restoration, were not chosen in 1695. The size of the commission was thus smaller.

Another change was that the limits of jurisdiction were once more altered. This commission no longer supervised the New River, and along the Lea supervised only that part of the navigable river between Ware and the 'beginning of the new Cutt neare Hackney' with the specific injunction that they had no authority over any part of the river over which the City of London was claiming jurisdiction 'by any Custome or Speciall Priviledge'.

These changes were the result of manoeuvres in the bargemen's struggle to revoke the rights to collect tolls at Waltham Turnpike. After failures during the 1670s and 1680s, the bargemen tried a new approach, persuading the City that they had built a new cut along the lower Lea as a result of the act of 1571 (see 11.2 and 12.1).

This act had specified one 16 man commission to improve the Lea between Ware and the mouth of the canal or 'new cut' that had been authorised. Since official recognition was to be given to the mistaken claim that the City had built a new cut, the limits of jurisdiction were changed so that they were within the terms of reference of the act of 1571. Indeed the City had originally proposed that only 16 members be appointed, but this was ignored, and 45 members were appointed in June 1695. It should be noted that the new limits of jurisdiction meant that the Duchy seal was no longer needed.<sup>38</sup>

Then in November 1695 another new commission was issued, to replace that appointed in June. The only changes were that five named in June were dropped, and seven new members were chosen instead. There is evidence of lobbying at this date (see 11.2), and this seems to provide the only explanation as to why a new commission was issued in November.<sup>39</sup>

Official recognition that the City had built a new cut as a result of the act of 1571 was an important victory for the bargemen. It provided them with a precedent; they could then concentrate on removing the tolls. The fact that they once more failed must be one reason why no new commission was sought on the death of William in 1702. Another reason must be that since (as argued in 9.4) it was the bargemen and not the riparian landowners who were now responsible for the costs of any Commission of Sewers, that there were incentives to seek other means of preserving the navigation (see 11.4).

Whatever the reason, it was not until September 1719 that a new commission was issued with the same limits of jurisdiction and membership pattern as that introduced in 1695, although the number of members was increased to 62.<sup>40</sup>

This commission was at work for only two years (see 11.5) but it did not officially expire until 1727 when George I died. However once again, no efforts were made to immediately obtain a new commission. Once more alternative methods were sought. It was not until 1740 that a new commission was eventually granted, and by this date their role and authority had been altered by the act of 1739(see 15.1).

One result of the changes introduced in 1695 was that the navigable river between Hertford and Ware no longer came under the jurisdiction of the commissioners. This did not arouse immediate concern, the bargemen and the Borough of Hertford supervised this stretch of the river instead. However in December 1734 a Commission of Sewers was issued for the river between Hertford Bridge and Ware Bridge, and for some reason a Duchy Seal was needed as well.<sup>41</sup> It was issued at the request of the Hertford aldermen, as part of the improvement scheme they were debating at this date (see 14.1).

41. *It has not been established just why a Duchy seal was needed. What property did the Duchy own in Hertford at this date? They did hold the rights to the parish of St Andrews*

### 9.3 The administration of the commissions

One innovation of the commissioners who were appointed in September 1719 was that their clerk purchased a book in which to record the minutes. This book was only recently saved from destruction.<sup>42</sup> Records of the seventeenth century commissions are rare. All that remain are an incomplete list of questions prepared by the commissioners at some date between 1626 and 1637, two manuscript copies of three Courts of Sewers in 1682, a couple of the commissioners' decrees about the rights of the New River Company which have been specifically enrolled in Chancery, some legal cases prepared by interested parties for submission to the commissioners, and some private records of decisions made about specific problems.<sup>43</sup>

This paucity of records, together with reliance on oral evidence of elderly local inhabitants and ignorance of decisions taken a couple of decades earlier which emerges from the few remaining records, does suggest that no proper record keeping was ever instituted before 1719. Certainly no attempt to preserve the decisions of earlier commissions was ever made before the eighteenth century.

Even then there were problems. In 1741 the clerk to the commissioners reported his difficulties in obtaining the minute book of the 1719 commission. The clerk to that commission was demanding 10 guineas before handing them over rather than the 5 guineas the commissioners had authorised. He got the 10 guineas.<sup>44</sup>

This lack of records inhibits any proper discussion of the role and administration of the Lea commissioners between 1600 and 1730. However sufficient emerges to show differences when compared to the improvement commissioners at work along the Lea

after 1575, to the Havering and Dagenham commissioners at work along the lower Lea, or to the various commissions described by the Webbs.<sup>45</sup>

Commissions of Sewers were not uniform bodies. They were issued for a wide variety of purposes. Fuller investigation must show widespread variations in practice, depending much on differing local custom and differing intentions of the commissions.

Whenever a Commission of Sewers was issued, the names of those chosen as commissioners were affixed, and note was also made of those commissioners who were considered to be of the quorum. The attendance of at least six of the latter was necessary at any meeting for that meeting to be quorate. To be eligible for membership a commissioner had to have freehold property worth at least £40 a year, be a freeman of any corporation with property to the value of at least £100 a year, or be learned in the law. Commissioners did not have to be resident in the locality, but they were expected to take an oath, first stipulated in the act of 1532, with only minor changes subsequently to take note of the Reformation.<sup>46</sup>

The size of membership varied considerably throughout the period under consideration, as can be seen from Table Three overleaf:<sup>47</sup>

TABLE THREE: NUMBERS APPOINTED TO COMMISSIONS OF SEWERS

<u>Year appointed</u>	<u>Membership</u>	<u>Quorum</u>
1607	44	29
1609	46	32
1623	29	22
1624	37	29
1625 and 1626	40	33
1635	25	21
1645	29	28
1657	46	39
1663	106	80
1675	105	79
1682	n/a	n/a
1683	75	65
1685	80	73
1695(June)	45	40
1695(November)	47	40
1719	62	44

The varying size of these commissions bore no relationship to the expansion or contraction of their limits of jurisdiction. The 1635 commission enjoyed the largest extent to date, but the smallest membership. When these same limits were chosen once more between 1663 and 1685 the increased size of membership reflects not the large area of jurisdiction, but a distinct increase in the appointment of courtesy members after the Restoration. The reduction in size after 1695 not only reflects the reduced area supervised

by the commission, but also the fact that courtesy members were no longer appointed. Indeed the varying policy adopted over the appointment of courtesy members means that the above variations mask a more constant number of local members.

