

THE NEW FOREST: ITS AFFORESTATION, ANCIENT AREA,
AND LAW IN THE TIME OF THE CONQUEROR AND
HIS SUCCESSORS. DID WILLIAM I. DEVASTATE THE
NEW FOREST DISTRICT AND DESTROY CHURCHES
THERE, AND HAD IT BEEN PREVIOUSLY AFFORESTED
AS RELATED BY THE EARLY CHRONICLERS?¹

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An important treatise on forest law in the Harleian MSS.,² of about the last quarter of the sixteenth century, gives that it is stated in the Book of Laws of Edward the Confessor that forest laws in England were according to the will and pleasure of the King, and it was declared in the King's Charter that amongst other things (in the modernized words of the King) "I will that every man shall have hunting in his woods, lands, and demesnes and shall abstain from my hunting wherever I will to have a park, on pain of death."

These laws of King Edward, considered the very root and origin of all the laws of England, were confirmed by the Conqueror and his successors William Rufus and Henry I., as appears by the latter's Charter to be found in the Red Book of the Exchequer. The non-observance of these laws by the Crown in the districts surrounding the royal forests, particularly the New Forest, was no doubt the ground of the denunciations of King William I. by the early annalists on account of afforesting the possessions of his subjects.

It was ever recognized that forest law was different from the common law of the realm; "it was not absolute justice, but justice according to the law of the forest."³ These first laws of the forest were enlarged by Henry I., and the laws of Edward the Confessor were confirmed by Stephen and Henry II.,⁴ who also made new forest laws. By the Statute of 23 Henry II., cap. 16, as another

¹ Read at the Southampton Meeting of the Institute, July, 1902.

² No. 1330, fo. 102.

³ Harl. MSS. 1330.

⁴ *Stat. of the Realm*, I, p. 4, and 23 Henry II., ch. 16, Assize of the Forest, as quoted in Harl. MSS. 1330, fo. 104.

unknown writer states, forest law was freshly enacted. The King alone was arbiter in forest offences as to life or fine, not according to absolute justice (common law) but according to forest law, for the *penetralia* of kings are in forests, and their greatest delight, where they take their recreation; this is the spirit of the old statutes.

In these reigns and in those of Richard I. and John, the Kings enlarged forests at their will and mostly from the lands of their subjects, whether woodlands or pasture.

Although the New Forest (with the exception of that of Hampton, afforested by Henry VIII. in 1539) is the only one of the former sixty-six royal forests concerning the formation of which we have any authentic particulars, yet the history of it has in modern times been involved in doubts and difficulties. There is reason to believe from actual conditions that forest law was more stringently carried out there than in the other forests. Within the last century or so, several historians and others, who have written learnedly and strongly, have attempted to set aside and have discredited the evidence of very many early chroniclers, the more serious of these modern writers relying chiefly on the details of the Domesday Survey, and the conditions of the other and earlier created forests, and also of the area of the New Forest according to the present perambulation, which is considered to be the same as that run in the year 1300.¹ The Domesday record considered alone would hardly prove these contentions. They are two in number. First, that there was not a previous forest where the New Forest was established, and secondly, that the district was not devastated and that many churches, from twenty-two to sixty in number, were not destroyed or wasted as asserted by the old chroniclers, some giving the former number and others the latter. It is probable that these churches were built of wood, as we know from the Wallop entry in Domesday Survey that buildings in this district were thus constructed, "*habebat olim praepositus . . . silvas ad faciendas domos.*" Disused for a time, they would soon be ruined and disappear.

¹ Fifth report of Commissioners, Woods and Forests, 1789, p. 4.

As did some of those early annalists copy from their predecessors, so have late and especially local writers done the same, taking their ideas from each other when endeavouring to show that the annalists were altogether incorrect.

It must be remembered, however, that Sir Henry Ellis¹ held that William added some 17,000 acres to a former forest; Sir Francis Palgrave² was ready to believe that what the chroniclers wrote was correct, and Professor Freeman³ adopted the views of the early writers, while he considered the Domesday details. Lately, Mr. F. Baring has written learnedly and exhaustively on the Domesday details, apparently adopting the same views.⁴

On the other side Gough,⁵ Richard Warner,⁶ Wise,⁷ and Mr. J. H. Round,⁸ are positive on the subject and think alike.

Regarding this controversy it will be useful to refer to some Domesday evidence, apparently not yet considered, as to the district, in which the New Forest is, having been a forest anterior to the Conquest. Under the heading (fo. 38b) of "the King's land" in Brocton (now Thorngate) Hundred, we find, using Round's translation :

"The King himself holds Wallope (Over Wallop), Countess Gueda (Gytha, wife of Earl Godwin), held it of Earl Godwin. It then paid geld for 22 hides, now for nothing. . . . To this manor belonged, in the time of King Edward, the third penny of six hundreds; it had also free right of pasture and pannage in all the woods belonging to those six hundreds. . . .

"The King himself holds another Wallope (Nether Wallop). Earl Harold held it. It then paid geld for 17 hides. . . .

"The King himself holds Brestone (Broughton). King Edward held it in demesne. . . . What belongs to this manor was worth T.R.E. and afterwards 76 pounds 16 shillings and 8 pence. (It is) worth 66 pounds: yet it is farmed for 104 pounds 12 shillings and 2 pence. . . . In the same hundred is Dene (Dean) which appertains to this manor (? Broughton or Wallop). . . . Belonging to (de) this manor, the King has in Wallope 5 villeins, 1 serf and a mill worth 30 pence and 2 ploughs in (the) demesne; and the coliberts or boors (bures) as above render the accustomed duties.

