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A Treatise of the Laws of the Forest

by John Manwood (3rd Edition 1665)

THE PRESIDENT'S ADDRESS TO THE CLUB AT THE ANNUAL GENERAL MEETING, 1957

JOHN MANWOOD of Lincoln's Inn compiled 'A brief collection of the Lawes of the Forest' which he published at his own charge for private circulation.

Having the approbation of his Learned Friends, he proceeded to digest the contents of this 'Collection' into a book of twenty chapters which was published in 1598.

After John Manwood's death the book was enlarged by the addition of various material which he left, but had not included in the first edition. The 3rd Edition 1665 is the one used here.

This Note is intended to give an indication only of what Manwood says a Forest is and how it is administered.

Forests are undoubtedly of considerable antiquity, possibly co-eval with Kings.

The first English 'Charta de Foresta' known is that of 'King Canutus a Dane and a King of this Realm granted at a Parliament holden at Winchester in the year of our Lord 1016'. It is not proposed to discuss this Charter as it is not of such immediate interest as the later Charters and Laws.

This Charter was confirmed by William the Conqueror, William Rufus and King Henry I who confirmed all 'the said Laws of the Forest of King Edward the Confessor'.

The same laws were enforced and increased during the reigns of King Henry II, King Richard I and King John, all of whom greatly enlarged the Forests.

Perhaps it is as well to point out that the Forest Laws were independent of the Common Law and enabled the Reigning Sovereign to afforest any subject's land he chose.

By the reign of King John the greater part of the Realm had become Forest.

Following on King John's concessions at Runymede King Henry III made a 'Charter of the Liberties of the Forest' which was the first attempt to remedy this state of affairs and this was confirmed by King Edward I.

The first article of this Charter disafforested all lands afforested by King Henry II, King Richard I and King John, and these disafforested lands became the Pourallees or Purlieus, which were the subject of special laws.

The severe penalties of the older laws, based on custom, such as maiming, mutilation, loss of the skin, trial by fire for the upper orders and by water for the lower, disappeared in the

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Charter of King Edward I, though it should be noted that the more severe penalties had frequently only applied to persistent offenders.

It is said there were 69 Forests in England, in addition to which William the Conqueror made the New Forest and King Henry VIII the Forest of Hampton Court.

The function of a Forest was to provide a reserve for the King to hunt in and a supply of fresh meat for the Court.

Only the King could make a Forest, and only a King could have a Forest as the officers necessary to enforce the Forest Laws could only be appointed by him.

But even as far back as King Edward II the Earl of Lancaster had a Forest in which he executed the Forest Laws, presumably under grant from the King.

Manwood draws his examples largely from the records of the Forests of Pickering and Lancaster as even in his day much of the records of the others had been lost or destroyed by neglect.

'A Forest must be a territory of woody ground, stored with great woods of coverts for the secret abode of the deer, and also with fruitful pastures for their continual feed.'

The Laws of the Forest were made to ensure this by protecting the woods from depredations and the Beasts of the Forest from persecution.

The five wild Beasts of Venery which are called the Beasts of the Forest are 'the Hart, the Hind, the Hare, the Boar and the Wolfe.'

There are also five wild beasts called Beasts of Chase and these are 'the Buck, the Doe, the Fox, the Martrou and the Roe.'

The beasts and fowls of Warren are 'the Hare, the Cony, the Pheasant and the Partridge.'

A Royal Forest was privileged for wild beasts and fowls of Forest, Chase and Warren.

Forests have been 'perambulated' from time to time and their limits set down by known 'marks, meers and boundaries'.

At the same time, there were woods within the Forest which were exempted out of the 'Regard of the Forest'.

A highway or a river forming a boundary of a Forest was regarded as part of the Forest.

The Forest Laws are primarily concerned with the preservation of 'Vert and Venison'.

The Vert consisted of the timber and undergrowth of the Forest, which provided the deer with cover and food.

If any man carted timber or bushes from the Forest without permission, he paid the value of the timber and his cart and horse were forfeit.

If the owner of woods in a Forest wished to fell them, it was necessary for him to obtain permission, and, if granted, he was obliged to fence the area with hedges and ditches high enough to prevent the entry of 'deer or other Cattel' for a period of seven years, this was to allow time for the regeneration of the wood.