There is some evidence to suggest that there were ways of replacing members. Of 10 members attending a Court of Sewers in 1669, two were not named in 1663 but were in 1675. In August 1672, of the 28 members in attendance, 8 are not named in 1663, and of these, 6 were appointed in 1675.<sup>48</sup> How any replacements were chosen is not known, and it must be emphasised that the commission appointed in 1740 never instituted a system of replacement.

The choice of members designated as being of the quorum became a mere formality as the century progressed. In 1607, 1609, 1632 and 1663 attention was paid to the problem. Members are listed in order of precedence, but not all those near the top were of the quorum, whilst some further down were. The normal practice was that in 1624 the first 29 in the list were chosen, in 1625 the first 33 and so on. This formality was tempered in 1675 when all members of the rank of esquire and higher were of the quorum, and it was only the last named 26 gentlemen who were not, but that is all.

Some members of the commissions were Justices of the Peace as well, but many were not. To some extent this must reflect the fact that local landowners were appointed to Commissions of Sewers even though they were not considered eligible for the bench. Is it possible that sewer commissions were ever regarded as a training ground for those rising into the ranks considered as eligible for the local bench?

An initial inspection of those appointed as commissioners suggests little formal consistency, that the criteria for appointment varied, and that it differed from that used for Commissions of the Peace. A greater degree of consistency in appointment was to emerge the following century.

Until 1685 leading members of the establishment were appointed as courtesy members, thereafter the practice ceased, but the criteria governing their appointment varied, both with regard to the numbers chosen (variations which largely explain the differing size of membership recorded in Table 3) and the persons and posts considered.

The Lord Chancellor and the Lord Treasurer were appointed at the head of the Commissions of Peace, but this was not the regular pattern for Commissions of Sewers. Along the Lea this practice was followed only in 1607, 1609 and 1685. On no other occasion was the Lord Chancellor appointed, and the Lord Treasurer was to be found only in 1663 and 1675. Many commissions had neither.

The only consistent pattern which emerges from the appointment of courtesy members is that the Exchequer and the Royal Household were always represented, and that legal expertise was always included. In 1623, 1624 and 1625 the Under-Treasurer of the Exchequer was chosen; otherwise it was one of the Barons of the Exchequer. In 1607 and 1609 the Cofferer of the Royal Household was chosen, thereafter it was their Treasurer

who represented the department's interests. Judges of the Assize were not appointed, but legal expertise was available, either from serjeants-at-law who were appointed in the first half of the century or from the numerous leading judges who were appointed in 1663, 1675, 1683 and 1685.

The position of the Duchy of Lancaster was somewhat different. In 1607 and 1609 the Chancellor of the Duchy was appointed as a courtesy member, but thereafter whenever the Duchy Seal was affixed, automatic representation may have been thought desirable. It is difficult to establish whether this was actually the case. Between 1663 and 1685 the Chancellor represented his department, his name being added to the list in 1663 before the Duchy Seal was granted, after some delay. In 1623, 1624, 1625 and 1635 the Duchy was represented by minor officials, but both had other local or official reasons which could explain their appointment; they were not necessarily representing the Duchy. William, Earl of Salisbury, was Steward of the Manor of Enfield, but he was also one of the most important local representatives in Hertfordshire. Sir Heneage Finch was Steward to the Duchy for Essex, Middlesex and Hertfordshire, but he was also Recorder of the City of London. During the Interregnum when the Duchy Seal did not exist, the Duchy was not represented.<sup>49</sup>

There were other official bodies with reason to be represented on the Lea commissions. The City of London was the most important, and they had a variety of reasons for their interest in the river (see Chapter 12). In 1607 and 1609 the Lord Mayor and the Recorder were appointed, but in 1623 they were not represented, and it was not until a new commission was appointed in 1624, that their Recorder and three aldermen were added. The City's right to be represented may have been a factor that led to a new commission being issued to replace that issued only the year before.

The Recorder and the three aldermen were automatically re-appointed in 1625, but in 1635 only one of their number was, Nicholas Rainton, and no other City representative was chosen. By 1635 Rainton had acquired a local interest, the manor of Worcesters in Enfield, which might explain his appointment. Such a supposition is strengthened by the fact that Rainton was the only aldermen chosen in 1645, and that after his death it was his son, not an alderman, who was appointed in 1657. No other City representative was chosen in that year.

It is thus possible that the City were not officially represented for over 30 years. In 1663 however their Chamberlain and one alderman were chosen, and another alderman was added when the Duchy Seal was affixed the following year. Thereafter two aldermen were appointed to the commissions issued in 1675, 1683 and 1685.