¹ *Introduction to Domesday* (1833), I, 105-110.

² *England and Normandy*, I, 105-110.

³ *Hist. of Norman Conquest*, IV, 611-615.

⁴ *Engl. Hist. Review*, July, 1901.

⁵ *Camden's Brit.*, I, 129.

⁶ *Topographical Remarks on S.W. Portions of Hampshire*, I, Part 2, 37-57.

⁷ *Hist. and Scenery of the New Forest*, 31.

⁸ *Vict. Hist. of Hampshire (Domesday Survey)*, I, 413.

“Formerly the reeve had the honey and pasture (*i.e.* query, in the six hundreds) belonging to the above manors towards (paying) his ‘farm’ and also timber for house-building. But now the Foresters enjoy this and the reeves nothing (of it). *The honey and pasture in the King’s forest are worth 10 shillings each.*”

This Domesday evidence of the conditions of this district in Saxon times, before its afforestation by the Conqueror, is of the highest value regarding there being a previous forest.

Not being entered under “In the New Forest and round about it,” it may be possible that the facts disclosed have escaped notice. What is their import? That by succession through the Conquest, for Earl Godwin’s estates had gone to the Crown, William owned in demesne these large manors, situated almost immediately on the north of the six hundreds in which the former owner, Godwin as Earl, in the time of King Edward, had the third penny of their Courts and also the pasture and pannage in all the woods of those six hundreds and these before the afforestation in 1079. Apparently the latter were forestal rights in the six hundreds, and it is especially added “the *honey and pasture* in the King’s forest are worth ten shillings each.” It is probable that other manors not belonging to the Crown had commons of pasture and pannage in the six hundreds, not detailed in the abstracted survey as we have it, similar to those appertaining to the King’s demesnes, and that these rights were *appendant pur cause de vicinage*.

It is necessary to consider what is the import of the term “the six hundreds.” Was not this an especial district over which the King had great influence, very free from Church control, for we find that all the Church lands in this district were only two hides in Fawley (seven virgates of which were in the forest) owned by the Bishop of Winchester, and one hide in Sway owned by the Abbey of Romsey? The King was also in receipt of all the three pennies, *i.e.* the whole fees and fines of the hundred courts, and also owned in demesne a very great proportion of the larger manors in the district where he made the New Forest.

With regard to the term “the six hundreds,” we find another somewhat similar district in the survey of

Hampshire, concerning which Mr. Round remarks in the *Victorian History* (p. 401) on the return of the sworn inquest of June, 1274, in which the jurors stated that five hundreds "were wont to belong to the manor of Basingstoke," and he adds to the effect that the *firma* comprised the profits of six hundreds, adding that of Basingstoke itself.¹

As at Basingstoke, we find the jurisdiction and rights of "the six hundreds" belonging to the King's manor of Wallop. The rights of pasture and pannage could not have been exercised in the woods of other owners, so that the Wallop district must have been an especial one (query, forest), with owners in it of intermediate lands, whose possessions we find to have been so unceremoniously dealt with by the King to make the New Forest as shown by the Domesday Survey.

These conclusions, if accepted, make it easy to believe that the statements of the annalists are correct, *viz.* that there was an enlargement of a former forest.²

It is very interesting and instructive to find that in the Domesday Survey the heading of "In the New Forest and round about it" covers the lands and manors of six hundreds named, in which the foresters, who were the chief officials of the forest, had the pasture, etc. This continued to be the case.³

These "six hundreds" would be Roderige or Roderic, Bovre, Rodbrigge, Egiete, Rincvede, and, following Round's conclusion in the case of Basingstoke, Brocton, in which was Wallop. If not Brocton, Sirlei would be the sixth, which, however, was not included under the heading "In the New Forest, etc.," but had forest land within it.

In Sirlei hundred we find Weringtone or Winton, owned by Waleran the hunter, one and a half hides and the woodland of which were in the King's forest. The important manor of Avere (Avon) was also in this hundred, of which the "King has now in the

¹ Bagent and Millard, in their *Hist. of Basingstoke*, 173 and *seq.*, give the report of this inquest in full.

² William of Jumieges, quoted by Baring and others, "*Multas villas et ecclesias propter eandem forestam amplificandam in circuitu ipsius destruxerat*."

³ Pipe Rolls, 5 Henry II. (1158-9), when the New Forest had been very much enlarged, and the Exchequer receipts show that Walter Waleran (the huntsman) rendered account of 25s. of the *old* pasture of the New Forest and £25 of the census of the same.

forest one and a half hides and half a virgate of this manor and half the woodland worth forty-five swine."

It was without doubt these "six hundreds," with the adjoining manors, which formally were afforested by William as the New Forest. It seems improbable that the Wallop manors would have been excluded from the King's favourite hunting place. It is on record that complaints were made by succeeding Kings, Henry III., Edward I., and Edward II., that the Justices and others acting under the provisions of the Charter of the forest and the subsequent commissions had excluded Crown demesne lands from the perambulation of the forest,¹ this being considered outside their powers. The details of some of these disafforestations are closely given by Mr. Turner.²

Sovereigns had always in early times the prerogative to afforest any man's manors or woods; Clause 47 of *Magna Charta* (17 John) provided as a concession that all forests made in his time should be disafforested, but the proceedings in his successors' reigns show that this often had not been carried out.

