THE TENANTS AND COMMONERS OF DARTMOOR

BY R. HANSFORD WORTH.

NOTE.—*Numerals in brackets throughout this paper are page references to the first volume of the* Publications of the Dartmoor Preservation Association. *See last item of* WORKS OF REFERENCE *at the end of the paper.*

PRIOR to the year 1204, for a period the precise commencement of which is unknown, the whole of Devon, with possible slight exception, was royal forest and subject to the Forest Laws. In that year, and as we may believe under pressure, King John, on the 18th day of May, granted a charter which was ostensibly to disafforest all Devon up to the metes and bounds of Dartmoor and Exmoor. It has been doubted whether the formalities necessary to give effect to this charter were ever observed. Be that as it may, the Great Charter of John removed some at least of the oppressive features of the Forest Laws, and especially revoked the eleventh article of the second Henry's Assize of the Forest, 1184, which called upon all men to attend the forest courts on the summons of the master forester; while article 47 of the Great Charter provided that all forests afforested in the reign of John should at once be disafforested.

That these measures were by no means fully observed may be judged by the terms of the first Charter of the Forest which had general application throughout England, that of Henry III, 1217.

This, by clause 2, enacts that all lands afforested by Henry II should be viewed, and if any land had been afforested other than land in royal demesne, to the loss of the owner, it should be disafforested, but if it were the king's land it should remain a forest, saving to those who had previously enjoyed the same all common of herbage and other matters, while, by clause 3, without enquiry, all lands afforested by Richard I and John, except lands in royal demesne, should be disafforested forthwith. By clause 10 the severity of the Forest Laws was mitigated, in terms which sufficiently indicate what that severity had been; it was conceded that no man should lose life or limb for breach of forest. None the less, if any were taken and convicted of such breach

he should be heavily fined, if he had the wherewithal to pay such fine ; and if he had not the wherewithal he should be thrown in prison for a year and a day ; and if after such year and a day he could find pledges for his conduct he might leave prison, if not he was to abjure the realm of England. Inasmuch as Henry was not of age in 1217 this charter was issued in his name by William Marshall, Earl of Pembroke.

Even so matters do not appear to have advanced greatly, and it was not until the statute of 9 Henry III, 1224, that there was general and satisfactory action. Since Dartmoor Forest was presumedly perambulated in 1224 it may be that the present status of that area was not fully defined before that date. But one important fact remains, both the charter of John and the Charter of the Forest contained clauses saving the rights of common then enjoyed.

It may be asked why, when John disafforested Devon, it was held reasonable that he should retain Dartmoor and Exmoor as royal forest. The answer is that both were royal demesne. Domesday does not mention the Forest of Dartmoor, but the entry as to Lydford runs :—" The King has a Borough, Lideford. King Edward held it in demesne . . . " ; and Lydford was in the hands of the King in 1 Richard I, 1189–90. The evidence is that at all significant dates Dartmoor was appurtenant to Lydford.

The county of Devon appears to have been afforested before 1199, since John, Earl of Mortain (afterwards King John) granted a charter to the men of Devon in respect of the Forest of that county (*2*). How burdensome the royal forests had been to the community may be judged from the fact that the king claimed jurisdiction over all woods and forests whether in royal demesne or in the hands of subjects, and under the heading of " forests " fell large areas of common land, while the tenacity with which the crown clung to these oppressive rights is shewn by the tenth clause of the Charter of Liberties of Henry I, 1101. This charter was expressedly for the relief of the realm from unjust exactions ; nevertheless clause 10 enacts :—" The forests, by the common consent of my barons, I retain in my hands, as my father held them."

But even the forests had their mitigations and were subject to public rights, as may be judged from the charter clauses saving such. The rights were and are those which consist with the original status of common land, varied later by the reserve of certain areas as royal hunting grounds, with the consequent restrictions on common rights, but not with their complete denial. One such restriction was the closure of the forests by night. In days when so much of the land remained unenclosed, rights of common were a first necessity of agriculture and even royal prerogative would have suffered

from the impoverishment which would have followed their denial; in this danger lay the salvation of the commonalty.