The term Venison does not mean only deer but all beasts of Forest or Chase.

The difference between a Forest and a Chase was that of the Laws enforceable there; in a Forest the Forest Laws were enforced by particular officers in certain courts, in a Chase the Common Law only was enforceable.

There were only Keepers and Woodwards in a Chase, the Keepers corresponding to the Foresters in a Forest.

It should be noted that neither a Forest nor a Chase was enclosed except for the King's demesne woods and lands.

Some offences by owners of land in a Forest are as follows:—

An 'Assart' is the felling of a wood, the plucking up of the roots and conversion of the land to purposes of tillage.

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'Purpresture' in a Forest is a trespass hurtful to the Vert or Venison. It consisted of any manner of encroachment upon the Forest without permission, this included the building on a man's land of any dwelling or other house where none existed before. It also applied to the holding of markets or fairs without permission.

'Nusances of the Forest.'

Neglect of Bridges and Highways.

Persons dwelling outside the Forest and having neither freehold nor Title of Common within the Forest, who common their 'cattel' within the Forest.

The erection of a Water Mill or the making of any dam which causes the flooding of any meadow or pasture land or drowns any highway.

All trespassers in the Forest who hunt venison or the wild beasts of the Forest.

All offences against the Vert of a Forest.

Hawking and Hunting in a Forest were permissible only to 'such as are Earls, Barons and Noblemen of the Realm'.

No man could Hawk or Hunt on his own land within a Forest without a licence.

The Agisters were officers appointed by the King to 'attend upon the King's woods and lands' to regulate the number of cattle pastured and verify the owner's rights and receive the money for the pasturage.

The period of Agistment for Herbage was from 15 days before midsummer to 15 days before Michaelmas, and this was for commonable animals only; Geese, Sheep and Swine were not Commonable.

The period of Agistment for Mast was from 15 days before Michaelmas to 3 days before the Feast of St Martin the Bishop in winter, and this was known as the time of Pawnage.

All Agistments were carried out by Commission from the Lord Justice in Eyre.

The 'Fence Month' lasts from 15 days before Midsummer to 15 days after, and during this period of the fawning of the deer a particularly close watch was to be kept to see that they were not disturbed by man or beast, particularly swine.

When land was afforested the right of any man to have Common was not abridged or prejudiced as far as commonable beasts were concerned, the reason for this was that the beasts of the Forest had access to all lands within the Forest and so dwellers within the Forest were allowed to common certain beasts in the Forest itself.

In order to control the number of beasts commoned and the right of their owners to do so, 'Drifts' were made twice a year.

The first drift was at the beginning of the Fence Month (15 days before midsummer) so that the Forest was cleared for the fawning of the deer.

The second drift was at the commencement of the Agistment of the King's Demesne Woods about Holyrood Day.

All the beasts found in the Forest were driven into conveniently placed pounds and the owners had to claim them from the Officers of the Forest, a Roll being kept of who owned the 'cattel' and how many.

By one statute no stallions over two years of age and under 15 hands were allowed in the Forest, by another 14 hands.

The necessity to keep dogs in the Forest to protect men's houses and goods was recognised. Any dweller in the Forest of any worth might keep a mastiff about his house, such mastiff must be 'lawed' or 'expeditated'.

If an expeditated mastiff was found upon any deer it was not an offence.

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No mower or harvest-man was permitted to bring any great mastiff into the Forest with him, but only little dogs to 'look to things without the covert'.

Unexpeditated mastiffs and also greyhounds and spaniels were only allowable by special permission.

The fine for having an unexpeditated mastiff was 3 shillings.

The term mastiff included 'curs that are of the mastiff kind', in other words, all large dogs kept for protection.

The word mastiff was in 'old British speech Masethefe which included all manner of barking curs', because 'they do maze and fear away thieves'.

The Regarders of the Forest inspected all mastiffs in the Forest every 3 years and reported any that were unexpeditated to the Court of Swanimote or of Attachment who ordered all such mastiffs to be brought to the Court, where they were expeditated; that is to say, 'three claws of the fore feet shall be cut off close to the skin'.