It appears that William I. held in demesne very little land within the area of the present perambulation of the forest—Ivare (Eyeworth), one virgate; Lyndhurst, two hides; Slacham (perhaps, not identified), one half a hide, and part of Rincevede (Ringwood) and part of Staneude (Stanwood), a very small portion of the present 92,395 acres; but surrounding and outside the modern bounds the King had many manors covering large areas, as may be seen in the Domesday Survey. It is probable that the words "*in foresta*" signify that the lands so specified were made open waste, a forest term used to this day and always meaning in a forest district unenclosed forest land subject to rights of common. Once waste and in the forest, they could not be dealt with except by grant and licence from the Crown.

The Survey shows clearly the very large amounts of lands and manors owned by the King in succession by conquest from King Harold—portions only of which were up to the time of the Survey thrown "*in foresta*," the remainder being occupied and partly cultivated as

¹ Turner's *Pleas of the Forest*, xcix-cvi.

² Vide *Select Pleas of the Forest*, Selden Soc. Publ., xciii-cix.

detailed. When the forest was extended by the succeeding Kings up to the time of the Great Charter of the forest, forest law would govern the areas successively thrown into the forest, which must have been the cause of the grievous complaints related by the annalists, allayed in part only by the perambulations restricting the forest area through the action of the various commissions under the provisions of the Charter of the forest.

The early writers who give the accounts of the wide devastation, *i.e.* afforesting and laying waste churches, were Gulielmus Gemeticensis (died 1135), Orderic Vitalis (1075-1150); Florence of Worcester, who wrote to the year 1118, another monk continuing his chronicle to 1163; William Mapes, *temp.* Henry I.; John of Salisbury, 1110-1182; William of Malmesbury (Henry I., Stephen, and Henry II.); Henry of Huntingdon (Stephen and Henry II.); Roger de Houeden (Henry III.); Walter Hemingford (Henry III.); Brompton (Edward III.); Henry Knyghton (Richard II.); Mathew Paris (thirteenth century), who, writing concerning forest law, stated, "Dreadful are the distresses of that land, whose monarch is the careful preserver of noxious animals"; Thomas Rudborne (died 1442); and John Roffe (died 1491).

These all wrote more or less concerning the pitiable state of affairs occasioned by the afforestation of the New Forest, all of whose writings were well studied and quoted by Warner,² who disbelieved them all. He, however, appears not to have studied or even to have thought of what was the enlarged area of the forest and of the workings of forest law up to the time of Henry III. The prerogative of afforesting other men's lands was largely exercised by Henry II., Richard I., and John. John Manwood, the learned writer on law of the sixteenth century, in his *Laws of the Forest* states in the preface :

"The law of afforesting the lands and inheritance of other men did then so daily increase that the same was thought a very extreme heavy burden as well unto noblemen and gentlemen as also unto the

¹ Quoted by Warner, Vol. II, p. 201.

² *Topographical Remarks*, I, 168-176.

poor comonalty . . . for these three Kings had then newly afforested so much of the lands of their subjects that the greatest part of this realme was then become forest."

It is now necessary to go to other sources to learn more about the conditions of a forest in the time of the early Norman Kings (which the modern writers have apparently disregarded, relying on Domesday alone) and which were the cause of forcing from Henry III. the Charter of the forest, the provisions of which reveal the position of landowners in forests from Saxon times to the year 1217, the date of the Charter. Articles concerning forests similar to those of this Charter were obtained from John in 1216, but he dying very soon after, forest matters were left until his successor Henry III. (then only ten years of age) agreed to concede what was necessary for those owning and occupying lands in forests.

In this King's first great Charter, 12 November, 1216, one clause relieved in some respects those living outside a forest from being subject to its laws, but in the first Charter of the forest, granted 6th November, 1217 (i) all lands except the Crown demesne lands, afforested by Henry II., were to be forthwith disafforested after view ; (iii) all woods, except Crown demesne woods, afforested by King Richard and King John, were to be disafforested without view.

Even archbishops, bishops, abbots, priors, earls, barons and knights (to say nothing of their tenants), had been unable within the forest bounds to cut their own woods, build houses, erect mills, cultivate or enclose their lands. Any who had done these things contrary to law before then were (iv) to be discharged for purprestures, wastes, and assarts (that is building, cutting wood and enclosing for cultivation), but in the future they shall still answer for the same if done without the King's licence. What a state of things, before the Charter of the forest ! From this time by such warrants it was possible to make use of lands owned or leased by subjects within a forest, and in and from this reign licences by Charter to assart lands in forests are to be found in the records.

Previously all had to remain *foresta*, wild and un-

cultivated, enjoyed only by the deer and other beasts of the forest, and, we must presume, commoners' cattle, for some ancient demesne lands were within forests. (vi) Lawing of dogs (which would not pass through a stirrup or a thong of certain dimensions) within a forest (*i.e.* the removal of three claws of the fore feet) to be only done once in three years, and that by the view only of lawful men. Only three shillings (then a large sum) were to be taken of the owner whose dogs were found not expedited, and not, as before, "one's ox for the lawing." (vii) No forester to take, for the future, from those within a forest, corn, lambs, or swine, or make ale skots (as they had previously done at their will, to the impoverishing of those living in forests), and no "gathering" (query, of forest dues) was to be made by them without the view and oath of twelve regarders.

All landowners (formerly termed free tenants in the forest) had to attend to pay their homage at Swainmote Courts under a heavy fine (£5 in later days) for non-attendance, but by Clause viii these courts were not to be held in the future more than three times in the year, and the Courts of Attachment only every forty days.