The remarkable changes inherent in the issuing of the commission in 1695 meant that the City's representation was increased to the Lord Mayor and four aldermen, possibly some acknowledgement of the four representatives mentioned in the act of 1571. In 1719 the Lord Mayor and six aldermen were chosen, and from 1739 the Lord Mayor and all aldermen were automatically acknowledged as ex-officio members.<sup>50</sup>

The Borough of Hertford also had an interest in the navigation, but this interest was never properly recognised in the appointment policy. The Mayor of Hertford was considered in 1663, but his name was crossed out, and he was not appointed. In 1719 the Mayor was appointed, even though by this date Hertford fell outside the limits of jurisdiction of the commission. He was most probably chosen as a representative of local trading interests, a role the borough was to play in securing the act of 1739.

The representation of the New River Company, whose New River lay within the limits of jurisdiction from 1624 to 1695, is difficult to determine. Much more detailed knowledge of the managerial and shareholding structure of the Company is necessary before it can be properly determined. All that can be said is that in 1635 Sir William Myddleton, eldest son and heir of Sir Hugh Myddleton, was appointed and remained a commissioner until his death in 1652. In 1663 three members of the Myddleton family were appointed, as was John Buckworth who had been granted the King's remaining interest in the venture shortly before. In 1675 only one of the Myddleton family was re-appointed, the others were dead, but one of the courtesy members, Henry, Earl of Clarendon, was a prominent member of the venture and became Governor of the Company between 1682 and 1687. After 1695 the New River was no longer within the jurisdiction of the Commission, and the Company may not have been represented, although they obviously retained a close involvement in events along the river.<sup>51</sup>

Courtesy members and representatives of interested parties were particularly important numerically between 1663 and 1685, but less so both before and after these years. But by far the most important body of the membership, and those who it must be assumed were actively involved, were the local landowners from the three riparian counties. Many of these would have been specifically interested in the river, owning mills, fishing weirs and lands in and along the river, but many held property elsewhere in the counties, away from the Lea valley. The trading interests who used the navigation were never directly represented.

Such a bias may explain why the bargemen were never able to secure the annulment of the tolls and why riparian landowners were able to rid themselves of the costs of the commission. These same commissioners did preserve the navigation, and their frequent appointment at the request of the bargemen does suggest they rose above narrow self interest to some extent.

A comparison between the Victoria County Histories and the membership lists of the commissions shows that the owners of manors along the river such as Ware, Stanstead, Broxbourne, Hoddesdon, Cheshunt, Wormley, Chingford St Pauls, and Durants and Worcesters in Enfield were usually chosen. Yet there were manors such as Chingford Earls, Tottenham, and those in Walthamstow and Leyton which were rarely represented. The evidence does not suggest that owners of manors along the river were automatically chosen, but obviously they were given greater consideration.

What emerges from the above is that there seems to have been no hard and fast rules which governed appointment, and that little is known of the actual process itself. A list of

suggested members was compiled in the first decade of the seventeenth century, but of the suggested sixteen names, only seven were appointed in 1607, and only eight in 1609.<sup>52</sup> In August 1694 the City of London at the request of the bargemen petitioned for a commission, themselves submitting the sixteen members to be chosen. Of these sixteen, three were omitted from the commission issued in June 1695, and four from that issued in November 1695.<sup>53</sup>

There is additional evidence to suggest lobbying over membership. The addition of London aldermen in 1624 and an additional alderman in 1664 suggests representations from the City. The addition of two members in March 1682 to the commission issued in December 1681 suggests efforts from some interested party. In 1696 a letter states that the bargemen had lobbied successfully to obtain a commission favourable to their interests, in the process preventing the appointment of one weir-owner, Robert Boothby, as a commissioner, and rejecting others with interests in weirs from acting either as surveyors or jurors to the commission.<sup>54</sup>

Whether such lobbying was frequent, whether lists of suggested members were normally submitted, cannot be established, for lack of evidence. Indeed it cannot even be established who normally petitioned or paid the relevant fees for a renewal of the commissions. It can only be assumed it must have been the trading interests who were concerned to maintain the navigation who took the initiative.

Similarly little can be established about the officials responsible to the commission. It is known that Andrew Cole was clerk in 1682, and that Samuel Troughton was appointed to this post in 1719.<sup>55</sup> Their precise duties can only be assumed, though it seems sensible to assume that a clerk was always appointed.

The precise position and role of an official known as a surveyor is more difficult to establish. In 1695 or 1696 Thomas North, steward of the manor of Sewardstone, was nominated as a surveyor, but the bargemen successfully opposed him.<sup>56</sup> The commission appointed in 1719 chose a clerk at their first meeting, but not a surveyor. It was not until a few months later after several meetings that they chose two surveyors. Thomas North was appointed a surveyor to check that the orders issued by the commissioners had been obeyed. Thomas Pettit of Ware, maltster, was appointed a surveyor with one specific task, to remove shoals from the river bed.<sup>57</sup>

It is obvious that these surveyors were not the important officials that the sole surveyor appointed after 1739 was to be (see 15.3). Whether surveyors were regularly appointed during the seventeenth century is not known. If they were, it seems likely they played only a limited and localised role, perhaps fulfilling the functions that the dikegraves had on behalf of the Tudor improvement commissioners. Whether dikegraves were ever appointed during the century is not known, it seems possible that the differing role of commissioners after 1600 meant that they were not.

The very paucity of commission records during the seventeenth century means that any conclusions from those that remain must be tentative, but some attempt must be made.

What is beyond doubt is that the process of administration and decision making was conducted by Courts of Sewers, meetings of the commissioners, to which juries could be summoned, and at which interested parties could attend to make their feelings known.

