

# ‘Without violence and by controlling the poorer sort’

THE ENCLOSURE OF ASHDOWN FOREST 1640–1693

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*This paper examines the process of enclosure in Ashdown Forest between the 1640s, when the effects of the Civil War led to disturbances in many areas of forest and waste in England, and 1693, when the decree dividing Ashdown was formally enacted. The involvement of various groups, and their motivation, is described, with particular attention being paid to the Sackville family who were the most powerful family with Forest connections during the period and who held the major offices. Changes in ideology are related to the changes ‘on the ground’. Most important, the extent to which enclosure of Ashdown Forest was a process of protest, negotiation, and compromise over a period of fifty years is shown, with the result that the Forest was never totally enclosed and a large amount of land remains open today — almost entirely as a result of the continual fighting for retention of this common land by the commoners of the 17th century.*

Ashdown Forest, or the Great Park or Chase of Lancaster, is an area of about 14,000 acres of scrubby, infertile, podsollic soil in the High Weald in the north of East Sussex (Fig. 1). Its precise status was uncertain. Until 1268 it was held to be a royal forest, subject to forest law, but after that it passed out of the direct control of the Crown. Granted to John of Gaunt in 1372, it became a part of the possessions of the Duchy of Lancaster. On Henry IV's accession in 1399, the Duchy and the Royal possessions were merged in the same individual, so the Forest, although a part of the Duchy lands, again belonged to the Crown. This descent accounts for the various descriptions of the holding. A forest was by definition a Crown possession: once granted to a subject it became a park or chase. This was not the end of the intricacies of the ownership and control. A park, unlike a forest, was fenced. During the early 13th century the 14,000 acres were empaled and divided into three wards and six walks. Some 6000 acres of common around the Park remained unfenced and common to the surrounding manors and villages.<sup>1</sup> These were numerous. The land of the Forest was divided between five parishes and two manors, but a large number of other manors claimed common rights for their tenants over the area or some part of it. These commoners were of three kinds. Tenants of the royal manors of Duddleswell and Maresfield

were entitled to free common, which was the most extensive and also the cheapest. The rights of tenants of the other manors entitled to common, the so-called foreign tenants, were more restricted. Many individuals held land of several manors and were entitled to rights of both sorts; these were referred to as inter tenants.<sup>2</sup> However, there were other kinds of holding with yet other rights, the most important of which were the assart holdings. These seem to have been the result of assarting on the commons around the Forest throughout the period from 1250 until 1564 at least, and were probably the origin of settlements such as Forest Row and Horney Common, since many of the smaller assarts had cottages built on them, to which specific common rights became attached. Any estimation of the acreage involved has proved impossible, but the individual holdings were often very small, rarely more than two or three acres. In contrast, very few dwellings were actually to be found within the pale.

The Forest lands were used primarily for hunting, so the protection of the deer and the vert was most important and defined the extent of the common rights allowed. These reconciled the protection of the deer with the need to derive an income. They consisted of pannage for pigs; grazing of cattle, but not sheep nor goats; collection of some kinds of wood for fuel and building; and allowances of stone for buildings and repairs and of marl as fertilizer.

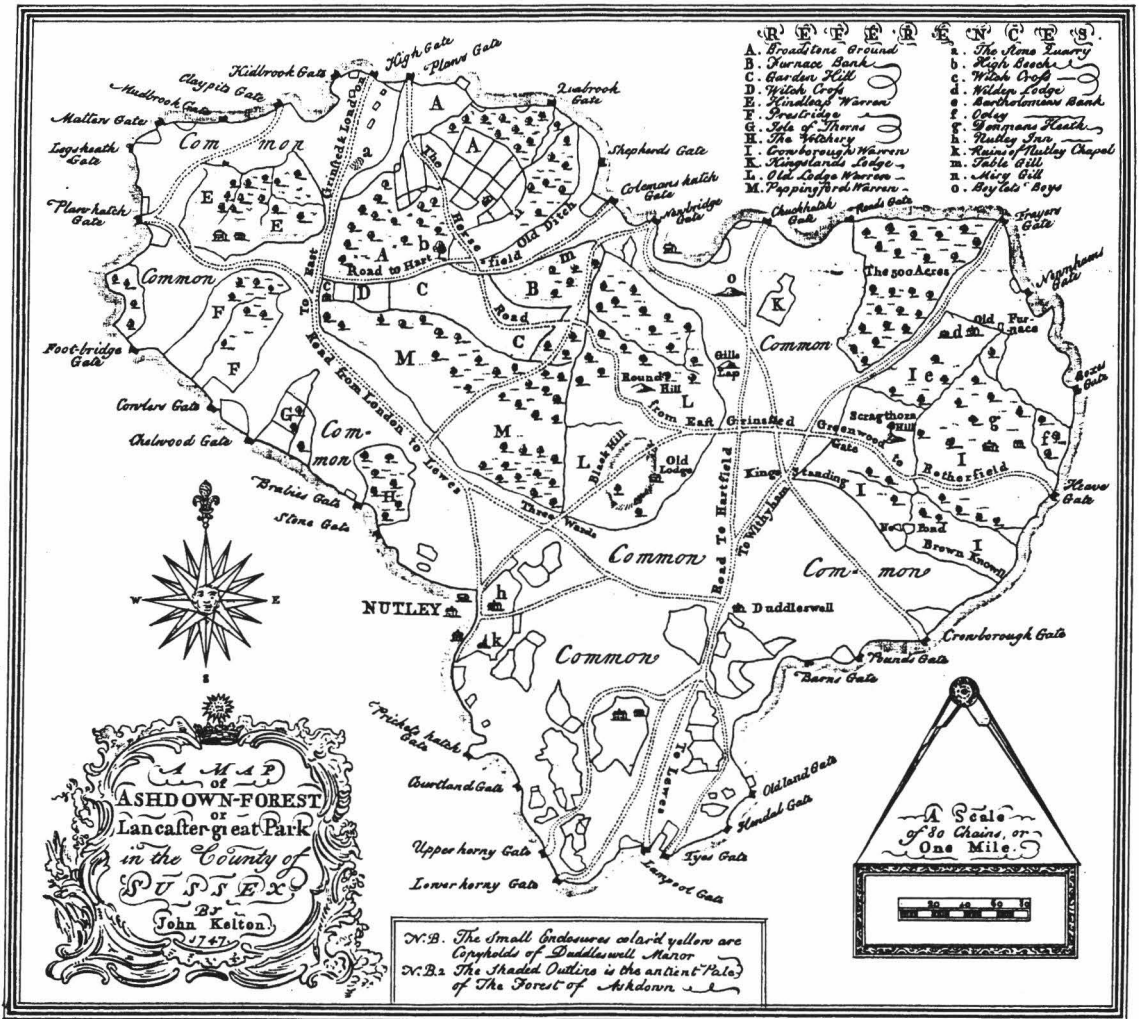


Fig. 1. John Kelton's map of Ashdown Forest, 1747 (from East Sussex Record Office, AMS 4804).

The precise allowances depended both on the type and size of holding, and some sub-tenants as well as tenants claimed rights. This immediately points to the importance of rights to the larger landholders who might be entitled to pasture hundreds of cattle at very low charges. All these uses of the Forest, common rights, the upkeep of the fences and other matters were administered through the forest and manorial courts. The most important were the Woodmote Court and Duddleswell and Maresfield manorial courts. These were controlled respectively by the Master of the Forest and the stewards of the manors, all of whom were local. Until the 17th century the Masters of the Forest came from families

with ancestral homes in Sussex but that continuity was broken in 1604 when the Sackvilles moved their main residence from Buckhurst, on the edge of the Forest, to Knole in Kent.