Men in forests could not previously agist their own woods (that is, pasture their cattle) or overst their swine, but after this Charter (ix) they could do so at their pleasure and have their pannage, and as a further privilege the swine of a freeman might remain one night (query, when being driven) in the King's forest without pain. Previously to this Charter, a man was liable to loss of life or limb for taking deer or any wild animal or bird in a forest. The relief of this by Clause x was, that he was only to be grievously fined, and if unable to pay, when convicted at the Swainmote Court and having received sentence at the justice seat by the Chief Justice in Eyre, was imprisoned for a year and a day, and on release, if unable to find sureties, he should abjure the realm. Clause xii gave leave for a freeman without danger to erect a mill on his own land in a forest, to make a warren, pond, marl pit, or ditch (*i.e.* to enclose his land) or turn it into arable. (xiii) He might take eyries of hawks, falcons, etc. and also honey in his own woods. (xiv) No forester, unless a forester in fee (having a

bailiwick), shall take cheminage, that is, a toll on the highways for carts and horses laden, and those privileged to do so only to take small sums. Men carrying wood, bark, or charcoal on their own backs were to be free from toll. (xv) All persons outlawed for forest offences since the time of Henry II. were to be pardoned freely, but they had to find sureties that they would not commit trespasses in forests. (xvi) No one but foresters in fee were to make attachments for vert or venison, and offenders were to be presented to verderers only—"And these liberties we have granted to all men."

What a condition does this reveal for men living within or near to a forest before the year 1217, when all "these liberties" were forest offences! Forests then were meant to be, and were, harbours for wild beasts, not men, and offences were created in forests to cause them to be virtually uninhabitable, "*quia in Forrestis penetrabilia Regum sunt et eorum maxime delicia.*"¹ If owners could not use their lands for natural purposes, in what position would the tenants and serfs be. After the time of the Domesday Survey the conditions of afforested districts appear to have altered considerably for the worse, and afforestation before the year 1217 meant laying waste for the encouragement and breeding of wild beasts of the forest, the hunting of which was the greatest pleasure of the King. What room was there for inhabitants, and what use for churches and dwellings?

There were but few variations between the first and the second Forest Charter of 9 Henry III. (11th February, 1224-5) which greatly ameliorated the condition of things in forests.

In 1225 the second Charter was at once carried into effect by letters patent of 16th February, 1224-5,² to Hugh de Neville, Brian de l'Isle, and Henry of Cerne, who were appointed justices to make perambulations of the forests of Hampshire and fourteen other counties, but after report made the King's orders were to be taken before any relief to those affected was given. These perambulations extended to the old forests only, many of these

¹ Harl. MSS. 1330, pap. 104.

² Patent Roll, Henry III., 32a, mm.

6 and 5 *dorso*, quoted by Turner in his *Select Pleas of the Forest*, xcvi.

being then disafforested, and the lands in them were built upon and cultivated by the owners and their tenants,¹ while all the newly made forests remained as they were until after the death of Henry III.

On 8th February, 1227, Henry III. sent directions to the Sheriff of Hampshire "to cause the persons who made the late perambulations of the forests there to come before him to show why they had disafforested certain parts of the forests which had been afforested before the coronation of Henry II. (1154) and why they had disafforested certain of his demesne lands and woods."² The King, however, "neither repudiated the Charter of the forest nor annulled the perambulations which had been made in his infancy. He merely corrected them after due inquiry." This related to the Hampshire forests, but the enrolment of these perambulations has not yet been found.³

Although Edward I. did not formally confirm the Charter of Henry III. until the twenty-eighth year of his reign (1299-1300) by 28 Edward I., cap. 3, he appointed commissioners in 1279, who at once made the perambulation of the New Forest and greatly reduced its area by new metes and bounds. This perambulation was presented at the Forest Justice Seat held at Winchester on the morrow of St. Hilary (12th January), 1279-80 (8 Edward I.), before Roger de Clifford, John Lovetot, Galfridus de Pycheford, and William de Hamelton, the forest justices to hear the same. These proceedings⁴ give as boundaries of the New Forest at that date the river Test and Southampton Water to the sea, thence to Hurst (following the Solent), thence to Christchurch bridge, up the river Avon, and thence by a foss extending from North Charford to Herdeberwe and Ower bridge. The commissioners in this case also appear to have gone beyond their powers under the Forest Charter and to have disafforested large areas of the Domesday forest in the west, north, and east of the new metes and bounds.

¹ Thomson's *Great Charters*, p. 344, and Turner, *xcvii*.

² Turner, *xcix*, quoting Close Rolls, II, 206.

³ Turner, quoting Close Roll (Henry III.), 38, m. 9d.

⁴ South'ton, *Forest Pleas*, No. IV, m. 1d, and given fully in the Fifth Report of the Land Revenue Commissioners of 1786, App. II, and also by Lewis, *New Forest*, p. 173.

About twenty-one years later the necessities of Edward I., assuaged by a grant of a fifteenth, caused the King to appoint justices by letters patent, 23rd September, 1299,¹ to make perambulations of all forests, and again, on 1st April, 1300, the King directed the same to be done, There were six Commissioners (each for a group of counties, Hampshire and Wiltshire being worked together under one of these²); John de Berewyke, and others to assist him, acted for Hampshire, who by a view of John de Romesy, the Deputy Chief Justice (in Eyre), John Randolf, warden, and Gilbert de Teye, John de Cauz and William de Butteshorn, verderers, made the new perambulation of the New Forest.³

By the finding of the jurors large tracts of land which had been forest for one hundred and fifty years (and probably more in many cases) were thrown out of the forest and disafforested, they alleging that these had been afforested by Henry II. or his sons Richard and John; this "they declared that they knew from the tales of their ancestors and the common talk of the country."⁴

This action still more reduced the area of the New Forest and confined it to the metes and bounds, which, as far as can be traced, appear to have been those which were followed in the perambulation of 22 Charles II. (1670), and which are those of the present day as defined and run by the encroachment commissioners of 1801.⁵

On 14th February, 1301, Edward I. again confirmed the Charter of the forest and issued letters patent disafforesting all districts which were outside boundaries of forests as found by the recent perambulations.⁵ This disafforestation of the outlying districts appears to have given trouble to those who, by living within the thrown-out areas, lost probably most of what they had to depend on, namely, common of pasture and pannage within the large forest area, cultivation of the former and thrown-out

¹ Pat. Rolls, 28 Edward I., m. 18.