It is not to be thought that royal forests had their origin in Norman times. Canute in his day enacted "I will that every man be worthy of his hunting in wood and field on his own estate. And let every man abstain from my hunting." It was the abrogation of the first clause of this, and the denial of the right of every man to the hunting on his own estate, which led to the gross evils of the later forests.

BIRKETT writes :—(xvi-xvii.)

1. "Every inhabitant in a Forest—meaning every owner or occupier of land within a Forest—may by prescription have Common of pasture in respect of his holding; and though his lands may be put out of the Forest by Perambulation he may still, by special reservation, enjoy such right.

2. "There may also be a usage for all owners and occupiers of land in a vill or town adjacent to a Forest to have Common of pasture for their commonable beasts levant and couchant in the vill or town.

3. "A man must only take Common with his own beasts, unless there is a special custom to the contrary providing for the payment of fees, known as agistment fees.

4. "'All manner of beasts' (says Manwood) 'are commonable in a Forest, except goats, geese, sheep and hogs;' but Common may be had for all these by license.

5. "The classes of persons to whom I have referred as legally entitled to Common of pasture may also take turf for fuel, and sand and stone for use upon their buildings, from the waste of a Royal Forest." The numbering of the above paragraphs is not in the original.

Dartmoor has long since ceased to be a forest. On the 10th October, 1239, Henry III granted to his brother Richard, Earl of Poitou and Cornwall, "our Manor of Lydford, with the castle of the same place, and all its appurtenances, together with the Forest of Dartmoor" (5). By this grant the Forest became a Chase, and that not necessarily because it passed to a subject who in himself had no power to hold a forest court, but because the King did not further grant that the Earl and his heirs might upon request made in Chancery have Justices of the Forest; which, had it been granted would have constituted Dartmoor a Forest at Law. Lydford and Dartmoor reverted to the Crown in 1300, on the death of Edmund Earl of Cornwall; and in 1337 Edward III granted "the Castle and Manor of Lydford with appurtenances, and with the Chase of Dartmoor with appurtenances" to Edward the Black Prince, Duke of Cornwall; since which date Dartmoor has been appurtenant to the Duchy of Cornwall.

The grant to Richard, Earl of Poitou, in 1239, is of interest

because it was in consequence thereof that the perambulation of 1240 was made, the return of which is the earliest record of the boundaries, there being no extant return of the perambulation of 1224, if indeed, any was made.

It may be useful to refer at this stage to a diagram which is drawn at the foot of a document entitled "*Instructions for my Lorde Prynce to the Kyngs most Honorable Counsell concerning my said Lord Princs Forrest of Dartmore in the Countye of Devonshire and in the moores and wasts of the same belongyn.*" The period is the reign of Henry VIII. (*48* and *168*). The diagram was evidently intended to enable the "Kyngs most Honorable Counsell" to form a mental picture of the relationship of Dartmoor Forest to those areas associated with it, or claiming rights within its borders, and it may serve our purpose to the same end. With great simplicity it consists of four concentric circles. The area within the central circle is described as follows (modernising the spelling somewhat) "*This little compass betokenith the Forest.*" Of the space between the central and the second circle it is written—"*The seconde compass betokenith the Waste which Lieth from the Forest to the Cornditches, and it is called the Commons of Devonshire.*"

We know from the document itself that the first circle is merely marked by metes and bounds "by cause there is no warde between the Forrest and the Wast aforesaid."

The second circle, the cornditches, is a true physical boundary between the enclosed lands and the waste, and there were in it, and still are, gates known as Leapgates, giving access to the Commons of Devon, and across the Commons to the Forest. The reference to these is—"*The little strikes about the Cornditches is called the leapgates for to go into the Waste Moors and Forest.*"

Between the second and third circles are the lands in venville,—"*The third compass betokenith the Vyndefeilde men the which be the King's and my Lord Prince his tenants.*"

Finally the fourth circle "*betokenith the whole shire of Devonshire.*"

Formal as it may be this is a very good picture of the county of Devon as seen by the true Dartmoor man. First, at the centre of all things, the Forest with its ancient tenements and their owners and occupiers; then a belt of common land, in many parishes, but unified by the common rights exercised over all but minor areas; this belt often regarded as the purlieus of the Forest. Thirdly, another belt, of parishes and vills in venville, where lived the venville tenants whose rights were second only to those of the ancient tenements. Fourthly, the rest of Devon, the land of the "strange men" and "foreigners or wreytors (writers)," who, none-

the-less, had their own rights on the Commons of Devon and in the Forest, excepting the inhabitants of Totnes and Barnstaple, who having no rights must have been something less than foreigners, and for whom no nomenclature appears to have been devised.