From the 13th to the 17th century, although there were almost constant disputes over land use, the landlords and tenants of Ashdown co-existed broadly according to the customary ways and within a generally stable environment. However, this stability was challenged throughout the 17th century in ways which were fundamentally to change the nature of the area. These changes can be summarized as enclosure or improvement, a process which was proposed by men without local

loyalties, recipients of Crown favours or the purchasers of fee-farm rents and lawyers. Against them, the local residents, the gentry and the poorer sort combined to preserve their traditional rights and customary practices.

The changes during the early 17th century had little obvious effect. James I and Charles I were more interested in forests as financial assets than for hunting. Furthermore, the Sackvilles had been Masters of the Forest and of the Game, the principal officers of the Forest and representatives of the Crown, since the mid-16th century. Once they had moved to the larger and more prestigious Knole in Kent in 1604 there was no resident gentry to provide accommodation and entertainment; the frequency of hunts and the numbers of deer declined. While they continued to hold the offices until the mid-17th century, affairs of state, of marriage, of finance and of taste, directed their attentions to Knole and to the Court and so to London and away from Sussex.<sup>3</sup> This was to have important repercussions on the local community which by the end of the century was left without a powerful ally.

During the first half of the century, the lack of resident gentry enabled the commoners to maximize their exploitation of the forest's resources. It also effectively marked the end of Ashdown as a Royal Forest. This freedom from control allowed Ashdown to escape the disturbances which occurred in other forests and waste areas of England in the decade before the Civil War.<sup>4</sup>

#### 1640–1660

The period of calm in Ashdown continued through the 1640s with very little local reflection of the troubles besetting the rest of the kingdom. The departure of the Sackvilles and their followers to support the king's family had little immediate effect. The machinery of authority within the forest had functioned without the direct intervention of the Masters of the Forest throughout the first half of the 17th century, and the local, minor officials could manage the day-to-day running of the area with only infrequent visits from the Steward as representative of the Master. The activities of the remaining officers saw no immediate alteration, the courts were held and offences were prosecuted. However, and very significantly, there was no longer any person or group who had sufficient power and influence to resist outside pressures. So long as threats came from within the local community and from the kinds of

activity customarily presented in the Forest courts, such as wood-stealing or over-exploitation of common rights, the traditional methods had been sufficient to control the Forest without outside help. So long as it seemed possible that the war was merely a temporary phenomenon, and that the old order would be restored, the officers and courts of the Forest continued to function and control the area in their accustomed way. Thus, until 1654, the Woodmote and other courts were held as usual, and, except for a brief difficulty in the March and April courts of 1651 when no one appeared, they continued to hear offences against the customs of the forest and take surrenders, very much as usual.<sup>5</sup>

The continuity in the courts was mirrored by that of their personnel and suitors. The officers of the forest courts and the homage of the Duddleswell court continued to consist of the minor landholding gentry of the Forest parishes. In 1657, the homage of the Woodmote court comprised 13 persons of whom six belonged to families which had held land in the area since at least 1610, and all but one of the 13 families still held land in 1693. Thus, the minor officers of these courts were not only much the same as before the war, they can be shown to have had interests in the long-term future of the forest.<sup>6</sup>

However, during the 1650s the continued existence of Ashdown was threatened from outside by the Commonwealth which, as a way of raising money, was to consider the sale of Crown Lands, including the forests. Against such a powerful enemy, the officers were impotent. In February 1649 Parliament instituted a committee which issued commissions to survey the forests and parks belonging to the Crown and the Duchy of Lancaster and 'to improve and dispose of them to the benefit of the Commonwealth'.<sup>7</sup> The resulting survey of Ashdown Forest was forwarded to William Webb, the Parliamentary Surveyor, in July 1650.<sup>8</sup> It represented the Forest as extending over 14,371 acres within the pale, divided into the six walks, each containing a lodge for a keeper. Outside the pale were the commons for which no acreage is given. There were only about 120 deer, red and fallow, remaining in the Park and about £600 worth of woods and underwoods. The commissioners reported various abuses against the forest, including the decayed pale and encroachments and illegal enclosures, and investigated the customs and numbers of free and copyholders of the manor of Duddleswell, giving details of the landholders who

had rights on the forest and the officers of the court.<sup>9</sup>

The intended disposition of the Forest was clearly stated: 'a considerable quantity of ground may be conveniently set out in convenient places for all that have right of Custom in the said Park . . . and also a considerable quantity disposed of for the use of the Commonwealth'.<sup>10</sup> This enclosure would benefit both the tenants, as there would no longer be any deer competing for the pasture, and the Commonwealth, as the value of the land would be improved. The improved rents from the Forest were estimated at £2415 6s. 7d. a year, or about 3s. 6d. an acre, a sevenfold increase over the most optimistic valuation of 6d. an acre in 1632.<sup>11</sup> However, no timetable was suggested, at least in part because short-term financial expediency had to be set against the longer-term prospects of improvement from leasing the lands.<sup>12</sup> In the end, the view that sale was the only method by which improvement would be ensured was eventually to triumph, probably because of 'the desperate need to pay the state's creditors quickly'.<sup>13</sup> Once this decision about the basic policy had been taken, many problems remained to be solved before implementation was possible. Eventually, they were narrowed down to two: 'a special regard to the poor and the preservation of timber fit for shipping'.<sup>14</sup> While legislation for the preservation of timber had already been passed, the problem of the poor was less easily solved. At the most simple level the contradictions between the need for unlimited grazing and the desire for enclosure and improvement were too great. As a result, throughout the 1650s, different suggestions were made without success to accommodate the probable difficulties of the commoners and the poor after enclosure.

For this reason and partly out of a desire for greater precision than in the 1650 surveys, Acts of 1653 and 1654 set out instructions for sale of the Forests. Orders for further surveys were then issued in June 1657 which were completed the following year.

In Ashdown other changes had already occurred. The first was the replacement of the Royalist Earl of Dorset as Master of the Forest by his stepfather, the Parliamentarian Earl of Pembroke, in 1646. (Pembroke's allegiances changed during the Civil War and Interregnum and his support of the Parliament seems to have been a matter of temporary expediency.) The only noticeable effect was Pembroke's appointment in 1647 of Thomas Wood of Uckfield, feodary of the Duchy of Lancaster in the Rape of

Pevensey, as the bailiff of the Duddleswell manorial court and the Woodmote court, instead of the more usual local inhabitants. Pembroke died in 1650 and the office of Master was left vacant, no doubt in the expectation that the Forest would soon be sold and the post would be redundant. Although the 1650 survey of the Forest had no immediate consequences, the unaccustomed presence of Edward Raynes, the steward, in 1652 and 1653 suggests that a degree of caution and care in the running of these courts was felt to be necessary.<sup>15</sup> Then, perhaps in response to news of the Ordinance 'for the Sale of the Four Forests or Chases' passed by Parliament in August 1654, fewer cases were heard at the Courts throughout 1654 than usual during the preceding decade, and only the first three courts were held in 1655, although Thomas Wood remained as bailiff.<sup>16</sup> These were, however, the only signs of any decline in the traditional administration of the Forest.