² Turner, civ, quoting Pat. Roll 118, m. 9; *ibid.*, 119, m. 19, Parl. writs, I, 397; *For. Proc. Anc. Chanc.*, No. 102.

³ Rot. Peramb. Foresta, 29 Edward I., m. 4, given verbatim in Fifth Report, Land Revenue Commissioners, 1786, App. III, p. 47; also Lewis, translation, 174.

⁴ Turner, civ and cv, and page 121.

⁵ *Vide* Blue Book, 8vo, Proceedings of the 1801 Commission, 1853; the Fifth Report of the Land Revenue Commissioners, 1786, app. 4; and Lewis, p. 178.

⁶ Turner, cv, quoting *For. Proc. Anc. Chanc.*, No. 102.

forest lands being precarious at first. Difficulties were also raised by the Crown and the forest officials, who kept the inhabitants of the disafforested lands under forest law as before. Although the King had reconfirmed the Charter of the forest and also the new perambulations, he considered that his rights were infringed on, and Pope Clement V., on application of Edward I., by a bull dated 29th December, 1305, revoked and annulled the above confirmations, which was followed by the King annulling his own grants.¹

The King very soon obtained support for this action from his Parliament, probably as the result of the Pope's intervention, as he appears to have desired to prevent any increase of population in the disafforested districts near the forests. The charge of the Earl of Holland at the Waltham Iter in 1634 shows how objectionable in a forest point of view this was.

"The forest lawe giues notes vpon the purprestures that come (? cause) building in a forest. First, they are ad terrorem ferarum ; the sight of many houses in a forest scarres the deere. Secondly, they are a superonerationem forest. For houses are to harbor people and people must haue cattaile and these cattell are surchardges of the forest. Thirdly, they are an exilationem foreste. In many houses are kept many dogges, w^{ch} doggs and company exile the deere. Therefore nothing decays a forest sooner than purprestures."²

The *Ordinatio Forestae* then passed by Parliament in 1305,³ enacted to the effect that those whose woods were disafforested should not have common or other easements in the forest. The words of this statute clearly show the friction that existed :

CLAUSE I.—"Whereas certain people that be put out of the forest for the purliew, and by the great men have made request to our Lord the King at this parliament that they might be acquitted of their charge and of things that the foresters demand of them as they were wont to be."

II.—"The King answered, first, that where he had granted purliew that he was pleased that it should stand in like as it was granted, albeit that the thing was sued and demanded in an evil point."

¹ Turner, *cv*, quoting the Bull given in Rymer's *Foedera*, Vol. I, Part 1, p. 978.

² Harleian MSS. 321.

³ 33 Edward I., Stat. 5.

III.—That all lands “that have been of the Crown and returned by way of escheat or otherwise” shall have free chase and warren and be saved and kept to the King’s use and for “all manner of things that pleaseth him.”

IV.—Where purlieu is, the owners “may claim to be quit of the charge of the forests.”

V.—As the King’s beasts cannot have their haunt and repair to the forest lands, that those who were out of the forest shall *not* have common or other easements within the bounds of the forest, but if they would rather be within the forest as before, it would please the King to receive them, and they should have their common, etc. as well as they had before.

Great disturbances and trouble must have immediately arisen, but the old commoners who had thus lost their pasture and pannage appear then to have been all-powerful, as in the following year (1306) another *Ordinatio Forestae*¹ was passed by the Parliament. In the preamble of this statute it is related on the part of the King :

“We have indeed heard from the information of our faithful servants and the frequent cries of the oppressed, whereby we are disturbed with excessive commotion of mind that the People of the said Realm are by the officers of our Forests miserably oppressed, impoverished and troubled with many wrongs, being everywhere molested. For sometimes the accusations of the Forest, and indictments, commonly so called, are made not only by lawful inquests of good men and true of the country preceding them, as justice doth require, but upon the command of one or perhaps two of the Foresters or upon the command of one or perhaps two of the Verderers : who from hatred or otherwise maliciously, that they may extort money from some one, do accuse or indict whom they will ; and thereupon do follow grievous attachments, and the innocent man is punished, who hath incurred no fault or offence at all. Moreover the People is oppressed with the multitude of Foresters and other officers, who not having wherewithal to get their living by other means, must needs live upon the neighbourhood of the forest ; and what is worse they do justify this their way of life in right of their place accordingly by selling and giving away, for such victuals as they want, and in many ways diminishing and suffering to be diminished the wood in their charge or deputed to their charge, and the deer therein being, in successive process of time, they do destroy and annihilate the same to the intolerable damage of us and our heirs. What farther ? It would be difficult to relate separately the losses and grievances which happen in these matters as we have heard them. Being therefore desirous to prevent such oppressions and grievances, which without

¹ 34 Edward I., Stat. 5.

heavy scandal we can no longer suffer to pass with indifference, by all ways and means in our power and to provide with our most diligent endeavour for the peace and tranquillity of the inhabitants of our Realm."¹

This is parliamentary evidence of a period after the liberties "we have granted to all men"; surely what the annalists wrote of a period two hundred years earlier was not too vivid.