It was at these courts that the commissioners debated the major arguments over the rights of the New River Company and the owners of Waltham Turnpike, and at which the more mundane matters such as scouring and cleansing the river, the rights of millers and riparian landowners to water, and the rights of millers and weir-keepers to tolls were considered. Unfortunately it is just these mundane matters about which no record now exists, it is only from the major disputes that some sparse evidence about the conduct of Courts of Sewers emerges.

On 6 April 1682 the newly appointed commissioners held a Court of Sewers at the 'Signe of the Foure Swanns' in Waltham Holy Cross, specifically to consider the arguments over Waltham Turnpike. At this Court a sixteen man jury, all of Essex, presented that the turnpike had been pulled down a few years previously and should be rebuilt at the expense of its owner. After this verdict the commissioners postponed consideration until a further meeting the following month, to which all interested parties were invited. At this subsequent Court of Sewers, on 1 May at the same venue, the orders and decrees of earlier commissions were read out (evidence now no longer remaining), witnesses were called, and counsel was heard on behalf of the bargemen and the owners of the turnpike. After all this the commissioners decided that the turnpike should be rebuilt at the expense of its owner, but reserved their official decree until after they had taken a survey. This survey was taken on 1 June at a Court of Sewers convened at the Cock in Waltham Abbey, and their decision was confirmed and properly decreed.<sup>58</sup>

Little else can be said of the conduct of Courts of Sewers in the seventeenth century. Several Courts were held between 1666 and 1669 to consider the rights of the New River Company to take water from the Lea, a jury was empanelled at at least one of these Courts, and the Crown Inn at Ware was the venue for another. In 1696 three Courts of Sewers were held at the Boars Head in Waltham Abbey, once more to debate the rights of the owners of Waltham Turnpike.<sup>59</sup>

Further insight into the conduct of Courts of Sewers can be gleaned from advice given to newly appointed commissioners in 1719. They were told they were to receive written complaints, take views of the river and of any particular obstruction about which complaint was made, and then inform all interested parties so that further discussion could take place. At these further discussions all complaints were to be read out openly, all parties were to be allowed a hearing, using counsel if they wished, and witnesses could be called. Only after these procedures had been followed could decrees be issued.

The commissioners were further advised that if any particular issue was contentious then a jury was 'a very proper and safe way' to determine the case, but they were reminded that they did have sufficient authority to proceed without a jury if they so chose.

Finally the commissioners were informed that they must be governed by the rules of law and justice, that much weight should be given to the decisions of earlier commissions, and that they were not to arbitrarily remove anyone's rights. If any party felt that the commissioners had so acted or had failed to take all the relevant evidence into consideration, then that party could move a writ of certiorari so that the matter could be tried at law before the Kings Bench.<sup>60</sup>

Armed with this advice the commissioners began work within days of their appointment. They met fortnightly during September and November 1719, adjourned for winter, met twice in April 1720, and monthly thereafter until the following September. After that they never met again. The problems they dealt with are summarised later (see 11.5), but some consideration is here given to their method of work.

The first three Courts of Sewers were held either at the Rose and Crown in Enfield or the Four Swans at Waltham Holy Cross, when consideration was given to complaints and evidence about problems with mills in Enfield and Sewardstone. Then on 19 November the commissioners met at the Old Kings Head Tavern in Holborn, and made their first orders about these problems, as well as issuing general orders that millers and weir-keepers should not cut weeds in the river without first informing the commissioners. A surveyor was also appointed to check that the commissioners' orders were carried out, and another was appointed to scour and cleanse the river. The commissioners then adjourned for winter.

Their first task the following spring was to hire a boat and take a survey of the upper river from Ware towards Waltham, specifically to inspect problems about which written complaint had been made that very morning by local maltsters and barge-owners. At the end of this survey, notice was given of a Court of Sewers at the Crown Inn at Ware, where further consideration was to be given to the problems found during the survey.

Much business was expedited at this Court of Sewers despite potentially contentious problems at Stanstead Mill and Pages Weir. Several orders were issued, for the settling of these two problems, for the removal of shoals, and for the closure of ditches which took water out of the river. The commissioners also heard legal representation on behalf of the millers that the orders forbidding millers the cutting of weeds were illegal 'because it was tollerating a Nusance' which only increased the problems of silting and flooding. The commissioners promised that they would appoint a surveyor to cut the weeds.

These problems seem to have been dealt with satisfactorily in the short term, for they were not raised again at subsequent meetings, and do not seem to have been contested. However it must be noted that soon after the commission ceased their work, the miller at Stanstead Mills and the weir-keeper at Pages Weir began to make the same encroachments once more (see 16.2 and 16.4).

During the ensuing four months, the last of these commissioners' working existence, the loose ends at Sewardstone were tidied up, damage at Pages Weir was repaired, but the

main task was that of trying to deal with Flanders at Enfield Mill, who was continuing to be singularly uncooperative.

On 6 June 1720 a Court of Sewers was convened at the Blue Bell at Edmonton, to which a jury empanelled from Middlesex was summoned. Several maltsters gave evidence about the problems at Enfield, but Flanders did not attend. The jurors made several presentments, and the commissioners gave Flanders three months to carry out the work.

On 11 June these presentments were served on Flanders, along with notice of a Court of Sewers at the Blue Bell on 24 August where he could lodge any objections if he so chose. He chose not to attend. Then on 21 September another jury found that he had not obeyed the previous orders, which were once more repeated, with the proviso that the work should be completed by the end of October or else fines would be imposed. On 2 November, after it was reported that Flanders had still done nothing, the commissioners instructed their clerk to estreat the fines in the Court of Exchequer.<sup>61</sup>

Thereafter the record is blank. No more Courts of Sewers were held, and no record of any case against Flanders has been found in the Exchequer records.<sup>62</sup> The commission did not expire until 1727, but its working life lasted only a year, from September 1719 to September 1720. It is of interest to note those problems which these commissioners did not give consideration to. No survey of the lower river was ever taken, nor was any consideration given to problems below Enfield. Nothing is recorded about the growth in the number of weirs, yet the bargemen complained of this to Parliament in 1721. Similarly no interest is recorded in the New River Company, yet the bargemen were to complain of this as well in 1721 (see 11.6). Why there were such limitations to the commissioners' work is not clear.