THE FOREST OR CHASE.

In 1627 William French and others filed a bill in the Exchequer against William Barber the parson of Lydford, respecting tithes of Dartmoor (*62 et seq.*) Depositions were taken in this suit, in the course of which depositions William Torre, of Widdicombe, says :— A great part of the Forest of Dartmoor is a barren, hilly place, and dangerous to be passed through in winter by reason of mires, waters and rocks, and that the parish church of Lydford lieth on one side of the Forest of Dartmoor. He saith that there are divers valleys enclosed in part of the said Forest, and many inhabitants do dwell in the wild Forest so enclosed." Robert Hannaford of Widdicombe says there are about 35 ancient tenements in the Forest besides newtakes. William Pellow, of Lydford, deposes that the farthest parts of the parish of Lydford, near the wild wastes, are good land, and inhabited by rich inhabitants, and tilled with oats and rye, and with manurance tilled with barley. This optimistic view was not shared by the defendants in another suit in which, in 1702, Thomas Bernaford, rector of Lydford, sought to recover tithes in the waste of Dartmoor (*83*). They say that the thirty-five ancient tenements, they believe, were not worth the charges of building and enclosing thereof, being mostly barren ground, but have been improved by the owners. And, as to newtakes, they affirm that the enclosing of such newtake doth generally cost such taker 20 £, and doth not yield 20s. per annum when so enclosed. Perhaps we may accept a middle view if we accept also the evidence of Edward Hunt of Chagford, in 1627, that the free tenants within the Forest do account their privileges of the Forest as good as their enclosed tenements, and that the common of pasture of most of the free tenants in the Forest is worth more than the services which they do to the Duchy of Cornwall for the same." It is true that Hunt was the son of a former parson of Lydford, who had, in 1610, sought to recover tithes on the herbage of Dartmoor, and this may have, perhaps, made him quite unconsciously, somewhat of a partisan.

There is general agreement that the ancient tenements were 35 in number, but a list given by Anthony Torr, of Bishops Tawton, in 1702 (*88–90*), accounts for only thirty-four, namely :—

Rennidge and Warner, three tenements Pizwell, one

tenement Hastiland (Hartiland), one tenement Riddam, three tenements Barbary (Babeny), three tenements called Brimpston, four tenements called Huccaby or lying in Huccaby, one tenement called Dury or lying in Dury, three tenements Hexworthy, three tenements called Sherborne or lying in Sherborne, five tenements called Dunabridge or lying in Dunabridge, one tenement Brownberry, one tenement called Princehall, one tenement Bellaford, two tenements called Bellaford, one lying in Bellaford, and the other called Lake. Merripit, where, however, there were two tenements, Higher and Lower, seems to be an obvious omission.

All the ancient tenements were held as copyhold or customary freehold, and were wholly within the Forest. In a copyhold the tenant has nothing to show as evidence of right but a copy of an entry in the roll of the manor court. All changes of ownership are made by surrender to the lord to declared uses, in the case of a sale to the uses of the purchaser; the lord accepts the surrender and admits as tenant the person to whose use the surrender has been made. Thus at each surrender the tenement is for a time, however brief, in the hands of the lord, yet not at his disposal; for, as COKE writes, "in Admittances upon surrender, the Lord to no intent is reputed as owner, but wholly as an instrument, and the party admitted shall be subject to no other charges or incombrances of the Lord, for he claims his estate under the party that made the surrender." The sole interest which the lord has in any surrender is the *relief* or payment made according to the custom of the manor for admission. On the other hand a copyhold tenant can not deal with his tenement by deed, or execute a lease for a longer term than one year. In all dealings he must invoke the form of surrender and admission, and the evidence of title is ever the entry in the manor court roll. Indeed, in general, although he can select and determine his heirs, he can not devise his tenement by will, but must surrender to the use of his last will and testament, and in his will declare his intent. In this the Court of Chancery had some discretion which could be exercised in favour of the eldest son, or for the benefit of creditors where the will charged the copyhold land for their payment.