Indeed in about 1655, attempting to relieve his financial pressures, Richard, 5th Earl of Dorset, sought to reclaim his family's traditional offices in the Forest which had been confiscated from his father during the war when he had been guarding the Royal Family. In an undated memorandum, Richard drafted a request for a lease at a considerably reduced rent, on the grounds that the woods were destroyed and fences thrown down, that the tenements were destroyed and needed long leases so that they could be repaired, that there were disputes over the courts which would be expensive to clear and that the swanmote court had not been functioning.<sup>17</sup> This description is at odds with accounts of the Forest in the court books of the earlier 1650s which do not mention any unusual damage, but it does accurately describe the Forest in 1657.

As the court did not meet between mid-1655 and mid-1657, the sources for these years are a lengthy statement by the Parliamentary surveyors and the findings of the resumed Woodmote court.<sup>18</sup> The first of these sets out the situation as perceived by the 'outsiders'. In response to the commission and Letters Patent of 1656, five surveyors returned to Ashdown Forest in June 1657. Their report included a general statement about possible enclosures, but more importantly:<sup>19</sup>

That we find much waste and destruction to have been committed on the said Forest in a total destruction of the Game of Deer in a plucking up & carrying away the pales of the said park now almost wholly dispaled &

cutting down the wood which we are informed did in great plenty grow there.

Appended was a list of the 59 principal offenders with the suggestion that since many of them were commoners of the forest they should be punished by 'abridging or wholly detaining of the said lands intended to be allotted them according to the proportion of their respective offences', and that those without common rights should be sent to Cromwell and his council for justice. A detailed examination of these offenders and their crimes suggests that the episode was a dispute over common rights in which the commoners were asserting what they believed to be their rights in the face of the intentions of the Surveyors to disafforest and therefore to abolish such rights.

This interpretation is strengthened by the proceedings of the Woodmote court when it was resumed in the summer and autumn of 1657. The steward had difficulty in getting the jury to present any offences. The court first sat in July when the jurymen met several times without giving their presentments in writing. Finally, Raynes called the court again.<sup>20</sup> The jury was sworn on 3 November and discharged to study 'articles and writings' before meeting again on 25 November. Then they were concerned first to know who would assess the amercements, no doubt needing to know something of the relationship between the findings of this court and the offenders named by the Parliamentary surveyors. At last, five of them were sworn as assessors 'to assess the fines'. Reassured, they made the presentments which were concerned almost exclusively with questions of common rights, there being no sign of any particular deliberate destruction.<sup>21</sup>

In their detailed 1658 surveys the surveyors could not substantiate their assertion of damage made the previous year.<sup>22</sup> These surveys give a total acreage of about 13,385 acres, with an annual value of 3s. 8d. an acre, compared to the 1650 figure of about 14,000 acres valued at 3s. 6d. an acre. While the wood was described as destroyed in the preamble to the survey, it was valued at £647 compared with £620 in 1650, so it had either survived remarkably well or market values had risen. Unfortunately, the condition of the pale is not mentioned, but almost invariably earlier accounts describe it as badly damaged, so it may have been no worse in 1658. Indeed, only one aspect of the Forest does seem to have deteriorated. This was the original *raison d'être* of the forest, the deer. By 1650, the numbers had declined to only 120, and by 1658 the animals had

totally disappeared. This evidence suggests that little damage was done to the substance of the Forest during the war and Commonwealth and that, unlike other areas where advantage was taken of the lack of control, Ashdown continued in its traditional ways, functioning as an autonomous unit, very little affected by the larger questions being fought out in the rest of England.<sup>23</sup>

#### 1660–1680

However, between the Restoration and the end of the century, changes in the composition and ideology of both local and national élites affected the ownership of the Forest and to some extent how people viewed the land. There was an increasing confidence in man's (women not being even mentioned in this context) ability to change the natural course of agriculture. The belief was growing that almost all land could be improved and crops could always be profitably grown. This belief was given material existence in Ashdown, but with rather mixed results.

The disappearance of the deer and the subsequent collapse of the customary economy of the Forest provided the opportunity for experimenting with new agricultural practices, but wider agricultural trends provided a further incentive. Falling land prices, falling prices for agricultural produce and difficulties with foreign competition all pointed to the need for change. In Ashdown the most important of these was the fall in the price of cattle. The estimated price of oxen in the southeast fell by about 13% between 1650 and 1699, and concern at their falling profits was voiced by cattle breeders and graziers nationally during the early 1660s. Competition from abroad was blamed and, although not the true cause of the problems, Irish cattle imports provided a ready scapegoat and prompted the passage of two Cattle Acts of 1663 and 1667 whose effects are still a matter for debate.<sup>24</sup> This decline in prices, together with restrictions on grazing, led to a reduction in the number of cattle commoned in Ashdown. Precise figures are impossible, but the general direction of movement can be seen in the fines for one ward of the Forest. In 1658 the commoners claimed grazing rights for 321 cattle in Costley Ward; in 1666 payment was received for 69 cattle and for 73 in 1671.<sup>25</sup>

The decline in the number of cattle seems clearly to have added to the ever-present difficulties of farming in Ashdown. As cattle-raising became less

profitable attempts were made to diversify agricultural practice but the possibilities were limited by the custom of the forest, the poverty of many of the inhabitants and by the infertile soil. For example, coney warrens were an attractive proposition because, unlike sheep, rabbits were not prohibited in the Forest, but considerable initial investment was needed to buy or lease the land, build the banks and fence the warren. Even then it could prove a rather risky business depending much on demand from London. Only the wealthiest of the local people could afford conies which never provided a general alternative to cattle. There is also some evidence of attempts to shift from cattle to horses, whose use instead of oxen as draught animals became more frequent nationally during the 17th century, horses being thought by some to be more flexible, more 'intelligent' and cheaper to feed. But for the commoners of Ashdown they were nowhere near as flexible in their domestic use. While cattle could provide milk, draught power, meat and leather, horses could be used only for riding or as draught animals. More importantly, an economy had developed around cattle which employed butchers and graziers to whom horses were useless. Finally, the legendary Sussex clays demanded the strength of oxen. As a result, while there is some evidence of horse-breeding in the area, especially during the wars of the mid- and later 17th century, this could not provide sufficient income for the numbers of inhabitants who relied on the cattle trade.<sup>26</sup>

The most obvious alternative was a switch into arable production of some kind, but here two factors contributed to the difficulties of the commoners. First, as the 1665 rental and survey of Duddleswell shows, most of their holdings were very small. Eight freeholders and 94 customary tenants had a total of 604 acres. Apart from one of 100 acres, the average holding was of about six acres, only a small advance on five acres, the average of the pre-Civil War period. There is simply no sign of the access to capital and large-scale holdings which Joan Thirsk and others have argued were essential for a movement into the new crops which were the basis of much late 17th-century agricultural success.<sup>27</sup> There were even more fundamental problems for arable farming. The Commonwealth surveyors had estimated that much of the land needed 100 loads of marl per acre to make it fertile, but for most of the local inhabitants this was impossible. The court books show that in 1666 only 50 loads of marl were carted for the whole

Forest, while in 1668 the total was 20 loads.<sup>28</sup>

To complete this gloomy picture, the prospects for employment within the proto-industrial sector were worse than they had ever been. The textile and iron industries had more or less completely died out due to competition from other areas after their brief renaissance during the War. Similarly gunpowder production was no longer needed and glass-making had always been a limited source of employment. Only the leather industries and wood-working trades continued to show any vigour, and even here the decline in raw materials caused by the reduction in the number of cattle and the decimation of the trees meant that no real growth could take place.