A question to be raised but not answered is whether the pattern of work adopted by the commission appointed in 1719 was the normal pattern for commissions the preceding century? A period of intense effort when first appointed to deal with problems that had slowly accumulated, then a period of no activity, during which time the problems accumulated once more, to be dealt with by a fresh initiative or a new commission? All that can be said is that such a pattern would be adequate to the task of maintaining a river navigation, when the administration was unpaid, part-time, and faced with many other calls upon their services.

If so, it was a complete contrast to the pattern of administration which evolved for the drainage commissions working along the lower Lea. These bodies met regularly. The Havering commissioners met every six months, juries were always summoned, much decision making became mere routine, and particular problems could be dealt with by sub-committees. Differing tasks required differing administrative solutions.

But it must be emphasised once more that the almost complete absence of records of the Commissions of Sewers appointed for the Lea during the seventeenth century means that the above suppositions must remain tentative.

#### 9.4 The role of the Commissions of Sewers

This same lack of evidence makes it even more difficult to properly evaluate the role of the commissions between 1600 and 1730. What is clear however is that they were not the innovative bodies that the Tudor improvement commission had been. Indeed, by the early years of the seventeenth century, the powers of such commissions to innovate were no longer recognised (see 5.3).

The alternative role that evolved was that the commissions provided a forum whereby a balance could be maintained between the conflicting interests of the bargemen, the millers, the fishermen and the riparian landowners. The millers and riparian landowners always wanted more water from the river for themselves, the fishermen always wanted to force the bargemen to demand flashes of water from their weirs. The self interest of these groups led them to encroach upon the navigation at the expense of the bargemen. It was the commissioners who provided the forum whereby excessive encroachment could be curtailed, where disagreements between these conflicting groups could be discussed and settled, and who had the authority to order the traditional tasks needed to keep the navigation open.

The prime function of the commissioners must have been to respond to complaints from bargemen, maltsters and other traders interested in using the navigation. It was this group who must have taken the initiative in obtaining the renewal of the commissions, who must have brought defects to the notice of the commissioners, and who must have been most aware of the necessary policies and the possible compromises with the millers, fishermen and riparian landowners.

The commission itself had no staff or brief to take such initiatives themselves, they only responded to problems brought before them. Under such circumstances it seems probable that there was much self organisation amongst the bargemen to make use of the commissions, long before the evidence of such self organisation first emerges in the first decades of the eighteenth century (see 11.4).

One point which does emerge is just how often the bargemen appealed to bodies other than the Commissions of Sewers. In the ensuing chapters evidence will be shown of the bargemen appealing to the Privy Council or the City of London on several occasions, in their disputes with the New River Company, in their disputes with the millers, and in their disputes over the 5/- toll at Waltham Turnpike.

Such appeals were listened to, but the authority and role of the commissioners was usually acknowledged, and was not, as far as the record appears, denigrated. The bargemen or their opponents might seek the sympathy and support of other bodies, but only to effect changes through the means of the commissioners. There is no evidence that they ever wished to supersede their authority. Even during the years between 1702 and 1719 when the bargemen tried to maintain the navigation themselves without a Commission of Sewers (see 11.4), the decrees of earlier commissions seem to have played an important part in their attempt.

Another factor to emphasise is the involvement of persons or organisations other than the commissions in carrying out tasks along the river, tasks which must have helped preserve the navigation. Such work was not ordered or supervised by the commissioners, but they did have sufficient authority to restrict or prevent such work if it threatened the navigation.

Thus it was that the jury of the manor of Tottenham in 1560 ordered the local miller to cut the weeds on and along the bank of the river 'as the miller there twice yearly anciently used to do'. Thus it was that the court leet of the manor of Edmonton noted in 1699 that tenants occupying lands along the river customarily maintained the banks and mended any breaches, and that any tenant who made a ditch or cut out of the river faced a fine of £5. Thus it was that Samuel Jones of Waltham Abbey could state in 1703 that he had spent several hundred pounds, 'without any Consideration given', in maintaining the banks, the wharfing and the causeway along the river.<sup>63</sup>

Proper maintenance of the banks was surely an important task for most riparian landowners. It was in their own interests to prevent flooding or erosion, but such work obviously benefitted the navigation as well. Self interest and customary practice must have ensured that much of this maintenance work was normally done. The commissioners had no need to interfere unless the work was neglected or disagreement arose. A particular point of conflict must have been over how much water riparian landowners could take out of the river to water their grounds, to act as fences between fields, and how surrounding lands were to be drained.

Self interest and communal pride amongst the inhabitants of Hertford meant that the burgesses often scoured and cleansed the river down to the end of Hartham Common (see Chapter 10). Likewise in 1651 eight inhabitants of Ware were ordered to fix a rate 'towards repairing the watercourse through the town... and also the highway leading through the said town'.<sup>64</sup> Indeed inhabitants of Ware and Stanstead in particular may have been prepared to explore means of maintaining the navigation and its associated facilities without necessarily resorting to the commissioners. This responsive rather than directive role meant that the commissioners authorised, or acquiesced in, several changes to the navigation. They authorised a new route between Hertford and Ware, allowed the New River Company to ignore restraints placed on their intake of water by the Privy Council decision of 1669, allowed millers to take increasing amounts of water out of the river to fuel their expansion, allowed an increase in the numbers of fishing weirs, and authorised an increase in the tolls that the millers and fishermen could demand from the bargemen.