Amongst other forest matters it was enacted in 1306 that all those who had had common of pasture in the forests before the perambulation, and that were restrained of common by the effect of it, shall have their pasture hereafter in the forests as freely and largely as before. Trespasses in the forest were to be abated by throwing down the hedges, etc. and filling up the ditches, but there was a saving clause as regarded the King's arrentations,² which he desired to remain according to the assize of the Forest enacted in the time of Henry II.

The provisions of this statute of 1306 were most important and far reaching, as even in the present day their effect is still shown, as regards the rights of common in the New Forest allowed and exercised by those who have preserved them as attached to their lands, owned and occupied in Hampshire, Dorsetshire, and Wiltshire, outside the present metes and bounds of the forest, these being the rights enjoyed as appertaining to these lands before the perambulations of 1279 and 1300 had disafforested them.

It is a very remarkable thing that by some mishap the *Ordinatio Forestae* of 33 Edward I. has been allowed to remain on the statute books, whilst the enabling one of 34 Edward I. was apparently repealed by 6 George IV., cap. 50, sec. 62.

Little more appears to have been done in forest matters during the remaining years of King Edward, who died 7th July, 1307. His son Edward II. did not confirm the Forest Charter, and there is no mention of forests in the Statute of this King's prerogative passed in the (?) seventeenth year of his reign. However, in 1308-9 (9 Edward II.) there were inquisitions concerning the

¹ Stat. of the Realm.

made by means of enclosures in the

² Vaccaries, of which many were New Forest in this reign.

bounds of the New Forest found by the perambulation of 1300, it appearing that this King desired to annul what had been done by his father, alleging that more land had been disafforested than the Kings Henry II., Richard I., and John had afforested.¹ Finally, however, the King granted that these disafforestations, allowed and afterwards revoked, should be valid.

His son Edward III. on his accession in 1327 at once confirmed the Charter of the forest in all points² and granted that the perambulations of the forests made in the time of his grandfather, Edward I., should be as they were then ridden and bounded, and also that every man might take the profits of his woods by the view of the Foresters, without being attached at the forest courts. The King also ordered a confirmatory charter to be made for each shire where the perambulations had taken place.

By the evidence of the claims for forest rights made by the successors in title to the owners of lands disafforested before the year 1300 outside the metes and bounds fixed in this year, which were presented at the New Forest justice seats of 1635 and 1670 and those admitted by the Commissioners under the provisions of the New Forest Act, 1854, it is possible to show what the area of the forest was before the time of Edward I. The originals of these claims of 1635 (149 for manors, etc. without and 95 for those within the forest) and of 1670 (192 without and 111 within) are preserved in the Public Record Office, many of these giving origins of title. Fairly full translations of the 1670 claims were published by the Office of Woods in a blue book of 1853. These were very largely for the disafforested lands, as many owners within the forest appear to have trusted to forest law for their rights and did not in all cases make claims. The settlement of rights of common under the New Forest Act, 1854 (register printed by Office of Woods, 1858), clearly identifies by tithe numbers the lands to which rights are still attached, as allowed by the Commissioners, some of which are not included amongst the claims of 1670.

¹ *Sub-Report of the Commissioners of Woods*, 1850. p. 3, quoting Salmon's

Ant. of Essex, p. 38, and Exch. bund. Inquis., Forest, 9 Edward II.

² 1 Edward III., cap. 1.

Although very many properties have lost, through disuse of the owners and occupiers and by disallowance through non-claiming, the common rights that formerly were attached to them, the evidence afforded by these claims gives exact information of the extent of the New Forest before the year 1300, and explains how it was not only possible but probable that the relations of Walter Mapes, who lived in the reign of Henry II. and was chaplain to that King, and of the other chroniclers were correct. Mapes wrote that the

“Conqueror took away much land from God and men and converted it to the use of wild beasts and the sport of his dogs, for which he demolished (query, laid waste by disuse) thirty-six churches and exterminated (query, forced to leave the district) the inhabitants.”¹

The other annalists give a different number of churches destroyed, which were probably built of wood, in this forest district. Brompton says thirty, and Knyghton twenty-two. Henry de Huntingdon in the time of Stephen and Henry II. wrote “In Sylva quae vocatur ‘Nova Foresta’ ecclesias et villas eradicari, gentem extirpari et a feris fecit inhabitari,” as quoted by Lewis.

In those days writers would not have ventured to state anything against their Sovereign then reigning, but might have dared and did dare to attribute to William the Conqueror, who made this forest *circa* 1079, what his successors had done. The detailed accounts of what forest law was capable show that where this was fully carried out² how impossible it was before the Charter of the forest for the inhabitants to exist without great suffering and pain, and where building houses, tending cattle, and cultivating the land were attachable offences, described by forest law *ad nocumentum fercarum forestae*.

The Domesday Survey was made only about seven years after the afforestation of the New Forest, and the few inhabitants left within its bounds³ would have

¹ Lewis, quoting Leland, *de Script. Brit.*, c. 159.

² It is very probable that this was not strictly done in all forests, but in only those where the early kings took their constant pleasure, the New Forest without doubt.

³ Mr. Baring estimates that William “from these 150 ploughlands [afforested] cleared off the population, amounting to some 500 families, or about 2,000 men, women, and children.”

had but a short experience (and that no doubt mollified at first) of what their condition would be reduced to under the succeeding kings, until the tumults and risings of the barons and great men and the needs of the kings brought about a better state of things in one hundred and fifty to two hundred years' time, but even in this later period we know that very much was to be desired, by the evidence of the preamble of the *Ordinatio Forestae* of 1306.