The only growth was in the numbers of poor in the area, leading to increased competition for scant remaining resources. Local inhabitants argued that this was due to the 'push' effects of smaller workforces on the downland farms and the 'pull' effect of ill-regulated wastes and the promise of employment on the newly enclosed farms on the Forest. In the 1693 court case, the commoners complained of 'Many poor brought into parishes round the forest . . . to the prejudice and charge of the inhabitants' and asserted that as the improvements had failed these strangers 'became poorer and are a great charge to the several parishes of Maresfield, Hartfield and others'.<sup>29</sup>

In addition to these internal pressures, national changes were to have fundamental effects on the stability of the Forest. The first was that the notice taken of Ashdown by the Parliamentary surveyors brought it unaccustomed prominence. At the Restoration, when his supporters were clamouring to Charles II for reward, several claimed the Forest.<sup>30</sup> The strongest claims were from Dorset, and from George Digby, 2nd Earl of Bristol. Dorset's claim seemed more likely to succeed. His family's original estate was on the borders of the Forest, and from the beginning of the 17th-century Sackvilles had occupied the joint offices of Master of the Forest and Master of the Game. Thus, his request for their grant described these offices as 'formerly granted to his ancestors' who, as an appended note adds, 'had held the custody of Ashdown Forest' for a century past.<sup>31</sup> Furthermore, his parents had been close to Charles I and his family. His father had been in charge of the welfare of the young Princes during the War, and his mother had been their Governess for twelve years.<sup>32</sup> This should have made his position unassailable. However, he himself had very little to commend him to Charles. He had been

neutral during the Civil War, enabling him to reclaim a considerable proportion of the lands confiscated from his father. More important, perhaps, his personality was anything but flamboyant, and he seems to have preferred domestic life with his wife, who had been the heiress Frances Cranfield, and their 13 children to the difficulties of Court life. In Parliament he was worthy and hard working, sitting on more committees than any other Lord in the restored House, and generally 'he was constantly involved with methodical, pedestrian accounts, and lacked utterly the dash and élan of his more famous father, or the humour and geniality of his more famous son'.<sup>33</sup> None of his personal attributes was likely to appeal to Charles, or to make him memorable in the confusion of the Restoration.

Bristol's claim on Charles II was very different and immediate.<sup>34</sup>

He was a man of very extraordinary parts by nature and by art . . . a graceful and beautiful person; of great eloquence and becomingness in his discourse, and of so universal a knowledge that he never wanted subject for a discourse: he was equal to a very good part in the greatest affair.

In addition, as Clarendon was to remember, 'He had left no Way unattempted to render himself gracious to the King, by saying and doing all that might be acceptable unto him, and contriving such Meetings and Jollities as He was pleased with'. It is hardly surprising that 'the lord Digby was much trusted by the King'.<sup>35</sup> Bristol was not alone amongst courtiers who were ready to make themselves amenable to the King if the result was gifts of lands, money and offices. Bristol's claim to favour was more specific: he had commanded Royalist forces until injured during the War and then used his talents throughout the late 1650s not only to dazzle the King in exile with his person and character, but also to act as Charles' ambassador to the Spanish and French courts. The picture of loyalty to the Crown was marred only by his becoming a Roman Catholic in 1659, apparently in the hope of employment by the Spanish Court.

In the first instance, Bristol was the victor. Perhaps because his personal appeal was stronger than Dorset's argument for family rights; perhaps because Bristol was actually at court while Dorset was at Knole sending messages through intermediaries. For whatever reason, the lease of Ashdown Forest was granted to Bristol and the indenture enrolled on 13 January 1661.<sup>36</sup>

During the next two years, Dorset and Bristol continued to claim and counter-claim rights over the Forest until the presentation of a 'Bill for the Improvement of Ashdown Forest' in the House of Lords in April 1663.<sup>37</sup> The Bill passed the Lords with only minor alterations but was thrown out by the Commons on second reading on 18 May. Nevertheless, Bristol and his associates continued some enclosure of the Forest and took their profit from its most readily saleable asset, the wood, by felling one thousand cords.<sup>38</sup>

Bristol's activities in Ashdown were soon curtailed. In July 1663, Bristol published the Articles of Impeachment against Clarendon. The collapse of this case proved so ignominious that he absconded and his lease of the Forest was forfeited, leaving Dorset in possession of the field. Despite magnanimously promising not to 'take advantage of my Lords ill condition', Dorset again pressed his case to the King. Even after the Forest was granted to Queen Catherine as a part of her jointure in December 1668 he reasserted his supposed rights over Ashdown, treating it again as Forest subject to the restrictions of the common rights of pasturing animals and collecting wood.<sup>39</sup> In 1672 he issued a warrant to Richard Homewood, bailiff of the Duddleswell Court, to remove or impound sheep in the Forest and to receive the resulting fines. However, again Dorset's plans were to be thwarted. The grant to the Queen had been surrendered back to the King and passed in November 1673 to the trustees of one Colonel Washington who had fought and been killed on the Royalist side during the Civil War. A pension promised to his daughters had never been paid.<sup>40</sup>

The trustees' only interest in the Forest was financial and it had now become a commodity in the market place like any other with a value expressed strictly in monetary terms. Any connections with honour or service had been severed and a whole series of loans and mortgages with Ashdown as security were enacted. The Forest finally passed to Thomas Williams of Carwardine in May 1674 who, with his associate Joseph Fells, a London goldsmith, attempted to achieve some return on their investment by enclosure. Unlike Bristol, they ignored the cumbersome processes of law and dealt with those they perceived to be the most powerful, beginning with Simon Smyth, a tenant of Charles Sackville, the son and heir of Richard. Charles explained to the commoners in February 1675 that because of some 'perplexing circumstances' attaching to the

granting of leases to Washington's heirs, it was 'made impossible for me to turn Ashdown Forest again into a Forest. His Majesty having taken an absolute resolution of improving it to the best advantage it is possible of receiving'. However, 'all that belong to the Forest may be free from any apprehension of undue severity or any illegal attempts upon their just rights and privileges which he will be extremely tender of . . .'.<sup>41</sup>

Meanwhile, his father continued to oppose any enclosure. In June 1675, responding to a petition by the commoners against enclosure, he addressed himself to 'my very loving friends the commoning Tenants of the Forest of Ashdown' elaborating his position.<sup>42</sup> He was willing to help them,

Provided that nothing be done in the prosecution of this business by any violent tumultuous or riotous causes in which I do not in the least suspect your having a hand in as being men of sufficiency & whose property in your estates will always make you desirous to preserve the due course of the law by which you yourselves are preserved therein: so I hope you will always be careful to the best of your power to restrain the poorer sort of people from doing or offering any sort of violence to any persons that are acting in the Forest upon & under any pretences whatsoever of right or usage upon the said ground or any part of it.

In this, the difference between the generations can be seen to be widening with the older Sackville firmly aligned on one side of the dispute with his tenants, for preserving the old ways, while his son, very much the man of his time, looked to the future and the newer, profit-making ways.