This form of administration was not inflexible. Change could take place. Many developments could take place which were not discussed by the commissioners, because the bargemen did not raise the problem. After all some developments, such as an increase in the number of fishing weirs, brought advantages as well as disadvantages. Other developments might not have warranted the intervention of the commissioners as long as the effects were not too detrimental. Some changes were discussed by the commissioners, but far from banning change, they often accepted it, merely decreeing certain guidelines

which were to be followed. Thus the depth and width of millstreams increased, although not by as much as the millers would have liked.

If the Lea commissioners had been innovative during the seventeenth and early eighteenth centuries then their powers may have been questioned. However the navigation was adequate, other interested parties were prepared to accept some limitations on their rights, so the commissioners continued to fulfil their role without, as far as it is possible to ascertain, facing such questions.

Yet there is certain evidence to suggest that some of their powers must have been questioned, and indeed altered, during the seventeenth century. The evidence is sparse, and hardly adequate, but some tentative conclusion may be possible.

During the 1570s the improvements ordered by the commissioners had been financed by the riparian landowners, either because they were specifically ordered to carry out some task or because they contributed towards the rates fixed by the commissioners. Yet in 1719 legal advice to the commissioners stressed that the scouring and cleansing of the river 'must (as I apprehend) be at ye charge of the Navigators ... not at ye charge of the Land owners', and this advice was followed subsequently.<sup>65</sup> When this change took place is not clear.

When the new route between Hertford and Ware was opened during the late 1650s, the riparian landowners paid for scouring and cleansing the river, but new ideas such as turnpikes or the pound lock were financed either by voluntary contribution, by the Borough of Hertford, or by the owner of Ware Mills. In 1703 a landowner could state that as a riparian landowner he was responsible for wharfing 12 miles of the river bank as well as maintaining the tow-paths.<sup>66</sup> Yet in 1694 the City of London, when petitioning for a Commission of Sewers, stressed that they did not wish to bear the costs of this commission,<sup>67</sup> which suggests that it was already a matter for dispute or query.

Indeed the approach of the bargemen to maintaining the navigation between 1702 and 1719 could be explained by an attempt to enforce earlier decrees at the expense of the riparian landowners rather than obtain a Commission of Sewers which might decree that they should bear the costs themselves. If a decision to switch such costs had been taken during the late seventeenth century, then this could explain why commissions were not sought so regularly after James' reign.

The evidence does suggest such a switch at this period, but not how or why. It may have been reflecting legal decisions elsewhere, or there may have been arguments before the Lea commissioners themselves about which no evidence now remains. It would be ironic if the persistent attempts of the bargemen to annul the tolls only met, not only with refusal of this, but a successful attempt by riparian landowners to divest themselves of their traditional responsibility. Much more evidence, both about events along the Lea and about the powers of Commissions of Sewers during the seventeenth century is necessary.

In conclusion it can be emphasised that the very lack of evidence of effort to supersede the powers of such commissions, the very limited administrative changes which were sought when an improvement act was obtained in 1739 (see Chapters 14 and 15), all suggest that the Commissioners of Sewers were adequate to the task during the seventeenth and early eighteenth centuries. For all the problems associated with such bodies, limited powers, infrequent meetings, lack of enthusiasm, the Lea was maintained and improved as a navigation during their supervision. Their unpaid administration was one facet of the concept of appropriate technology it is hoped to explore further in Chapter 13.

### NOTES TO CHAPTER NINE

1. In the first decades of the seventeenth century there were separate Commissions of Sewers for the Levels of Westham, Eastham, Barking, Ripple and Bromley, and for the Levels of Havering and Dagenham. From 1625 these two bodies were amalgamated under the name of the latter and issued regularly thereafter: Westham etc:- 1601: C231/1 fo.198; 1604: C181/1 fo.169; Hatfield House, CP 122/26; 1609: C181/2 fos.97-98; 1613: *ibid*, fos.192-93; 1622: C181/3 fos.42-43; C231/4 fos.270.  
Havering and Dagenham:- 1606: C181/2 fos.28-29; 1612: *ibid*, fo.167.  
Amalgamated Havering and Dagenham:- 1625: C181/3 fos.158-59; 1632: C181/4 fos.76-77; 1633: *ibid*, fos.136-37; C231/5 fo.106; 1642: C181/5 fos.454-55; C231/5 fo.512; 1650: C231/6 fo.182; 1660: C181/7 fos. 47-49; 1666: *ibid*,fos.390-91; C231/7 fo.303; 1676: C231/7 fo.524; 1685: C231/8 fo.140; 1694: *ibid*, fo.322; 1702: C231/9 fo.75; 1713: *ibid*,fo.275; 1715: *ibid*, fo.35 1723: C231/10 fos.40,48; 1727: *ibid*,fo.130; 1737: *ibid*, fo.259.
2. ERO, D/SH1. For a brief discussion of the work of these commissioners: R. Allison, 'Changing Landscape in South West Essex 1600-1850'(unpublished Ph.D thesis, Univ. of London,1966),i.23-34.
3. ERO, T/P 48/1; London Borough of Hackney Library Services, Nicholson Papers 2/2/20-26. Notes extracted from three books now lost. Commissioners of Sewers Records 1583 to 1645. Book of Presentments and Orders 23 Sept 1645 to 24 Sept 1661. Records of the Commission of Sewers for the Levels of Havering, West Ham etc 1645-1712. Notes made in first decade of this century by a record agent, W.J. Hardy, on behalf of Richard Nicholson of J & W Nicholson, a distilling firm which owned the Three Mills at Stratford. At this date the books were in the custody of the clerk of the commissioners, William Comyns Clifton, who was a partner in a Romford firm of solicitors (private communication, Law Society 22/7/1983). Enquiries have not traced these records, which now seem to be lost.