Copyhold could only exist in manors where, time out of mind, it had been the custom. Thus the ancient tenements are very properly so called, and are evidence of very early enclosure within the Forest. "A *Copyhold* Estate cannot be made at this day, for the Pillars of it are, that it hath been demised Time out of mind by Copy of Court Roll." (JACOB.)

But it behoved a copyholder to do all his services and break no custom of the manor, under penalty of becoming subject

to the lord's will. Observing these restrictions he was correctly described as a customary freeholder.

The holders of the ancient tenements within the Forest owed service to the lord of the manor, services fixed by custom and the burden of which could not be increased at the will of the lord. They were to attend the three weeks' court at the Castle of Lydford; they were to attend three times a year at Lydford Castle Court to present all matters and misdemeanours and things presentable within the Forest. They were to present all estrays at the next law court. They collected and gathered the rent and paid it at Exeter. They had to assist at three drifts yearly for cattle and one for horses depasturing upon the Forest, to Dunnabridge Pound, or in the North Quarter to Creber Pound, and to attend there two or three days and nights for the watering and depasturing of the said cattle near the said pound, and to drive such as were not owned to Lydford for estrays. And every of the said tenants was to have upon bringing the said cattle and horses to Dunnabridge Pound a halfpenny loaf (another witness says one halfpennyworth of bread for each day's service, and yet another has heard that for their pains they had in ancient times a noble, but now only a halfpenny loaf). All are agreed that in default of his service at the drift the tenant forfeits a noble (6s. 8d.) (*64–65*.)

One can not imagine the tenants becoming unduly lively or restive on either one halfpenny loaf for two or three days, or even one loaf a day. But it was thought expedient to provide and maintain stocks at Dunnabridge Pound, and in 1620 it was found necessary to repair these stocks (*60*.) (BURNARD has thought that the so-called Judge's Chair at Dunnabridge Pound is no more than the seat of the stocks, and I entirely agree, especially as I find stones so worked as to suit perfectly for the under part of the actual stocks.) It may, of course, have been the owners of cattle agisted on the Moor who became restive and needed restraint.

Notwithstanding the statement that tenants failing to attend the drifts forfeit a noble, the jury of the court appears to have exercised its right of making the punishment fit the crime, since no amercement can be fixed in amount beforehand; thus, in 1583, at the court of Lydford East, it was presented that John Ellett and Robert French had not made "les drifts" as was their duty, and they were each amerced sixpence (*126*.)

The holders of the Ancient Tenements, as they had their services and rents to render, had also their rights to enjoy. In an action for the recovery of tithes, 1699 (*80 et seq*.), the defendants say that the Forest men who are such as have their tenements enclosed from the common Forest, pay

nothing for depasturing their sheep and other cattle on the said Forest. And in a similar action, in 1702 (*91*), Richard Bold, of Tamerton Foliot, gentleman, aged 56, deposes that the Forest men have the privilege of turf-paring, of cutting of fuel, and of taking stones, paying nothing for the same.

The tenants of the Ancient Tenements had also the right to enclose newtakes, a right strictly limited and which can in no way be held to justify the enclosures which were made in the eighteenth and nineteenth centuries. In the action of 1702 (*83*), above referred to, the defendants say :—" The heir to each and every of the said tenants, on the death of each of the said tenants, and also every purchaser that shall purchase the inheritance of any such ancient tenements, have by the custom aforesaid liberty to enclose eight acres of the said waste or forest ground, as of right belonging to each of the said tenements so descended or purchased, paying one shilling yearly for the same to Her Majesty's use, her heirs and successors, according to the said ancient custom time out of mind used ; which said eight acres is commonly called a newtake, and is usually confirmed to such heir or purchaser, their respective heirs and assigns, for ever, by copy of the Court Roll of Her Majesty's Castle Court of Lydford, under the seal of the said Court, by the Steward there for the time being ; the same being first viewed, meted out, and presented by four of the ancient tenants of the said thirty-five tenements who are in no way concerned in such newtake otherwise than viewing and presenting the same."

