

## ANSWER FILED IN EQUITY RESPECTING THE PARK AND COMMON AT HANWORTH.

TEMP. CHARLES II.

THE manor of Hanworth became the property of the crown in the reign of Henry VIII., and was the occasional residence either of himself or of his children. In 1528 we find him inviting Wolsey to make use of it, on account of the prevalence of the plague.\* Payments to the keeper of Hanworth park occur in 1530—1532 in the Privy Purse Expenses of Henry VIII. edited by Sir Harris Nicolas, pp. 49, 66, 142, 255; and in the Privy Purse Expenses of the Princess Mary, edited by Sir Fred. Madden, pp. 58, 126, it appears that she was resident there in Feb. 1537-8 and in Aug. 1543. After king Henry's death the manor was occupied by queen Katharine (Parr), upon whom it had been settled in dower: and it was here that she spent in the summer of 1547 a few happy weeks with her new husband the lord admiral Seymour, the lady Elizabeth, then fifteen years of age, remaining a member of their family. Here it was that the lord admiral indulged in those familiarities with the princess which were afterwards made a grave charge against him: tickling her in her bed, in order to wake her in the morning; and in the garden cutting her gown, which was of black cloth, into a hundred pieces.† It is right, however, to mention that on both occasions the queen was present, and a partaker in the misdemeanor. It is nearly fifty years after when we find the same Elizabeth, still active and vigorous, hunting in Hanworth park in September 1600.

At the beginning of his reign, in the summer of 1603, king James I. paid a visit to Hanworth, and there conferred the honour of knighthood on ten gentlemen;‡ but we do not find him repeat his visit on any later occasion, for he had discovered that the eastern part of the county, in the neighbourhood of Enfield and Theobalds, was better suited for his sports of the field.

\* State Papers, 4to. 315.

† The particulars are given by Lysons, in his *Middlesex Parishes*, quoted from the *Cecil Papers*, by Haynes.

‡ These were, Sir Thomas Gardiner and Sir Thomas Grymes both of Surrey, Sir William Walsh of Worcestershire, Sir John Townsend of Shropshire, Sir George Trenchard of Dorsetshire, Sir John Foliott of Worcestershire, Sir Henry Poole and Sir John Paulet both of Wiltshire, Sir Thomas Crompton of Herefordshire, and Sir John Langton of Lancashire: among which names there are several unfortunate misprints as they are given in *Nichols's Progresses*, &c. of King James I. vol. i. p. 167.

Hanworth became the country seat of one of his Scottish favourites, James Hay, earl of Carlisle; and in 1627 (Dec. 11) it was granted by Charles I. in fee to Sir Roger Palmer and Alexander Stafford. These are supposed by Lysons to have been trustees for Sir Francis Cottington, another royal favourite, who had been ambassador in Spain, was then chancellor of the exchequer and master of the wards, and afterwards became lord treasurer.

Sir Francis was apparently already settled at Hanworth, at least some months before, for on the 16th April, 1627, sir Peter Wiche, knight, (who was ambassador at Constantinople,) was married at Hanworth to "Mrs. Jane Meridith a virgin, and daughter of Sir William Meridith,"\* and who was the sister of Lady Cottington.

In the following year † Sir Francis was busy in his improvements at Hanworth, and, in a letter to Lord Strafford, with whom he corresponded on the most friendly and familiar terms, he describes the growth of a long brick wall about the gardens, and provision for a "multitude of pheasants, partridges, and wild-fowl," that were to be bred there; the erection of a large room with a fountain and other rare devices, and "an open gallery painted by the hand of a second Titian."‡ He looked forward with glee to "the amazement of the barbarous Northern folk" that inhabited that part of Middlesex, § when they should see the well-cut hedges and dainty walks, and that "the old porter with a long beard" was like to have a good revenue by admitting the strangers that would flock to see these rarities. "My wife," he adds,—she was the widow of sir Robert Brett, || "is the principal contriver of all, who with her clothes tucked up, and a staff in her hand, marches from place to place like an Amazon commanding an army." ¶

On the 10th July, 1631,\*\* Sir Francis Cottington was created Baron Cottington of Hanworth,—a title which expired with him in the year 1653.