4. ERO, T/P 48/1, Court of Sewers 29 September 1627, 5 October 1627, 29 December 1627, 11 August 1628; CLRO, Bridge House Committee Order Book 1611-1741, fos.27,41,47; Repertories 40 fo.316; *ibid*, 41 fo.349.
5. 1610: C181/2 fo.128; 1620: C231/4 fo.227; C181/3 fo. 18; 1629: C181/4 fo.23; 1630: *ibid*; C231/5 fo.32; 1632: C231/5 fo.83; 1639: *ibid*, fo.344; C181/5 fos. 284-86; 1645: *ibid*, fos.523-25; C231/6 fo.26; 1649: *ibid*, fo.150; 1654: C231/6 fo.278; C181/6 fos.4-6; 1657: C231/6 fo.356; 1660: C181/7 fos.28-30; 1667: C231/7 fo.312; 1677: *ibid*, fo.529; 1684: C231/8 fo.95; 1686: *ibid*, fo.151; 1689: *ibid*, fo.237; 1693: *ibid*, fo.306; 1695: *ibid*, fo.339; 1702: C231/9 fo.80; 1710: *ibid*, fo.203; 1715: *ibid*, fo.367; 1725 C231/10 fo.79; 1727: *ibid*, fo.135; 1737: *ibid*, fo.260; GLRO, PCS 180.
- 6.. GLRO, THCS 1-27, 60.
- 7 GLRO, THCS 60.,-Court: of. Sewers, 13 January 1708, 10 February 1708.
8. 23 Hen. VIII, c.5.
9. At Hertford the Duchy owned most of the property until in 1627 they granted Great Hartham, Kings Mead, Little Hartham, Butchery Green and the Sessions House to the Borough, and then in 1630 granted the rest of the manor and castle of Hertford to William, Earl of Salisbury, who thus obtained the fishing in the Lea within the town, and the toll rights at bridges over the river at Hertford, Ware and Stanstead. At Enfield the Duchy possessed the manor of Enfield, the largest of 8 local manors: Sir Henry Chauncey, *Historical Antiquities of Hertfordshire*, 1.498; *VCH Midd.* v.224.
10. PRO, C181/2 fo.48.
11. Hatfield House, CP 143.117. Thomas Wilson to his employer, the Earl of Salisbury.
12. PRO, S.P. 15/37 no.104. Lists Sir Michael Hicks who was knighted August 1604. Mistakenly calendared as a commission for the New River in 1605: CSPD Addenda 1580-1625,473.
13. Hatfield House, CP 122/26; CP 122/41.
14. PRO, C181/2 fo.94. Thomas Sackville, Earl of Dorset, and Lord Treasurer died April 1608. Sir John Fortescue Chancellor of the Duchy of Lancaster died 1609. Israel Amice died March 1608. In July 1609 Robert Booth recorded as being 'in another commssion': *DNB* , *VCH Herts.*, iii .483; J S. Cockburn,editor, *Calender of Assize Records, Hertfordshire Indictments*, James 1, 42,65

15. PRO, C66/2180.
16. PRO, S.P. 14/148 no.21; C231/4 fo.310; C181/3 fos. 91-92.
17. PRO, C181/3 fo.128; C231/4 fo.331.
18. PRO, D.L. 17/51-53.
19. PRO, C231/4 fo.384; C181/3 fos 184-85; D.L. 17/54.
20. PRO, C231/5 fo.175; C181/4 fos 40-41. Duchy records for this period incomplete, no seal found.
21. PRO, C231/5 fo.191.
22. M.A. Thomson, *A Constitutional History of England 1642-1801* (London, 1938, 21; Hallam, *The Constitutional History of England* (3 vols, London, 1872 ,ii.162-163
23. PRO, C231/6 fo.11; C181/5 fos.503-04; D.L. 17/70-73; R. Somerville, *Duchy of Lancaster*, ii.37-47; VCH Midd v.224; D.O. Pam, *The Rude Multitude: Enfield and the Civil War*, Edmonton Hundred Historical Society, Occasional Papers N.S. no.33 (1977). See fn.9 above.
24. CJ, vi.134,247,306-07; CSPD 1649-50,338-39.
25. HRO, BHR Vol. 20 fos.369-70,381; PRO, C231/6 fo.360; C181/6 fos.221-22.
26. R.Steele, editor, *Tudor and Stuart Proclamations 1485-1714* (2 vols, Oxford ,1910) ,i. no. 3111; C.H. Firth, R.S. Rait, editors, *Acts and Ordinances of the Interregnum* (3 vols, London, 1911), ii.1271-72; CJ, vii.658,687; 12 Car II, c.6; *ibid*, c.12. This last confirmed all decisions taken by Commissions of Sewers since May 1642.
27. PRO, C231/7 fo.218; C181/7 fos.223-25; D.L. 17/83; GLRO, Acc 1953, Deeds Register Book B nos.184,188.
28. Great Seal 12th April, Duchy seal 30th April: PRO, C231/7 fo.492; D.L. 17/84; GLRO, Acc 1953, Deeds Register Book B no.187.
29. L.K.J. Glassey, *Politics and the Appointment of Justice of the Peace 1675-1720* (Oxford, 1979), 32-62.
30. PRO, P.C. 2/69, 14 July 1681. The bargemen had petitioned the King in June, perhaps it was then that they were advised to approach the commissioners: PRO, S.P. 29/416 no.6.