John Gaskyne of Withicombe, yeoman, aged 73, deposes (*85*) to a knowledge of eleven parcels of land commonly called newtakes, lying in the said Forest, Chase or Moor ; and doth know divers other parcels of lands also called newtakes, lately taken in and enclosed from the said moor. This is a significant division, between the newtakes and the divers other parcels of ground " also called newtakes." Another witness, Anthony Torr, of Bishops Tawton, gives a list of seventeen newtakes with their tenants (*90*), from which it is apparent that these divers other parcels of ground were enclosed with no regard as to the limitation to eight acres. Already, in 1702, there had commenced the application of a policy which, in the eighteenth and nineteenth centuries, was to rob the commoners of most of the best grazing.

We may illustrate this point by three examples ; the first two so-called newtakes on Anthony Torr's list are " two called Bradrings " in the tenancy of Sir Thomas Leare. These are probably the smallest mentioned in the list, yet the lesser is 17½ acres in area, and the larger measures 24 acres. A more representative example is Laughterhole, which has an area of 75 acres. I take the measurements from a plan of

the Forest, prepared in or shortly after the year 1800. At one time an attempt was made to justify such areas by reference to the fact that, as Torr puts it, the Reeve and three other owners of ancient tenements measured out for a newtake "eight acres of clear ground." It was suggested that all bogs, mires and rocks were mere surplus, and the only area to be considered was to be suitable rough pasture. So that a newtake might greatly exceed eight acres, and yet have no more than eight acres of "clear ground." It must be doubtful whether this form of special pleading ever deceived anyone. No man would be likely to enclose seventy-five acres, at the cost of a stone fence 2354 yards in length, to secure an acreage of eight acres which would need no more than 800 yards of fence. Nor in truth is there any one of the large enclosures, and seventy-five acres came to be relatively small, of which it can be said that any but a very small part is either bog, mire or rock.

The idea of enclosing Dartmoor, which was thus improperly put in action, with the connivance of a new class of holders of the ancient tenements, was nothing new. In the days of Charles II, 1666, the King contracted with Sir Gervase Lucas and certain partners of Sir Gervase for a partition of Dartmoor between the King and the commoners having rights upon the Moor (*77–78*); Sir Gervase and his partners to treat with the owners and tenants for the setting out and enclosing of a considerable part or proportion to His Majesty's use, and the division of the residue among the owners and commoners in such manner as should be agreed between them. Sir Gervase and his associates to hold the lands apportioned to the King for fifty years at one fourth the clear yearly value, and the King to grant to the owners and commoners or their appointees the rest of the land to be set out and allotted to them to be held in free socage without rent.

Sir Gervase was given three years in which to treat with the owners and commoners, and, apparently, that period did not suffice for the persuasion of such interested persons to sell their birthright. Indeed, considering the rights of all Devon on the Commons and in the Forest an agreement was hardly probable. From the time when the Forest ceased to interest its owners as a hunting ground there was usually someone to suggest its plunder to the advantage of the Duchy, an advantage in which that someone was to have a part or share. Thus, in the reign of James I we find a person unknown writing to the Earl of Salisbury suggesting that the King should take tithe of the 100,000 horse-loads annually taken of Dartmoor peat, certain profits being allowed out of such tithe to the ingenious fellow who conceived the idea and to Sir Walter Monson (*58.*). The deviser of this source of revenue

says that he was an old servant of the late Queen, and has never received the reward meant for him. The idea was not adopted. It is not known where the mover in this matter obtained his statistics, but 100,000 horse-loads would be little less than 15,000 tons, certainly more than 10,000, and it can not be accepted that such quantity of peat was ever cut in any one year. All the attempts at "improving" Dartmoor have been founded on similar cupidity and equally gross error. There may, it is true, have been an occasional adventurer, such as BULLER, who worked, equally in error, but with the full assurance that he was serving his country.