The 5th Earl's domestic inclinations had helped to restore the family finances after the restoration, and to retrieve most of the family property, but his son's reckless ways were to destroy them again. Charles Sackville had a very different set of ambitions. A Restoration wit and poet, friend of Charles II and patron of the Court poets, his early life had been that of the Restoration rake; as Dr Johnson was to describe him, he was 'eager of the riotous and licentious pleasures which young men of high rank, who aspired to be thought wits, at that time imagined themselves entitled to indulge'.<sup>43</sup> His notions of honour came far more from a London-based, literary, Court society. But his behaviour scandalized local feeling, as illustrated by an incident in London in 1663. Sackville, then Lord Buckhurst, with Charles Sedley and Thomas Ogle,

had got drunk in the Cock Tavern in Bow Street. They went onto the balcony and Sedley stripped naked and 'acted all the postures of lust and buggery that could be imagined' to the crowd who gathered and then in turn stoned them.<sup>44</sup> At about the same time, the parish church in Withyham, which contained the family vault, was struck by lightning and caught fire, with severe damage.<sup>45</sup> The Nonconformist inhabitants of the High Weald saw this latter event as a judgement. The King, on the other hand, was on occasions to be found drunk with Buckhurst and his cronies and bestowed on Buckhurst many favours and offices, making him Baron Cranfield. These grants of offices and money were necessary to him to fund his extravagant lifestyle.<sup>46</sup>

While indebtedness was common among aristocrats, Buckhurst's debts were enormous and influenced his actions with regard to Ashdown. Partly in an attempt to fund his lifestyle, Buckhurst replaced the paternalistic support his father had shown towards his tenants with demands for strict financial accounting. For example, in April 1675, soon after succeeding to the Cranfield estates on the death of his mother, he gave the traditional dinner for his new tenants in Gloucestershire, where he could meet them and show himself to them. Having provided this symbol of paternalism, he then demonstrated his rigour by ordering his steward to serve notice on any tenant who did not immediately pay his rent.<sup>47</sup> However, Charles Sackville was not really a rational capitalist. His determination to maximize all opportunities for profit was to support conspicuous consumption, not investment. This ambiguity is repeated in his social relationships. He was prepared to benefit from the old-fashioned kind of dependence on the King, but refused the other side of the implicit contract, that he should in turn support his tenants.<sup>48</sup> As a result, when his father died on 27 August 1677 and Charles became 6th Earl of Dorset and 4th Earl of Middlesex, any support for the commoners from the Sackvilles ceased, and movements towards enclosure could proceed without such an obvious obstacle or focus of discontent. By April 1679, Williams and Fells had drawn up proposals to enclose 9500 acres, leaving the rest to be set out for the commoners 'in lieu of right'. The remainder would have been some 4500 acres or about two-thirds of the suggested allotment which would have been made by the Commonwealth in 1658.<sup>49</sup> Despite Williams, Fells and their associates arguing that the quantity left open would be



sufficient for the commoners as the King would no longer exert his rights over the Forest, it is not surprising that the commoners rejected the proposal.

### 1679–1693

Because of these disagreements, the parties agreed to appoint two commissioners to determine common rights and to suggest compensatory allotments, and in June 1679 74 commoners undertook to abide by their award.<sup>50</sup> Sir John Pelham (for the grantees), and Sir John Fagge (chosen by the commoners) were both of the county gentry, feeling their primary allegiance was to the county. They had both been supporters of Parliament and actively involved in county affairs during the Commonwealth. Once the Restoration appeared inevitable, they had both switched their loyalty. Pelham signed the county's address to the King in June 1660. Despite his more active role during the Commonwealth, Fagge had to wait only a little longer to be reinstated under the new regime, for his pardon was followed by a baronetcy before the end of 1660. Both also sat in Parliament during the 1670s and 1680s. Their commitment to county affairs made them obvious choices, as their judgement could be expected to carry weight with both those concerned and the rest of the Sussex community. As their main estates were not in the immediate locality, they were not personally interested, yet they were knowledgeable about local agricultural conditions. Fagge became involved in breeding prize bullocks at Wiston by 1697 and Pelham having the home farm at Laughton in hand. After some hesitation, they agreed to act.<sup>51</sup>

Pelham and Fagge made their award in April 1680, giving the commoners a total of 5500 acres, 1000 more than the grantees had offered. This total was to include a driftway of two furlongs against the inclosed lands on the pale of the forest, and was to be divided between the walks: Duddleswell Walk 1770 acres, Pippingford Walk 816, Hindleap Walk 1022, Broadstone Walk 660, Comden Walk 620 and Whiteden 606. All enclosures within these areas were to be thrown open and the wood growing on them was to become the property of the commoners. The tenants were to aver at the Woodmote court as before. All fences were to be made at the expense of the enclosers.<sup>52</sup>

Until this point, even if opposition had been growing, the broad consensus amongst the forest's inhabitants held that enclosure would be beneficial

to most of them. Some concern had been shown, for example, at the particular proposals, but there had always seemed plenty of room to negotiate and come to a generally advantageous position. However, to judge by their actions, the commoners with ascertained rights now began to look at the whole affair very differently. It is difficult to assess what they expected from the Commission. They had been offered an increased allotment which was more or less the same as that suggested originally by the Parliamentary surveyors. Perhaps, as the number of those with common rights had increased in the meantime, there was a feeling that the allotment should have been proportionately bigger. Perhaps their concern was that their rights would be curtailed. Yet another unknown is the effect of the death of the 5th Earl. He was a moderate and moderating influence in the Forest, continuing a long tradition of attempting to protect his tenants and servants, and of resisting any change. After his death in 1677, some kind of violent opposition became more likely.

However, the commoners' first reaction was to issue a document in June 1680, with 101 signatories who 'do . . . unanimously declare that we do assert and will maintain our right of common in the said Forest against any inclosures whatsoever so far as by law we may'.<sup>53</sup> Various groups of commoners issued documents between the mid-1670s and 1693, but this one was the more serious for being in response to actual enclosures of the Forest, presaging a fund being set up for expenses and a lawyer being employed.<sup>54</sup> Whether as a result of these actions or through extrinsic factors, Williams and Fells now, on 22 December 1682, assigned their lease of the Forest to Alexander Staples. Unlike the earlier lessees, Staples knew the area. He was a lawyer from East Grinstead, a JP since 1668, who had been steward at one of the Forest courts, made grants of the waste and had himself leased land on the Forest. More importantly for the Forest, he was also stakeholder to a group of 'King's Grantees', formed to profit from the enclosing of the Forest. This group consisted of Mr Baron Raymond, Mr Halford, Alexander Staples esq., William Wogan esq., Henry Smith, Andrew Philips, William Hastings and John Hefield. None except Staples can be found to have had any earlier connections with the area, but at least five of them were lawyers.<sup>55</sup>

The commoners accused Staples of having blatantly broken with forest custom and agricultural practice. First he had cut down the trees, 'several

hundred' cords in 1691 alone, thus clearing large areas and selling the timber. As a result the commoners claimed they would lose their estovers 'in a little time'.<sup>56</sup> He had also 'enclosed, hedged, and ditched' parts of the forest, 'and some of those inclosures sowed with several kinds of grain and others kept for pasture and meadow', all of which was against the customary law. Worse than that he brought strangers onto these lands, 'who hath erected cottages or other buildings within the said forest'.<sup>57</sup>

Except in the treatment of woodlands, Staples and his associates were doing no more than agricultural writers since the 1650s had recommended. They had divided and fenced some of the barren wastes which had, since the removal of the deer, provided no profit to the owners except for some payment for agistment for cattle. They had planted this land with some of the new seeds, including clover and cinquefoil, to try to provide improved pasturage. Other lands had been planted with wheat in an attempt grow profitable crops on the inhospitable Ashdown soils. This was more or less what the Commonwealth surveyors had recommended and should perhaps have brought the new lessees praise for their management of the lands rather than complaints. In the process they had achieved what had been predicted for decades, better employment opportunities for the poor, and they actually seem to have stimulated a demand for labour which could not be satisfied from within the local community. Even those areas which were not enclosed were altered. First, contrary to forest custom Staples introduced 'great flocks of sheep' and he took 'agistment at inconsiderable rates so that the defendants were forced to keep cattle on their own grounds'. He and others also 'with dogs [did] so disquiet the cattle that great loss hath happened'. He also, it was claimed, 'hath set up many warrens made large berries for conies'.<sup>58</sup>

