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DISPUTED RIGHT OF COMMON AT WHEATLEY.

James Munt, John Tombs, Edward Tombs, Geo, Clark, Thomas Maloney, and John Munt, labourers, were charged with having, on Monday the 16th of May, with others, numbering 200 and more, unlawfully and riotously assembled, and created a great noise and disturbance, to the terror and alarm of her Majesty's subjects, and against the peace of our Lady the Queen. Defendants pleaded not guilty.

Joseph Perry Frampton deposed that he was a cooper, living in the parish of Wheatley. With his cottage he purchased a right of common on Wheatley Common, which is about 20 acres in extent, and had exercised the right for 41 years, all the summer through. On the 15th he saw a notice on the church door to this effect:

"Notice is hereby given by the poor inhabitants of Wheatley to the tradespeople, that they will have to remove their cattle from off the common (allotted to the poor) on or before Monday the 16th of May, 1870. On behalf, G. C.— Wheatley, Oxon May 15, 1870."

On the evening of the 16th, about half-past seven, in consequence of the notice, he went up to the common, where witness had a mare. Standing there with the hayward. George Munt, he saw 200 or 300 people coming up the road towards the common, shouting und yelling. They had a flag on a pole, a sheep bell, and most of them had sticks of various sizes. When the crowd came up to the gate, George Clark commenced to dig up one of the gateposts. The noise made by the crowd was calculated to frighten inoffensive people. When Clark began digging half the crowd had gone through the gates. Witness went to him and said, "George. I would not attempt anything of the sort if I was you." Clark replied, "I'll do it if I go to gaol for a twelve month, for I'll have my rights." Witness went away about 30 yards on the common. Clark, the two Munts, and twenty or thirty others came up to him. Witness told the crowd that he thought they were doing very wrong. John Munt said, "We come to the meeting to see the decree, but you never let us see it." That was a meeting of the parties who stock the common, held on the 10th of March. (Complainant put in papers and parchments.) Witness replied, "I never knew that you asked for the decree. I never had it myself." Witness saw it in somebody's hands at the meeting; it was dated 1660, Charles II. Somebody said, "Shew it us here now." Witness told them they could see it at Mr. Bick's, Railway Hotel. Witness turned away. The crowd said, "Come, now my boys," and all the mob chased the cattle and horses on the common into a corner, where the gate was, to drive them out, and witness's mare was amongst them. The other defendants were present when the decree was spoken about. Witness, with the assistance of a boy, caught und haltered his mare, and got her out of the crowd. When the rest of the cattle had been driven off the common, the crowd came back to him. One of these six—who were foremost in the crowd and ringleaders—said, "Come, take your mare off the common." Witness said, "I shall not, for I have a right." John Tombs said, "Take it off." They all shouted, and danced round the mare and shook the flag over her. Witness could not hold the mare, and at last he let her go, and they drove her off the common. The boy afterwards caught her in Wheatley. Then the crowd turned the last cow, William Mitchell's, off the common, and thus the riot ended. John Tombs made use of offensive gestures, trying to incite witness to a breach of the peace. None of the mob struck him, nor pushed him. The only fear they put him in was that the mare would be made to trample on him. They hallooed, hooped, and brandished their spades and sticks. The common being three-quarters of a mile off, he could not say whether the villagers were alarmed. When witness left the common, George Clark was still digging at the post.

Witness said, "Let me pass" and he said, "Oh, certainly," as politely as possible. He could not tell what the object of the crowd was, nor could he now, because any of them could stock the common if they had anything to stock it with. Witness had never been interrupted before in the exercise of his right.

One of the defendants, James Munt, raised the question that the common was in the parish of Shotover.

In cross-examination, complainant said there was no blow struck: far from it; nor did they strike the mare. He never, after he made the promise to take the horse out quietly, got her further into the common, and said he'd be -----if he'd take her out.

George Wright, of Wheatley, schoolmaster, said he was land-surveying in a field opposite to the common. He saw perhaps 250 people on the common, including children. They sent boys round to collect the cattle. He saw they had flags, and he cried "Shame!" when they were trying to turn Mr. Frampton's horse out, because he thought he would be trampled on. Witness had to jump aside pretty sharp. Witness saw Clark. Edward Tombs had been holding the chain for him. There was a trench dug near the gate, after the cattle were driven out. All the noise was to turn the cattle out.

Edward Tombs, who had come up with Mr. Wright, was discharged.

The defendants said all they did was to defend their rights. Those who stocked it ought to acknowledge it by a payment.

Dr. Wynter told them that whatever right they had they must not try to establish it by illegal means, and a riot was illegal. The Magistrates proposed to adjourn the case for a week, to give them the opportunity of replacing the gate and filling up the trench. If they did this the case would proceed no further; if not the defendants must be sent for trial.

Mr. Walsh — They must also abandon all riotous attempts for the future.

Tombs asked what they were to do if the tradesmen turned their cattle on the common again.

Mr. Frampton—That we shall be sure to do.

Dr. Wynter said the Bench could give them no advice.

Tombs observed that he supposed they must have a commission.

Defendants were also required to pay 3s. each costs.