There were other dwellers within the Forest besides those who occupied the ancient tenements. In 1354, the Black Prince made an order that the Foresters in calving-time should make lodges in their Bailiwicks, and live continually in the Moor so long as the calves were tender, to save them from the herdsmen who have to be upon the Moor to take charge of the cattle; the "calves" in question being the young of the deer (*22*). In 1360, the Prince ordered the receiver of the Duchy to build a suitable lodge in his Chase of Dartmoor, for the use of the chief Forester and the other Foresters (*24*). But these officials were not the only inhabitants other than customary tenants. We find a class known as "censarii," evidently landless men, since the Bailiff of Dartmoor, in 1350–1, accounts for 2s. 2d. from the censarii, and not more, because some of the censarii took lands, "and are therefore quit of their censum" (*21*). The censum was a species of poll tax, levied at the rate of 2d. yearly on every man, and on every woman 1d. The total varied considerably; in 1342–3 it was 5s. 6d. (*16*); in 1344–5 it amounted to 4s. according to a survey, but in actual receipts that year no more than 8d. (*17*); in 1350 it reached 2s. 2d. (*21*).

In some instances the bailiff gives names, but I have no transcripts of those lists, nor any means of knowing the proportion of men to women; one may say that the numbers probably varied at the dates above given from not less than 40 persons to not less than 3.

Some of those who paid this rent or tax were doubtless herdsmen in charge of flocks and herds for which "night rest" within the Forest had been paid; others may have been tinners, for, although the ordinary working tinner raising the ore appears to have worked in the Forest by day only, those in charge of blowing-houses and knacking mills may well have found it impossible to confine their work to daylight only, since there were processes which could not be interrupted short of completion. Some of these tinners may have been exempt as holders of land, since the tin mills within the Forest were on land leased from the Duchy, and there are

entries of odd acres taken here and there, some of which we know to have been occupied in connection with the working of tin.

THE COMMONS OF DEVON.

At a court of survey held at Okehampton in the year 1608, before Sir William Strode, Knight, and other commissioners (*52*), the jury found that the soil of divers moors, commons and wastes, lying for the most part about the forest of Dartmoor, and usually called the common of Devonshire, was parcel of the Duchy of Cornwall, and that the foresters and other officers of his majesty and his predecessors had always been accustomed to drive the said commons and waste grounds, and all the commons, moors and wastes of other men (lying in like manner about the said Forest) home to the corne hedges and leape gates round aboute the same common and forest, some few places only exempted, and that the said foresters and officers have taken and gathered to his majesty's use at the times of drift within the same commons such profits and other duties as they have and ought to do within the said Forest ; " how be it they intend not herebye to prejudice the particular rights which any other persons claim for themselves or their tenants in any commons or several grounds in or adjoining to the said common or Forest, but do leave the same to judgement of law and to the justness of their titles which they can make to the same."

One of the few places exempted by the jurors may have been the Chase of Okehampton, which has for a short distance a common boundary with the Forest ; but of this I know no proof.

The jury's finding very fairly presents the custom which had prevailed from before legal memory ; their delicacy in handling the claims of other than the Duchy reflects the fact that at times and in places the rights of the Duchy had been challenged, and in some few instances contested by force. The court rolls show that the court of the manor of Lydford exercised effective control over the Commons of Devon, extending to and including the cornditches which bounded the enclosed lands, and the leap gates, or lid gates, which gave access from the in-country to the Commons of Devon. (As a proper name the word *Lidgate* is still in use, being applied to the gate which gives access to Buckfastleigh Moor, at the end of the lane leading from Buckfastleigh to Hayford.)

There are ample references in the rolls of the manor court of Lydford to show the effective exercise of this control. Thus in the court of Lydford West, 21 September, 1688 (*113*), the jury presented the inhabitants of Wapsworthy in that

they permitted a fence called Wapsworthy Hedge to be ruinous and decayed, therefore let them be distrained. At the next court, held on the 12th October of the same year (*113*), it was certified that Wapsworthy Hedge had been repaired by the inhabitants, therefore let the amerciaments be withdrawn. The hedge is described as being " iuxta Forest de Dartmore."