By the non-holding of forest justice seats for some forty years before 1634 and thirty-six years after this, forest law fell into a certain abeyance, the attachments apparently being remitted to the Court of Exchequer, but even at this former period dwellers in forests were not at ease,

“for yf every owner be suffered to build houses upon his land at his will, will the highways be made streets and the woods turned into gardens and no place of harbor left for the deere.”¹

These purprestures were forest offences by building a house, cottage, barn, etc. or doing anything that was *ad nocumentum ferarum forestae*, a phrase constantly used in presentments at the forest attachment courts.

With regard to Domesday evidence concerning churches in the New Forest, there was in 1086 only one church, that of Brockenhurst, within the present bounds, which, as has been said, were those perambulated in the year 1300. Even the manor of Sway, owned by the Abbey of Romsey, had no chapel then, a very unusual occurrence in a manor owned by a great religious house. Taking the whole forest area as shown by the Survey, we find in it only three churches, Brockenhurst, Fordingbridge and Ringwood, the former an especially favoured manor and the two latter owned by the King, and also two chapels (*ecclesiolae*), Holdenhurst, owned by the King, and Fawley, owned by the Bishop of Winchester. This is all very significant. What had become of other churches or chapels on the lands owned by the laity? Can we find in Domesday Book another such district in Hampshire or even in any of the other numerous forests in England? How can this be accounted for except by devastation?

¹ Hargrave MSS. No. 321, charge of the Chief Justice in Eyre, 1634.

It is remarkable, however, that very soon after the death of William Rufus we do find more churches in the south of the New Forest. In the Charter of Richard de Redvers, senior (who died in 1107), giving liberties, churches, and lands to the Priory of Christchurch Twynam, in his honour of Christchurch, extending from that town to the east of the parish of Boldre, granted to him by Henry I. the following churches within the then forest are named, which apparently, with exception of that of Brockenhurst and Holdenhurst, must have been built by him after the year 1100; the church of Hordull (Hordle) with the chapel of Mulneforde (Milford); the church of Bolra (Boldre) with the chapel of Brockehurst (Brockenhurst); the chapel of Holeherst (Holdenhurst); and the chapel of Söppele (Sopley). This great grant (as yet unfound) of forest lands must have contained especial licence to assart; the lands were fertile and fit for cultivation, being between the present forest and the Solent, to which probably the men with their families, who had been dispossessed in the other afforested lands, flocked, and who would have required church accommodation, the founding of which must have been fostered by the important Priory of Christchurch Twynam which was included in the de Redvers grant.

In an ancient narrative concerning this Priory¹ we find a statement not before alluded to, which confirms those of the annalists, with the exception only of the King, *viz.* that William called Rufus destroyed thirty churches and reduced their churchyards to pasture in the New Forest. This is local evidence, and if correct proves that before the death of this King and after the year 1086 the New Forest area must have been much enlarged and have covered a district where churches existed.

Other portions of the New Forest improved as they gradually became under cultivation, when enclosed from the forest land, for instance the great manor of Beaulieu granted to the abbot by King John, and which even had the privilege of being "without the regard of the forest."

The same amelioration occurred in the portions of the New Forest disafforested in 1279 and 1300, as also at an

¹ Quoted from *Mon. Ang.*, Vol. II, p. 177, by Warner, II, App. p. 36, from Cotton MSS., Tib. D. VI.

early date was the case in the ancient demesne lands of the manors of Brockenhurst, Minstead, and Eling, etc. Then, again, there were the vaccaries, as many as ten of which were enclosed by the Crown as early as the time of Henry III. ;¹ these were for thirty cows and one bull each. These, arrented and later granted by the Crown from time to time, became small farm holdings, and now are residential properties much sought after, within the forest. All this, however, was after the times written about by the chroniclers.

The present area within the perambulation of the New Forest, from the figures of the Deputy Surveyor in 1893, are 92,395 acres, of which 44,978 acres are still open unenclosed waste and open lands with timber, etc. ; 6,532 open plantations (500 acres since enclosed) ; 11,138 acres (plus 500 as above) enclosed land for the purpose of planting ; 2,089 acres Crown freeholds and copyholds ; and 27,658 acres of intermediate enclosed lands and encroachments owned by individuals, all of which, excepting ancient demesne lands, have been enclosed by Crown licence. The coloured map exhibited shows that before the year 1279 the afforested area was considerably more than double the area to which the New Forest was reduced in the year 1300, which area afforded ample scope for the destruction of many churches and chapels.

It is very possible that the devastation and laying waste of the New Forest described by the early chroniclers and still so clearly visible at the present day, and which was even more so before the enclosures for planting were made under the provisions of the New Forest Act of 1698 and the Deer Removal Act of 1851, was exceptional and not so ruthlessly carried out in the other ancient afforested districts of England which had been always forest, in many cases from periods previous to Saxon times, and all of which was forest land at the time of the Conquest. On this account the Chroniclers probably especially denounced the devastation caused by making the New Forest as against the laws of God and man.

In no other forest districts are like conditions of open waste found, although the forest laws were formerly the

¹ Attorney-General v. Thomas Goddard, S.P.D. Charles I, cxxv, 9, referring to Pipe Rolls 39 Henry III.

same for all forests. The explanation may be that as soon as licences to assart portions of forests were granted by the Crown, when the Charter of the forest permitted this, or when districts were disafforested, there was greater amelioration in other places than occurred in the New Forest, where so much has remained waste, and which was a special delight to the early Norman Kings and therefore more likely to remain subject to forest law carried out in an especially severe manner by the Chief Justice in Eyre and the forest officials.