\* *Parish Register of Hanworth, as printed by Lysons, Middlesex Parishes, 1800, p. 101.*

† "Charles son of sir Francis Cottington, knight and baronet, and of the Lady Anne," was baptised at Hanworth July 21, 1628; "the witnesses being our Sovereign Lord the King, the High and Mighty Prince George Duke of Buckingham, and the Lady Marchioness Hamilton," (Lysons, p. 101 :) but it is not probable that the King was personally present at the christening.

‡ This "second Titian" can have been none other than Sir Peter Paul Rubens, the painter of the ceilings at Whitehall.

§ Probably he included *all* his countrymen under the term of Northern barbarians, and was anxious to show them the horticulture he had learned at Madrid.

|| "Last week (Feb. 16, 1622-3) Sir Francis Cottington, newly married to Sir Robert Brett's young widow, of good estate, daughter to one Meridith sometime paymaster of the troops in the Low Countries, was knighted and made a baronet." (Nichols's Progresses, &c. of James I. iv. 805.) She died in March 1633-4: see the Strafford Papers, i. 214.

¶ Strafford Papers, i. 51. The whole passage is extracted by Lysons.

\*\* Not in 1629, as Lysons states.

In August, 1635, he here entertained queen Henrietta Maria and her whole court.\*

On the 13th Feb. 1637-8 he received a grant† of free warren and licence to inclose 100 acres within his park: and this brings us to the matters set forth in the ensuing document.

It is the draft of an Answer in Equity, prepared by the counsel of the tenants of the manor, to a Bill of Complaint made by Sir Thomas Chamber, who purchased the manor of Hanworth in 1670 of the cousin and heir-at-law of Lord Cottington.

The Complainant had alleged that the tenants of the manor had made an agreement with Lord Cottington in the year 1631 for the inclosure of forty acres of common adjoining Hanworth park.

The Defendants reply that in that year Lord Cottington had endeavoured to prevail on the tenants to consent to his inclosing the land in question, proposing to lower their fines, abate their rents, from 4*l.* to 1*l.* per acre, to alter their customs to their great advantage, and that they should have a Custom-book, which he would confirm by covenant. Moreover, that he would give 10*l.* per annum for ever to the poor of the parish. These promises he had not fulfilled; and, although he had given some plate to the church, as stated in the bill, with his name and an inscription thereon, he had given the same of his noble mind and free will. It appears, however, that Lord Cottington had gone so far as to inclose the said piece of waste with a fence, and had planted quick and young trees; but, on the breaking out of the Civil wars, he went to Oxford, and afterwards continuing with the King, away from home, the poor women of the parish and the sons of the tenants had broken down the fence and cut down the trees and restored the land to common. Such are the leading points of the following document, the details of which will be found to reward the trouble of perusal.

The result of the litigation has not been made known; but at a subsequent period, in 1745, Lord Vere Beauclerk, (who married the granddaughter and heir of Sir Thomas Chamber, and was created Lord Vere of Hanworth in 1750,) gave 6*l.* per ann. to the poor in lieu of some portion of the waste inclosed by him; which was possibly the realization of the plan which had been attempted by his predecessor in the estate a century before.

This interesting document has been communicated to the Society by George Richard Corner, esq. F.S.A. from the valuable MS. collections of Robert Cole, esq. F.S.A.

J. G. N.

\* "My Lord Cottington, about a fortnight since, entertained the Queen and all her court at dinner at Hanworth, where she was well pleased." Mr. Gerrard to the Earl of Strafford, Sept. 1, 1635. (Strafford Papers, i. 463.)