If the enclosures accorded with contemporary recommendations, they were against the traditional customary practices which the commoners hoped to preserve, and were resented accordingly. At first the commoners responded by putting their cattle into the newly sown fields of clover, as if they were still common lands. Possibly as a result, by the late 1680s the improvements were failing, and the poor who had moved in searching for employment lacked any means of support. Their plight added to the burdens of the middling sort of the local parishes and so to opposition to enclosure. Then the

commoners' patience was exhausted as they recognized the persistent nature of Staples' 'illegal' behaviour in the Forest. Finally, in Easter Week of 1689 the commoners initiated direct action by breaking down the enclosures, so that by the end of that week 'the greater part of the forest lay open and unenclosed . . . there were not one thousand acres of the said forest enclosed when the said fences were thrown down'.<sup>59</sup>

In response a case commenced in the Court of the Duchy of Lancaster on 13 May 1689.<sup>60</sup> The plaintiffs were Charles, Earl of Dorset and Middlesex, Thomas Williams, bt, John Williams, kt, Joseph Fells and Alexander Staples esq., all of whom hoped to benefit from enclosure. The defendants, 133 of them, were all commoners of the Forest.<sup>61</sup> The bill runs for several pages and begins by reciting the grant of the Forest to Williams and Fells, the subsequent grant to Staples and the rent charge of £100 1s. 0d. from the Forest to Dorset. It then explains how Staples agreed with several persons for improvement so that parts had been enclosed with hedges and ditches and the plaintiffs had hoped to be allowed to 'quietly enjoy the same' by virtue of the letters patent of Charles II. But the defendants,

Pretending to have Common or some other interest in the Premises, have by Combination and Confederacy opposed the said Improvements and have in a riotous manner by great numbers of people by them assembled for that purpose broke open the said inclosures and thrown down the hedges and fences of the said ground so inclosed and threatened to impound your orators cattle.

The bill then explained that this had damaged the Earl of Dorset since Williams and Fells were 'utterly disabled . . . to pay the fee farm rent' due to him, while Alexander Staples and others were damaged because they had 'laid out great sums of Money in the improvement of several parts thereof'.

In the Summer of 1689 the court issued an injunction to prevent any further damage. It demanded that all the commoners, their servants and agents 'and all others concerned in the said waste, destruction and disturbances' should forbear from committing any further waste and destruction on pain of 'One hundred pounds a piece' and also to forbear from disturbing the plaintiffs and their tenants in the quiet possession of their lands, until the hearing of the case.<sup>62</sup>

In August 1691, two years after the case had started, copies of the injunction were taken into the

Forest where, despite the case, the destruction of enclosures was still going on. Alexander Staples, the younger took one copy to a place near Broadstone Lodge where<sup>63</sup>

John Ballard and one John Comon were at work pulling down fences and enclosures being part of the lands in the information mentioned and enclosed before Easter Week last.

Staples attempted to serve the injunction on Ballard who refused to accept it. Staples threw it down and left it in his presence, telling him of its contents. Ballard said 'he had nothing to do with the said Injunction and would take no notice of it'. After this, Ballard 'did proceed to dig cut and pull down the said fences and enclosures' in the lands described. Ballard's version of this event is slightly different. When Staples had offered him the injunction he did not receive it

not being able to read it but desired him the said Mr Staples to read it . . . which he did not do but threw the same down upon the ground and did not show the Injunction under the seal to this Examinant whereupon this examinant said he would take no notice thereof.

Comon's account of this episode is substantially the same as that of Ballard, except he adds the detail that Staples showed them 'a lump of wax but [Comon] knows not what the same was'. Comon's contempt for this injunction was also shown on another occasion when he had been pulling down fences of an inclosed 'thirty acres sowed with wheat' with his brother. Again, Staples had appeared with an injunction, and told them to stop but 'they did not see any particular writing or seal'. Despite this denial, once Staples had departed, he 'took the said paper and after he had thrown down the Hedge into the Ditch he threw the said paper upon it and covered it with earth'. He and his brother had then continued to pull down the fences.<sup>64</sup>

Similar difficulties were experienced by John Awcock. He took another copy of the injunction into the Forest to the harvest field of Henry Cooper where Thomas Bray, a servant of John Smith, was found with others. Thomas Bray had a long history of destroying enclosures, including<sup>65</sup>

dig[ging] down the hedges, fences and enclosures of John Awcock, gent of a piece of ground called the Nutley Croft . . . also the hedges ditches fences and inclosures of Mrs Coulstock and Richard Homewood . . . also . . . dig[ging] down the hedges fences and ditches

and throw[ing] down the enclosures of several other persons being lands in the Forest of Ashdown in the information mentioned . . .

This time, Smith accepted the copy but Bray, who was actually doing the digging and cutting, did not and so seemed to feel he could continue.

What is interesting about these events is the complete lack of violence or even, it seems, of emotion. Small groups or individuals went into the forest where they found fences around the enclosures. They destroyed the fences and ditches in a methodical way, ignoring any interference but never offering any personal violence. They seem to have been especially contemptuous of the injunction, feeling there was no need to take notice of it, or perhaps their feelings were directed at those who actually delivered the notices. Most of the activities were carried on in daylight and in full view of other people: for example, John Awcock served the injunction on Smith in the presence of a group 'who were all in the harvest field of Henry Cooper in Ashdown Forest'.<sup>66</sup>

This orderliness is at least partly explained by the control over the proceedings exerted by the gentry and middling sort. They paid the poorer members of the community to destroy the fences, or offered them protection as they did so. At least two of the defendants announced that they had been paid by other, richer commoners. When asked if he had been hired by anyone else and whether some person or persons offered to indemnify him, John Smith explained that

Mr John Newnham the Older and John Day did advise this examinant so to do and so doing promised to save this examinant harmless from all trouble and charge that should happen thereby [this examinant] received 30 or 40 shillings from John Newnham.

Similarly, Ballard and Comon were asked 'Were you employed by anyone. Did anyone promise to save you harmless. Had you any reward and how much.' John Ballard answered,

that he was paid to do the same by one John Wickin who paid the examinant and the said Comon their wages and promised to save them harmless from all troubles and charges that should or might happen and come to them by reason thereof. And further says that he had none other moneys or promises of any saving 18d for his pains.

The injunction, which the courts had so much difficulty in serving, specifically mentioned the same

seven commoners who were named in the bill. All had themselves signed, or belonged to families which had been involved in signing, the previous petitions, and all were amongst the more influential members of the Forest community.<sup>67</sup>

Perhaps more important than individual status or differences over time in their position was the unifying belief among this group that Staples, not they, had acted illegally. It was Staples who had broken 'the law' of agricultural custom; they had simply reasserted their rights and those of their fellow-commoners who had been bound together for nearly ten years. Their argument was that because no division of the Forest had occurred the commoners should be allowed to continue to exercise their rights. They did not accept that this would be regarded as illegal. They were later to argue that, while they agreed that the Forest had been disafforested,<sup>68</sup>

they believe that the Freeholders and Commoners adjacent to the said Forest might pull down the hedges and fences which were made for enclosing the same and did hinder the same which they might lawfully do as these defendants hope the same being done to hinder them from their enjoyment of their common of pasture and estovers.