The mastiff set one foot on a piece of wood eight inches thick and a foot square, and the person selected, with a mallet and a chisel two inches broad, struck off at one blow the three claws.

The Courts for administering the Laws of the Forest were three in number:—

The Court of Attachment

The Court of Swanimote

The High Court of the Lord Justice in Eyre
(commonly called the Justice Seat)

The Court of Attachment was held every 40 days and consisted of the Verderers who received all the attachments of the Foresters and if the offence was of greater value than 4d. it was entered in the Rolls of the Verdeerers and presented at the Court of Swanimote.

The Court of Swanimote is properly the Court of Freeholders in the Forest, i.e. Swain Mote.

The Justices at this Court are the Verderers, and it was held three times a year, the 15th day before Michaelmas, when the Agisters assemble to make Agistment in the King's demesne woods and about the Feast of St Martin in winter, when the Agisters receive the Pawnage.

To these two Swanimotes come the Foresters, Verderers and Agisters.

The third Court was held in the beginning of the 15 days before the Feast of St John the Baptist, when the Agisters meet to fawn the deer; and to this court come the Foresters and Verderers.

At the same time, it is to be understood, that by a later statute all the Freeholders in the Forest, and of every town and village within the Forest four men and the Reeve, in addition to all the Officers of the Forest should appear at every Swanimote.

At this court all offences are inquired into with the aid of a sworn jury.

All indictments found at this court were sealed and sent to the Justice Seat for Judgement.

The Lord Chief Justice in Eyre held the Justice Seat Court once every three years in every Forest

There were two of these authorities, one for the Forests South of the Trent and one for those North of the Trent.

The holders of this office were usually great Peers of the Realm and always Privy Councillors, but not always expert in Forest Law, so that Commissioners were sometimes appointed to assist them at the Justice Seat.

Before a Justice Seat was held a Writ of General Summons was sent to the Sheriff at least forty days in advance, a Warrant of General Summons was sent to the Chief Warden of the Forest as well.

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All Knights and those that be Freeholders which do dwell within the bounds of the Forest are compelled to appear by this summons 'for they shall be put in enquests there'.

All persons claiming any manner of liberty or privilege in the Forest must make their claim either in person or by attorney on the first day of the Sessions or their claim lapses.

The Verderers present their sealed Rolls from the Courts of Attachment and Swanimote for Judgement, and nothing that has not been through the Court of Swanimote is admissible at the Justice Seat.

Also before the holding of a Justice Seat the Regard of the Forest takes place, which is as follows:—

A Regarder is an Officer of the King's Forest that is 'sworn to make the Regard of the Forest as the same Regard hath been used in former time'.

Regarders could be made by the King or the Lord Chief Justice in Eyre or for some particular occasion only by the Court of Swanimote.

Their duty was to see to the preservation of Vert and Venison in the King's Forest and also to survey all other Officers of the Forest.

Their number was limited to twelve in any one Forest, it was their duty every three years to go right through the Forest and survey all Assarts, Wastes and Purprestures and esteem them by the number of acres and find out who was responsible, and all offences of this nature since the last Regard were recorded in a fresh Roll.

They also inspected all the woods and recorded the number of trees that had been felled, also all lopping of trees and destruction of the underwoods.

They must inquire who keeps bows and arrows in his house or crossbows, guns, hounds or any engine to hunt with.

The Regarders present their report to the Court of Swanimote and afterwards to the next Sessions of the Forest.

For their presentment to be valid it is necessary for all twelve Regarders to have viewed the offence and to be unanimous in their opinion.

It is laid down that no Officer of the Forest shall 'by Colour of his office only make any Scot-Ale or gathering of Hay, Oates, other Corn, Lambs or Pigs, nor shall he make any other manner of gathering'. Scot-Ale is to keep an ale-house and cause people to come there and spend their money for fear of the officers displeasure, but this does not seem to be the whole story.

'If a man hold's certain land within the Forest, for him to pay to any Officer of the Forest every year at his Scot-Ale 12d. or 5s. or one sheep or lamb, this is not extortion.'

If any man dwelling within the Forest grants unto the King a certain profit for his Forester or other Officer of the Forest to be received yearly, the said Officers may collect the same.