† Pat. 13 Car. I. pars 24, no. 2.

The joynt and severall Answer of Thomas Coombes, William Cotterell, William Fitzwater, Roger Bennett, Richard Well-beloved, John Browne, Henry Blake, (Mary Williams, *erased*,) Robert Harrison, Thomas Fitzwater, Richard Cooke, Ralph Warren, (James Flaxim, *deceased*,) Thomas Nicholls, John Nicholls, (William Ubly, *erased*,) John Wells, Jo: Wilde, William Goddard, (William Swift, . . . . Williams, . . . . Bitham, William Purdum, *erased*,) Robert Fitzwater, (Simon Boseley, Joane Harrison, *erased*,) Nathaniel Torrent, (Philipp Absolom, . . . . West, Mathew Fitzwater, George Fitzwater, *erased*,) Thomas Hart, Anne Chary, and Jo: Fitzwater, defendants to the bill of complaint of Sir Thomas Chamber, Knight, complainant.

THESE defendants, now and att all tymes hereafter saving to themselves all and all manner of advantages of excepcion to the manifold uncerteinties and insufficiencies of the complainant's said bill of complaint, for answer thereunto or so much thereof as any ways concernes these defendants or any of them to answer unto, they say and every of them sayth, that they beleeve it to be true that the said Francis late Lord Cottington in the bill named was in his life-tyme seised of an estate of inheritance in fee simple of and in the mannor and parke of Hanworth in the bill menconed, and that there then was and still is a certeyne quantity of comon or wast ground lying open and uninclosed called Hanworth Comon, contayning 300 acres or thereabouts, (and no more, *erased*,) the soyle whereof did or might belong to the said Lord Cottington: And within the said mannor also there then were and still are divers freehould tenements and divers other customary or copihould tenements of inheritance who then had or claymed and still have or clayme to have right of comon, of pasture and of turbary within the said wast ground, as in the said bill of complaint is sett forth. And these defendants severally further say that they or any of them do not know or beleeve that in or about the yeare 1631 in the bill menconed or at any tyme before or since to their knowledge there hapned any suits or differences between the said Lord Cottington and the said then freehould and copihould tenants, or that the said tenants

had then comitted any wasts and spoys cyther upon their tenements within the said mannor or houlden thereof or in the said wast ground, or that they were in arreare of any fines due to the said Lord-Cottington whereby to forfeit their said copihould tenements, or any ways to indanger the same, as in the said bill is suggested, nor doe knowe or beleive there was any judgement or decree like to be had against them or any of them touching the same; but these defendants, Roger Bennett, William Fitzwater, and Richard Wellbeloved, the onely surviving persons in the bill named that were tenants of the said mannor att the time of the pretended agreement in the bill menconed, doe very well know and the said other defendants doe verily beleve that in or about the said yeare 1631, in the bill menconed, the said Lord Cottington, being then in great power, (and being then Lord Keeper of the Greate Seale of England, *erased*,) and haveing a very great desire to inclose the said 40 acres of wast ground in the bill menconed, it being the best ground in the said comon, and lying in a square peece just under the parke pale of him the said Lord Cottington, and so very comodious and convenient to the same, he the said Lord Cottington (pretending his court rolls were lost) did cause 3 or 4 of the then copihould tenants to be subpena'd (into the High Court of Chancery, *erased*) unto some one of His Majesty's Courts at Westminster upon a bill of discovery, as was pretended, to discover and show their titles to their copihould lands and their copies by which they held the same, and some of the tenants shewing their copies, and the said Lord Cottington finding their titles good, he never proceeded any further then the said subpena, nor did any of the tenants answere to any bill, nor was there any other suit whatsoever comenced against them by the said Lord Cottington or any judgement or decree likely to be obtayned against them or any of them to their or either of their knowledg or beleif, but the said Lord Cottington, when he saw he had no advantage against the then tenants of the said mannor for the insufficiency of their title or for any wast, spoyles, arreares of fines, forfeitures, or otherwise, he then began to use a milder course, and did often in friendly manner desire and intreate the said tenants that they would not stand with him for a little peece of comon so convenient for him, and