The specific accusations concerning the throwing down of fences were never denied, nor does any particular action seem to have been taken in response to them. It seems to have been decided at some point, that the case was already sufficiently complicated without pursuing individuals for this kind of action. This was recognized directly in the final decree where it was said 'that multiplicity of suits in and about the premises might be stayed and prevented'.<sup>69</sup>

The result of the case was the decree of December 1691. This recited all the claims put forward so far and listed 133 defendants who needed to be considered in any further action. It then ordered 'A Commission to set out for the Defendants common according to their respective rights in convenient places' which was to return its findings to the Duchy Court in the Trinity term. Meanwhile the injunction was to continue, and the plaintiffs were to be free to cut down wood but not 'Birch, Willow and Alder being the sorts of wood usually allowed to the Defendants for their estovers'.<sup>70</sup>

The commissioners on this occasion were Sir John Pelham (again), Colonel Butler (presumably James Butler of Amberley Castle) and Peter

Courthope esq. of Danny, who met the commoners at Nutley Inn in July 1692. There they were 'to set out of the Forest sufficient and convenient common for all the forest tenants'. These meetings of the tenants, not all with the commissioners, continued until June 1693 when, at last, Mr Richard Isted, a Lewes attorney, gave notice that on 'the 19 of this Instant . . . it will be the last meeting'. Even at this late stage, the major commoners wanted to present a united front, as shown by a letter from William Wilson asking for advice about the intentions of other commoners so that he could act in a similar way.<sup>71</sup>

The commissioners finally reported on 8 July 1693. They allocated 6400 acres, 'in most convenient places contiguous and adjacent to all several villages towns and farms' to the commoners as 'sufficient common of pasture and herbage'.<sup>72</sup> The commoners were to 'have the sole pasturage and the plaintiffs are excluded from all right of pasture'. The plaintiffs, 'Mr Staples and the proprietors' as they are called on the award map, were given the rest.<sup>73</sup> The award continued 'some are new inclosures and some are inclosures ready made. They are all to be enjoyed by the plaintiffs in severalty and the Commons are to be excluded from any Common of Pasture herbage or pannage therein.' This division was strikingly similar to the division made by the Parliamentary surveyors in 1658 and that suggested by Pelham and Fagge in 1679. It was considerably more than the 4000 acres which had been offered by the grantees. Even so, at the most simple level it could be seen as a crushing defeat for the commoners as they had opposed both of those proposals with some success in the preceding decades.

The commoners had been unable to prevent enclosure taking place. Although many of them had tried by both legal and illegal means to keep the forest open, this had proved impossible. The forces against them were too powerful. The enclosers had money and a strict interpretation of the law on their side. In latter years they had also had the influence of the Earl of Dorset. Always several of the commoners were actually in favour of agreement and this would not have helped the cause of the opponents. Most importantly, however, they were attempting to fight an increasingly capitalistic agriculture which stressed profitability and the forces of law which supported it, with the increasingly weak weapons of custom and practice.<sup>74</sup> It is therefore not surprising that they lost. But they did not lose all the battles.

They had certainly managed to postpone the

actual division of the Forest from the early 1660s. They had insisted that their point of view should be heard, and they had shown their resentment at the behaviour of those, like John Awcock, who had sided with the enclosers. They had also persuaded the court that any enclosure should take into account the continuing rights of the commoners and in this they had managed to remain within at least a broad definition of the law. They had protected their culture by using the traditional practices from within that culture. They prolonged the life of that culture until at least the 1870s, and possibly even longer. It is largely due to their actions that the Forest remains as it is today, an open area for recreation and for the protection of wild-life.

In contrast to other enclosure disputes, most of the actions had been without violence to any of the people involved. At no point was there need to use any available peacekeeping force or official body. The commoners governed and controlled the

dispute in the same kinds of way they had been accustomed to govern and control their rights to the Forest. The middling sort who might well have been the officers of the Forest in earlier times became those who instituted and controlled the attacks. In this they continued customary social relationships within the community against the newer economic nexus of the enclosers. They showed how the traditional society had functioned at its best — although the danger of rose-tinted spectacles is great here; these were also the men who had exploited every opportunity to the full and had willingly allowed the poor to form a pool of labour in case of need. Through the Forest and manorial courts and in the markets they had competed with each other in the effort to make their livings and their fortunes. However, overall, they showed how right the Earl of Dorset had been in his assessment of the way they would act: without violence and by controlling the poorer sort.

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## NOTES

The main body of evidence on which this study is based are the records of litigation concerning the Forest which was heard in the Court of Duchy of Lancaster Chamber, of which the archive is in DL classes at the Public Record Office, Chancery Lane (hereafter PRO). The extensive transcripts of the same material, made on behalf of the commoners in 1880, form East Sussex Record Office (hereafter ESRO), AMS 3959. The same material, extracted for Sir William Burrell, is preserved in British Library (hereafter BL), Add. MSS 5681, 5705 and 5709.

- <sup>1</sup> P. F. Brandon, 'The common lands and wastes of Sussex' (unpub. Ph.D. thesis, Univ. of London, 1963); C. E. Brent, 'Employment, land tenure and population in Eastern Sussex, 1540–1640' (unpub. D.Phil. thesis, Univ. of Sussex, 1973); J. K. Irons 'Aspects of the impact of man on the historical ecology of Ashdown Forest, Sussex, before 1885' (unpub. D.Phil. thesis, Univ. of Sussex, 1982). ESRO, AMS 4804 is a gathering of redrawn versions of 17th- and 18th-century maps of the Forest.
- <sup>2</sup> J. E. Small, 'A review of Ashdown Forest and the common rights thereon', *Sussex Archaeological Collections* (hereafter SAC) **126** (1988), 155–66.
- <sup>3</sup> For references to the materials discussed here, see L. Merricks, 'Forest and waste in seventeenth-century England: the enclosure of Ashdown Forest, 1600–1700' (unpub. D.Phil. thesis, Univ. of Sussex, 1989), especially Ch. 1–4; P. Brandon, *The Sussex Landscape* (1974); G. Christian, *Ashdown Forest* (Lewes, 1967); G. Hammersley, 'Crown woods and their exploitation in the sixteenth and seventeenth centuries', *Bulletin of the Institute of Historical*

*Research* **30** (1957); E. Turner, 'Ashdown Forest, or as it was sometimes called, Lancaster Great Park', *SAC* **14** (1862), 35–64.

- <sup>4</sup> J. Morrill, *The Revolt of the Provinces* (1980); B. Sharp, *In Contempt of All Authority: Rural Artisans and Riot in the West of England, 1586–1660* (Berkeley, 1980); K. Lindley, *Fenland Riots and the English Revolution* (1982); B. Manning, *The English People and the English Revolution* (Harmondsworth, 1978).
- <sup>5</sup> Records of the Woodmote and other Courts of Duddleswell Manor are in Sussex Archaeological Society Library (hereafter SASL), Straker Papers 6A; ESRO, ADA 75, 93, and AMS 3959.
- <sup>6</sup> ESRO, ADA 75, 93; SASL, Straker Papers 6A.
- <sup>7</sup> *Journals of the House of Commons* **6**, 150; H. J. Habakkuk, 'Public finances and the sale of confiscated property during the Interregnum', *Economic History Review* **2** ser. **15** (1962–63), 70–78; I. Gentles, 'The management of Crown Lands, 1649–1669', *Agricultural History Review* **19** (1971), 25–41.
- <sup>8</sup> The surveys of Ashdown Forest are in PRO, E 317/10–17, 26, 27, reproduced, with an introduction, in M. Hawkins (ed.), *Unpublished State Papers of the English Civil War and Interregnum* (Hassocks, 1977). Those of 1650 and 1658 are printed in J. R. Daniel-Tyssen, 'The Parliamentary Surveys of Sussex', *SAC* **23** (1871), 242–71, 294–313, and **24** (1872), 190–218, to which reference is made here.
- <sup>9</sup> BL, Add. MS 5705, f. 112.
- <sup>10</sup> Daniel-Tyssen (1871), 312.
- <sup>11</sup> BL, Harleian MS 1579.
- <sup>12</sup> J. Thirsk, 'Agricultural policy: public debate and legislation', in J. Thirsk (ed.), *The Agrarian History of England and Wales, 1640–1750* (Cambridge, 1985) **2**, 314–17.