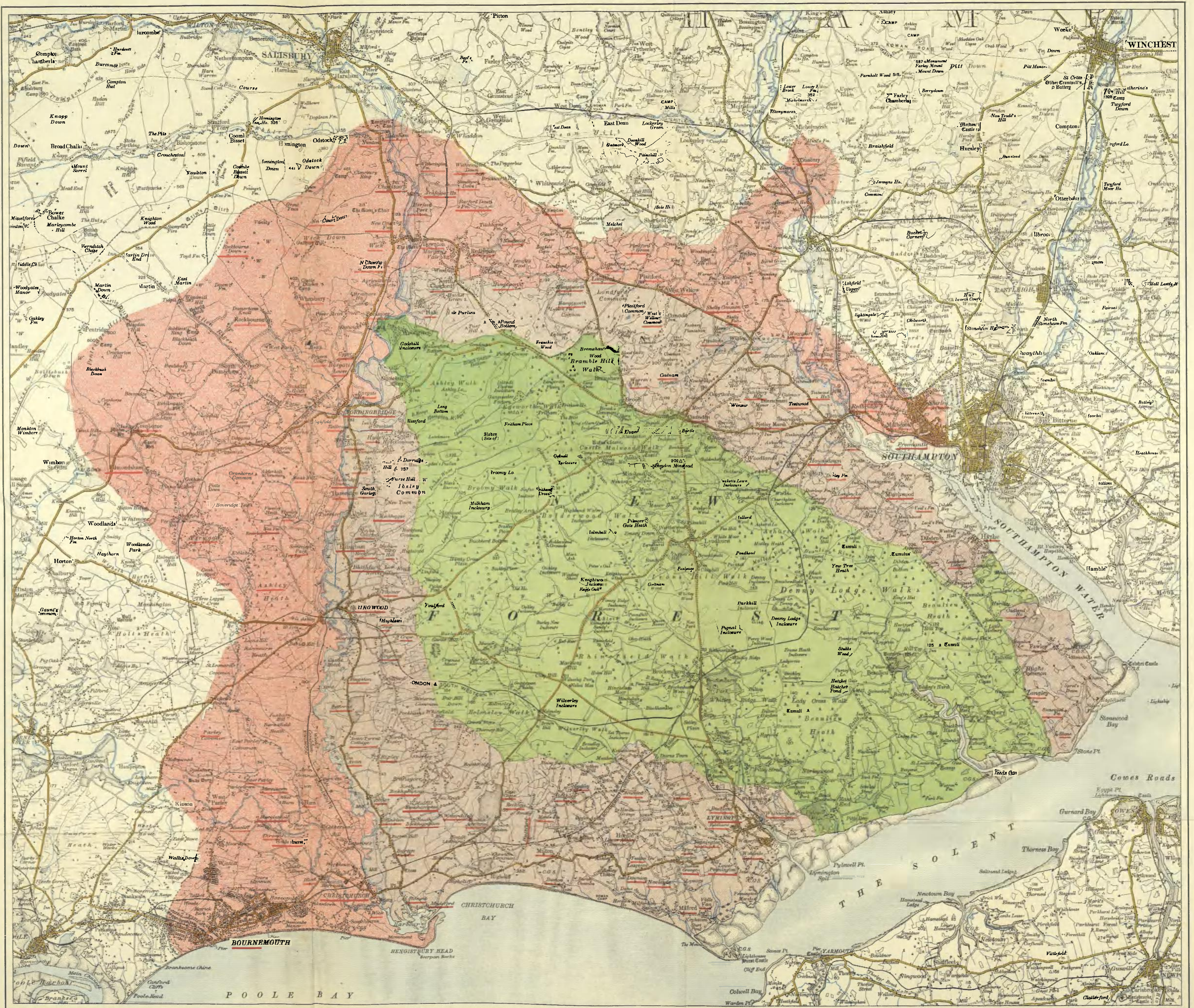
Very different conditions are shown in other forests by Domesday evidence from what is recorded there as regards the New Forest. This is seen in the details of the forest of Essex and those of other counties. Any arguments, therefore, that especial waste and devastation was not made in the New Forest because the Domesday Survey did not show that it took place at the time of and soon after the Conquest can hardly be sustained. On the other hand, the Survey very clearly and exactly does show what was laid waste in the New Forest six hundreds, which at that time had only for seven years been called the New Forest, and which devastation was continued and extended over more than double the present area by succeeding kings.

MAP SHEWING ANCIENT AND MODERN AREAS OF THE NEW FOREST.

AS DELINEATED BY W. J. C. MOENS, F.S.A.

ON THE TWO MILE MAP OF THE ORDNANCE SURVEY.

PUBLISHED BY PERMISSION OF THE CONTROLLER OF H.M. STATIONERY OFFICE.



- Route, First Class
- Second Class
- Other Roads
- Railways
- County Boundaries
- Church
- Windmill
- Windpump
- At Villages Post Office
- Post & Telegraph Office

NOTE.—All places underlined in red outside the present area of the Forest had formerly Common Rights in the Forest, according to the claims made at the Forest Justice Seats of 1635 and 1670, and the claims allowed by the Commissioners under the New Forest Act of 1854, include very many of these.

Scale of Two Miles to One Inch 1875

The Altitudes are given in Feet above the assumed Mean Level of the Sea at Liverpool, which is 0.650 of a Foot below the general Mean Level of the Sea, and are indicated thus (362)

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REFERENCE.

- Area of the New Forest according to the perambulation of 1300, and as it is now
- Additional area of the New Forest as it existed at the time of the perambulation of 1279-1280
- Additional approximate area of the Forest as it was extended after afforestation (about 1079), and to 1279-1280