tould them what great matters he would do for them if they would comply with him in granting his request, and if they the said tenants would all give their consentt for the inclosing of the said 40 acres in the bill menconed he would bring downe the fines of the said copihoulders and abate their rents and bring them downe from 4<sup>d</sup> an acre to one penny an acre, and would alter their customes to their great advantage, and they should have a custome booke, and he would confirme the same unto them by covenant or otherwise as counsell should advise, and would also give to the poore of the parish of Hanworth the sume of 10<sup>li</sup> a yeare for ever, and divers other things he proposed, but performed nothing thereof; and yett the said tenants, nor any of them, to the knowledge of these defendants, or either of them, would in nowise consent to part with so large a share of their comon, being about 60 acres of the best ground and lying so convenient for them just up to their doores, yet (at last *erased*) he the said Lord Cottington did so farr urge the matter that at last he did prevayle with 4 or 5 tenants at the most, and those were all servants to the said Lord Cottington, who did goe with him (and *erased*) or his servants unto the said peece of ground (which he desired to inclose) to bound and sett out the same, and when they came there the said Lord Cottington would have sett out more ground than those tenants would consent unto, as these defendants have heard and doe beleeve, and so, falling out about bounding the ground and the quantity that he desired to inclose, they disagreed and parted and never came to any conclusion of agreement whatsoever to their knowledge or belife, nor would ever harken to any further persuasions, nor would they quitt their right to the said comon or any part thereof, nor suffer the said Lord Cottington to inclose the same otherwise then as aforesaid, to exclude them the said tenants from comoning therein upon any pretence whatsoever, as in and by the said bill is falsely and untruely suggested; all which these defendants are ready to averr and prove as this honorable Court shall award: And these defendants, Roger Bennett, William Fitzwater, and Richard Wellbeloved, further say that it is true and all the other defendants doe beleeve it to be true that the said Lord Cottington at his owne charges did dyke, pale, and fence in the said peece of comon or wast ground

which he so earnestly desired the consent of the then tenants to inclose and did sett the same with quick and planted divers young trees (but not 3,000 nor half the number) as these defendants doe beleeve; and afterwards, the warrs breaking out, they doe beleeve that the said Lord Cottington left his house and attended his late Majesty att Oxford, where they doe conceive he did continue in his Majesty's service all the tyme of the warrs, as in the said bill is sett forth: And they the said Roger Bennett, William Fitzwater, and Richard Wellbeloved doe further say and doe affirme it to be true, and all the said other defendants doe verily beleeve it to be true, that in the absence of the said Lord Cottington (he having inclosed the said peece of comon or wast ground against the then tenants' wills and without their consent to their exceeding great damage,) the sonnes of severall of the then tenants and divers other young men and boyes in Hanworth aforesaid, and other townes and places there nere adjoyning, did enter upon the said inclosed comon or wast ground so fenced in as aforesaid, and did throw open the said fences; pulled downe the said pales, and pulled upp the said quicks, and the poore women did cutt downe the said trees planted thereon, or some part thereof; and the said tenants have ever since houlden and enjoyed the same in comon as before the inclosing thereof, as in all right, equity, and conscience they ought to doe, for that the said Lord Cottington (as the said Roger Bennett, William Fitzwater, and Richard Wellbeloved doe well know to be true and all the said other defendants doe verily believe to be true,) did inclose and fence in the said peece of comon or wast ground, containing about 60 acres, against the will (and consent, *erased*) and mynde of the said then tenants, and every of them, as they verily believe, and without their consents, merely upon his owne will and mynde, he being then in great power, without any consideracon of discontinuing suits, (for that he did voluntarily discontinue and cease the same,) having no just cause to proceed thereupon, and without any consideracon of discharging of wasts, spoyles, forfeitures, arrears of fines or otherwyse, and not upon the account of the plate in the bill menconed, or any other agreement or consideracon whatsoever, to their knowledge or beleife: And say that the plate menconed in the said bill, which