- <sup>13</sup> Thirsk, 'Agricultural policy', 316.
- <sup>14</sup> Thirsk, 'Agricultural policy', 317.
- <sup>15</sup> ESRO, ADA 75, at rear.
- <sup>16</sup> SASL, Straker Papers 6A.
- <sup>17</sup> Centre for Kentish Studies (hereafter CKS), Sackville MSS, U269/C13.
- <sup>18</sup> PRO, SP 18/135; SASL, Straker Papers; ESRO, AMS 3959.
- <sup>19</sup> PRO, SP 18/66.
- <sup>20</sup> ESRO, AMS 3887, ff. 25–37.
- <sup>21</sup> ESRO, AMS 3959, ff. 201–3.
- <sup>22</sup> Daniel-Tyssen (1872), *passim*.
- <sup>23</sup> This interpretation is different from that offered by S. J. Madge in his magisterial *Domesday of Common Lands* (1938). For a detailed discussion of how the present argument differs, see Merricks (1989), Ch. 6. For descriptions of other areas, see works cited above; C. Hill, *The World Turned Upside Down* (Harmondsworth, 1984), Ch. 7; K. Thomas, 'Another Digger Broadside', *Past and Present* 42 (1969), 57–68.
- <sup>24</sup> For a discussion of these questions, see P. J. Bowden, 'Costs and profitability', in J. Thirsk (ed.), *The Agrarian History of England and Wales*: vii, 102–17.
- <sup>25</sup> Irons, 'Historical ecology', 158; ESRO, AMS 3959, f. 229.
- <sup>26</sup> Irons, 'Historical ecology', 162–5.
- <sup>27</sup> J. Thirsk, 'Agricultural innovations and their diffusion' and 'Agricultural policy', in *The Agrarian History of England and Wales*: vii, 533–87.
- <sup>28</sup> ESRO, AMS 3959, f. 229.
- <sup>29</sup> PRO, DL1/449; DL1/450.
- <sup>30</sup> J. Thirsk, 'The Restoration land settlement', *J. Mod. Hist.* 26 (1954), 315–28; C. Clay, 'The evolution of landed society after the Restoration', in *Agrarian History*, 162–98; I. Gentles, 'The sales of Crown lands during the English Revolution', *English Historical Review* 2nd series XXVI (1973).
- <sup>31</sup> *Calendar of State Papers Domestic 1660–1661*, 69.
- <sup>32</sup> V. Sackville-West, *Knole and the Sackvilles* (1948), 99, 107.
- <sup>33</sup> B. Harris, *Charles Sackville, 6th Earl of Dorset, Patron and Poet of the Restoration* (New York, 1972), 15.
- <sup>34</sup> Edward Earl of Clarendon, *The History of the Rebellion and Civil Wars in England Begun in the Year 1641*, ed. W. Dunn Macray (Oxford, 1888) 5, 127.
- <sup>35</sup> *The Continuation of the Life of Edward, the Earl of Clarendon; Written by Himself* (Oxford, 1761) 2, 395; 5, 127.
- <sup>36</sup> ESRO, AMS 3939, p. 30.
- <sup>37</sup> *Journals of the House of Lords*, 11, 507, 509, 520, 523, 524; *Journals of the House of Commons* 8, 495, 497.
- <sup>38</sup> CKS, U269/C67, f. 1.
- <sup>39</sup> R. Latham & W. Matthews (eds.), *The Diaries of Samuel Pepys* (1971) 4, 271, 298; CKS, U269/C96, f. 8; ESRO, DLW.279.
- <sup>40</sup> ESRO, AMS 3959; BL, Add. MS 5705, f. 14b.
- <sup>41</sup> ESRO, AMS 3887, f. 51.
- <sup>42</sup> ESRO, AMS 3959, f. 245.
- <sup>43</sup> Quoted in Sackville-West, *Knole*, 116.
- <sup>44</sup> *Diaries of Samuel Pepys* 4, 209.
- <sup>45</sup> C. J. Philips, *The History of the Sackville Family*, (1929), 406, 437ff.
- <sup>46</sup> H. J. Habbakuk, 'English landownership, 1680–1740', *Econ. Hist. Rev.* 2 ser. 10 (1940), 2–17.
- <sup>47</sup> Harris, *Sackville*, 63.
- <sup>48</sup> For an introduction to these ideas, see K. Wrightson, *English Society 1580–1680* (1984), Ch. 1.
- <sup>49</sup> ESRO, AMS 3959, f. 248.
- <sup>50</sup> ESRO, AMS 3959, f. 249.
- <sup>51</sup> A. Fletcher, *A County Community in Peace and War: Sussex, 1600–1660*. (1975), 318–21; M. J. Hawkins, 'Sir John Fagg', in R. L. Greaves & R. Zaller (eds.), *Biographical Dictionary of British Radicals in the Seventeenth Century* (Brighton, 1982) 1, 264; J. H. Farrant, 'Laughton Place . . .', *SAC* 130 (1991), 153.
- <sup>52</sup> ESRO, AMS 3959, f. 256.
- <sup>53</sup> ESRO, AMS 3959, f. 258.
- <sup>54</sup> ESRO, AMS 3959, ff. 250–51.
- <sup>55</sup> SASL, Straker Papers 6A. For the importance of the employment of legal strategies and of new definitions of legal practice within notions of common law in cases of this kind, see E. P. Thompson, 'Custom, law and common right', Ch. 3 in *Customs in Common* (1991).
- <sup>56</sup> PRO, DL1/449.
- <sup>57</sup> ESRO, AMS 3959, f. 43.
- <sup>58</sup> PRO, DL1/449.
- <sup>59</sup> PRO, DL1/450; BL, Add. MS 5709, f. 43.
- <sup>60</sup> Documents for the first stage are in BL, Add. MS 5681.
- <sup>61</sup> ESRO, AMS 3959, ff. 289–320.
- <sup>62</sup> BL, Add. MS 5705, f. 67.
- <sup>63</sup> PRO, DL4/125/1.
- <sup>64</sup> PRO, DL4/125/6. Concern about written evidence in an illiterate society was common. Various examples of similar cases have conveniently been collected in Thompson, *Customs in Common*.
- <sup>65</sup> PRO, DL4/125/1.
- <sup>66</sup> PRO, DL4/125/1.
- <sup>67</sup> PRO, DL4/125/6.
- <sup>68</sup> ESRO, AMS 3959, f. 279.
- <sup>69</sup> BL, Add. MS 5709.
- <sup>70</sup> ESRO, AMS 3959, ff. 289–320.
- <sup>71</sup> ESRO, SRL 22/6
- <sup>72</sup> ESRO, AMS 3959, ff. 321–42.
- <sup>73</sup> SASL, Straker Papers 6A, contains a photograph, and ESRO, AMS 4804, a tracing of the map attached to the award.
- <sup>74</sup> Thompson has discussed this conflict at length in *Customs in Common*.