31. In fact Clarges career prospered, but the others were dropped: Hist. Mss. Com., Finch, ii.43-46; Hist. Mss. Com., Eleventh Report, Appendix II, House of Lords MS. 1678-88,172-93; L.K.J. Glassey, Politics and the Appointment of Justices; J.R. Jones, Shaftesbury's "Worthy Men": A Whig View of the Parliament of 1679', Bulletin of the Institute of Historical Research, xxx (1957), 232-41; S.N. A Catalogue of the Names of all his Majesties Justices of the Peace in commission in the several counties of England and Wales according to the last alterations London, 1680).
32. PRO, C231/8 fos.58,63; B.D. Henning, editor, History of Parliament: The Commons 1660-1690(3 vols, London, 1983 ,ii.506 -09, iii.318. No Duchy seal found.
33. CSPD 1682,218; PRO, C225 Bundle 2 no.59A; NRO, WC244.
34. PRO, P.C. 2/70, 20 July 1683; C231/8 fo.89; D.L. 17/84.
35. PRO, P.C. 2/70, 24 October 1683; HRO, Hobday Papers, part.
36. Sir Francis North, Sir Leoline Jenkins and Sir Francis Pemberton were dropped, Jeffreys was brought in: PRO, C231/8 fo.140; GLRO, Acc 1953, Deeds Register Book B nos.A178,178; TWA, Box 86 no.84.
37. L.K.J. Glassey, Politics and the Appointment of Justices: 63-99; H. Horwitz, Parliament, Policy and Politics in the reign of William III (Manchester,1977), 6 - 14; E.N.Williams, The Eighteenth-Century Constitution 1688-1815 (Cambridge,1960),1-3.
38. PRO, C231/8 fo.336; C191/1 no.15; CLRO, Repertories, 98 fo.426.
39. PRO, C231/8 fo.345; C191/1 Nos.15,19; ERO, D/DSo.MI. For a discussion of change in membership, see Chapter 11 fn.40.
40. PRO, C231/9 fo.477; C191/1 no.183; BL, Cup 600d.1(8).
41. PRO, C231/10 fo.223; C191/2 no.105; D.L. 17/90. It has not been established just why a Duchy seal was needed. What property did the Duchy own in Hertford at this date? They did hold the rights to the parish of St Andrews: Sir Henry Chauncey, Historical Antiquities of Hertfordshire, i.512.
42. Enfield, 'River Lee, Book of Sewers in the Years 1719 & 1720'. This book had been left in an abandoned sewage works at Hertford. An officer of the Thames Water Authority found it and deposited with Enfield Library Services: private communication, 5/3/85, P.N. Turner, Borough of Enfield Librarian.

43. PRO, MPB 31; C225 Bundle 2 nos.5,59A; NRO, WC244; HRO, Hobday Papers, part; BL, Add. Mss. 33576 fo.63; TWA, Box 81 no.321; Box 86 no.20.
44. Trustees, 3 August 1741.
45. ERO, D/SH 1-2; S. Webb, B. Webb, Statutory Bodies for Special Purposes, 13-106.
46. 23 Hen. VIII, c.5; 13 Eliz., c.9; HRO, B193; BL, 883 h.16, The Law of Sewers(London,1732).
47. PRO, C181/2 fos.48,94; C181/3 fos.40-41,503-04; D.L. 17/54; nos.15,19; BL, Cup 600d 1(8); Register Book B no.178 fos.91-92,128; C181/5 D.L. 17/83-84; C191/1 GLRO, Acc 1953, Deeds
48. PRO, C225 Bundle 2 no.5; TWA, Box 81 no.321.
49. R. Somerville, Office-Holders in the Duchy and Count Palatine of Lancaster from 1603 London,1972 .
50. A.B. Beaven , The Aldermen of the City of London (2 vols,London,1908-13).
51. B. Rudden, The New River, passim.
52. PRO, S.P. 15/37 no.104; C181/2 fos.48,94.
53. CLRO, Repertories 98 fo.426; PRO, C191/1 nos.15,19.
54. ERO, D/DSo M1.
55. PRO, C225 Bundle 2 no.59A; NRO, WC244; Enfield, Court of Sewers, 23 September 1719.
56. ERO, D/DSo M1.
57. Enfield, Court of Sewers, 6 November 1719.
58. PRO, C225 Bundle 2 no.59A; NRO, WC244.
59. PRO, P.C. 2/60, 16 October 1667, 29 July 1668; C225 Bundle 2 no.5; CLRO, Repertories 100 fo.71; Court of Aldermen, Records and Papers 1696; BL, L.R. 33 d 27, Extracts from the Books of the Mayor and Aldermen of Hertford together

with Copies of Papers in their Custody relating to the Navigation on the River Lea between Hertford and Ware (London,1734),21.

60. HRO, B193.
61. Enfield, 'River Lee, Book of Sewers in the Years 1719 & 1720'.
62. PRO, E137/28/15; E137/29/1-2.
63. W.B.B. Marcham, editor, Tottenham Court Rolls,25; GLRO, Acc 695/42; PRO, C10 368/3.
64. W.J. Hardy, W. le Hardy, editors, Hertford CountyRecords(10,vols,Hertford,1905-57), v.420.
65. HRO, B193.
66. PRO, C10 368/3.
67. CLRO, Repertories 98 fo.405.