the complainant pretended was bestowed upon the said parish of Hanworth, upon the account of the said agreement, and in consideracon thereof, the same plate was not given upon any such agreement or consideracon, to the knowledge of these defendants, or either of them, as in the said bill is falsely surmised, but the said Lord Cottington of his noble mynde and free will did voluntarily give and bestow the same upon the said parish, to remayne as church plate, with his name and an inscripcon thereupon, as his free guift and not otherwise, as they doubt not but to prove: And these defendants further say, and doe beleeve it to be true, that the said Lord Cottington dyed about the yeare 1646,\* in the bill menconed: And that after his decease the said manno came to Francis Cottington, his nephew, and after his decease to Charles Cottington, his nephew, who sould the same (as these defendants doe beleeve), to the complainant Sir Thomas Chamber, but these defendants doe not beleeve that he sould the said peece of comon or wast ground so inclosed and taken into the said parke, as aforesaid, for that he had no right nor title to the same; or if he did sell the same, yet the complainant ought not in conscience to have and enjoy the said comon so inclosed in severalty, as lord of the said mannor in the place and stead of the said Lord Cottington, the same being inclosed without any agreement made between him and the said then tenants, and without any consideracon for the same, as is before declared and sett forth: And although the complainant hath requested these defendants, or some of them, to consent and to permitt him to take in and inclose within the said parke the said 40 acres of comon or wast ground, and to enjoy the same quietly against their demands of comon therein, yet they have refused and still doe refuse to doe the same, as by the favour of this honourable court they humbly conceive it is lawful for them so to do, for that the complainant hath no right to the same, and having a very great estate of his owne hath no need to deprive the said defendants of their right of comonage, or any part thereof, the most of the said tenants being very poore men, and the said comon being the greatest support and mayntenance not only of the said tenants, but also of divers poore people of the said towne, who make it their greatest sub-

\* He really died in 1653.



sistance, and to be deprived thereof will tend to their exceeding great prejudice, damage, and impoverishment: And therefore they doe hope that they shall not be compelled by this honourable Court to part with any of their rights and privileges of comonage, but may quietly hould and enjoy the same as formerly they have done without interupcon, notwithstanding the said pretended agreement made by the said Lord Cottington and the said tenants, there being in truth no such agreement absolutely concluded upon, but only a communicacon and discourse between them tending to that purpose as aforesaid, as these defendants (are ready to averr, and *erased*) doubt not but to prove as this honourable Court shall award (not only by writing under the hand of the said Lord Cottington himself, but also by the othes of divers honest, able, and credible persons that are no wayes concerned touching the said comon, who are still living and are ready to attest and prove the same, *erased*): And these defendants and every of them doe deny all and all manner of confederacy and combinacon whatsoever to or with the said other defendants in the bill named, or to or with any person or persons whatsoever, for any matter, cause, or thing any wayes relating to the said Lord Cottington and the complainant or eyther of them, or tending to the prejudice of them or eyther of them. Without this that any other matter or thing in the complainant's said bill of complaint contayned materiall or effectuall for these defendants to answeere unto and not herein and hereby sufficiently answered (unto, *erased*,) confessed or avoyded, traversed or denyed, are true in such manner and forme as in the said bill of complaint is sett forth. All which matters and things these defendants are ready to averr, justify, mayntayne, and prove, as this honourable Court shall award. And humbly pray to be hence dismissed with their reasonable costs and charges in this behalf unjustly sustayned.

(Signed) WILL. KILLINGWORTH.

<i>Indorsed,</i> Tenants of Hanworth adversus Lord of the Mannor	}	Answere.
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