Also if there have been a Forest and Officers there from time immemorial, a Forester in fee may claim three halfpence a day for victuals, also all the wind-fall wood or Mort-Boys within the Forest, or throughout all his Bailiwick, and in like manner all the browse-wood that is felled in winter for the deer, also the umbles and also one shoulder or both the shoulders of every deer that is killed within his Bailiwick, likewise the skin.

A Forester is an Officer of the Forest that is sworn to preserve the Vert and Venison of the same Forest, to attend on the wild beasts within his Bailiwick, and to attach offenders there and to present them at the Courts of the Forest.

Foresters were made by the King, some in fee i.e. for themselves and their heirs paying a rent for the same, some for life and some at the King's pleasure, all being under the Great Seal.

Their servants who did the actual work were properly called walkers and under-keepers.

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Verderers are the Judicial Officers of the King's Forest, chosen by the King's Writ by the Freeholders in the full County of the same Shire within which the Forest is, and sworn to maintain and keep the Assizes and Laws of the Forest, and also to view, receive and inroll the Attachments and Presentments of all manner of trespasses of the Forest, of Vert and of Venison.

There are normally four Verderers in each Forest who should be Esquires, Gentlemen of good account, ability and living.

It was their duty to view the Attachments of the Foresters, receive their Attachments and inroll them in the Rolls of the Verderers which were subsequently certified to the Justices of the Forest.

For instance, if 'an oak, being over-vert, is felled or cut down out of the King's demesne woods, the same oak is to be appraised by view of the Verderers' which appraisal would be inrolled.

The Oath of the Inhabitants of the Forest, being of the age of twelve years, as the same hath been accustomed and used in ancient times:—

You shall true liege man be, unto the King's Majestie
You shall no hurt do to the beasts of the Forest
Nor to anything that doth belong thereto
The offences of others you shall not conceal
But to the utmost of your power you shall them reveal
Unto the officers of the Forest
Or to them that may see the same redrest
And these things you shall see done
So help you God at's Holy Doom.

POUR-ALLEES OR PURLIEUS

The land which had been afforested by King Henry II, King Richard I and King John was dis-afforested by agreement with King John, re-affirmed by King Henry III and carried into effect by Perambulations in the reign of King Edward I and the disafforested portions were termed Pour-Allees or Purlieus.

This enabled owners of land to fell their woods and also to convert meadows and pastures into tillage and arable land.

Also they could hunt the beasts of the Forest towards the Forest, that is to say, they were not permitted to impede the return of the deer to the Forest by heading them off or by hedges or any other means.

And these Privileges were available only to the owners of the land, to others, the Purlieus remained Forest.

The owners of disafforested land had the option of remaining afforested, so that they could continue to have the benefit of Common in the Forest.

The King maintained Officers in the Purlieus who were termed Rangers and whose duty was to chase the deer back into the Forest.

If a Hart escaped out of the Forest, it was lawful for the Foresters to follow him and to make Proclamation in the next Towns where the Hart was, and then it was not lawful to take or slay such a Hart.

Owners of property above a certain value (originally forty shillings) and certain persons of High Degree might keep Greyhounds and provided they commenced their chase in their own lands, they might pursue it in other people's lands, always provided that they did not

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interfere with the free return of the beast to the Forest. Those not qualified to keep greyhounds were permitted to chase beasts out of their land with little dogs.

All those entitled to hunt in the Purlieus had to do so in person accompanied only by their servants.

No person whilst hunting was permitted to enter the Forest or to permit his dogs to do so unless they had already fastened on the deer and were so drawn into the Forest.

A Pour-Allee man might not hunt:—

In the night between sunset and sunrise.

On a Sunday.

In the Fence month.

Oftener than three days in one week.

With any more company than his servants.

Within forty days before or forty days after the King's General hunting as proclaimed.

When served with a Warrant by a Forester, near the borders of the Forest.

With any manner of forestalling, or any other engine to take the deer, neither with gun nor cross-bow but only with his dogs.

Any unseasonable deer, i.e. Deer of Antler in the winter nor Does and suchlike winter deer in the summer.

All offences against Venison in the Pour-Allees or Purlieus were presented by the Rangers to the Courts of Attachment and Swanimote and for judgement to the Justice Seat.