At the court of Lydford North, on the 21st day of September, 1579 (*121*), the jury presented that a certain wall, between the lands of Richard Ellacott called Sowtherly and the Forest of the Lady the Queen, and a gate called Sowtherly gate were ruinous and fallen ; and Ellacott may have a day to repair the wall and gate before the next court under penalty of ten shillings. At the next court, held on the 15th October of the same year (*121*), it was certified that Richard Ellacott, Roger Knight, Henry Walter, Anthony Rondell and others had repaired all the walls and gates (one other gate and two other walls had been presented as ruinous) " therefore withdraw the process."

But the court at times failed to enforce its orders. There was a bad instance of west country obstinacy at Brisworthy, where, by the Jury on the 21st September, 1582 (*132*), it was presented that the gate known as Harte Gate,[1] and the hedge adjoining were permitted by the inhabitants to be ruinous. This presentment appears to have been futile, since, on the 4th May, 1586 (*132*), the Forester declared, on his oath, that Hart gate, which the inhabitants of Brisworthy ought to repair, was in ruin. On the 4th May, 1587 (*138*), the Jury presented that Hart gate was still in ruin, and it was ordered that the inhabitants of the vill of Brisworthy be summoned to the next court. Nothing appears to have happened, for, on the 8th May, 1589 (*143*), it was again ordered that the inhabitants of Brisworthy should be summoned to the next court, in the matter of Hart Gate. At that next court, 29th May of the same year (*143*), the inhabitants failed to attend, and were amerced in the sum of sixpence. Beyond the fact that this entry was repeated in later courts nothing happened until the 5th May, 1608 (*111*), when the transgressors were named, being John Bowden, Barnard Torre, Thomas Bowden, Richard Harrys, William Dunridge, and Walter Steart ; it appears that Hart gate was still ruinous, and it was ordered that the persons named be distrained. Then, 21st September of the same year (*113*), these same people were found to have offended in the matter of pasturing sheep on the Forest, and they were amerced in

[1] In the index to the work cited Hart Gate and Hartford Gate are referenced as identical. In error ; Hartford Gate is Harford gate in the parish of Harford.

eighteen pence for not attending to answer in that matter. It was found necessary to repeat the entry of this last amercement in several later courts; but there, as far as I know, the matter ended. I can only say that my early recollection is that Hart gate was still ruinous, and now there is no gate.

The fact was, as will be seen later, that mere amercements were of little use where the persons amerced were outside the jurisdiction of the court in the matter of distraint; and I fancy that the charge in respect of pasturing sheep on the Forest was the Duchy's effort to visit a sense of crime upon the vill of Brisworthy. On the whole, it would not have paid the vills to neglect their duties, and a reminder usually sufficed to secure reparation of gates and hedges.

The fact that the Commons of Devon spread over so many parishes and make contact with so many manors and other territorial interests has inevitably led to dispute; and since the decay of the efficiency of the Duchy courts, which accompanied the loss of interest in Dartmoor as a hunting ground, the private challenge to public rights has grown. It has been seen that the jury of 1608 made cautious reference to this difficulty. The idea of dogging other peoples' cattle off a certain area of common and reserving it for your own cattle was quite early developed, and, in 1468–9, John Foger was presented and amerced for daily driving away with his dogs the cattle of divers people agisted in the King's Moor, and making that part of the Moor his own proper common (*96*). This unneighbourly habit is by no means unknown today. Other persons claimed exclusive right of common and in pursuance of such claim drove off cattle agisted on such common, as estrays. Thus, in 1478–9, John Hawston, of Elberton, was attached to answer to the Lord for yearly driving the Forest of the Prince and the cattle there agisted, from Yealm Head through all the land of Stealdon (Stalldon) and thence to a place called Quykbeme, and thence to Redlake Head, and thence to Fishlake, and from Fishlake to Hurtlake, and thence to Erme Head, and impounding them at Torrycomb, in the pinfold there, to the damage of the Prince yearly 40s. (*97*). The lands within these bounds were in part Commons of Devon, in part Forest.

Yet others evaded the Duchy drift by driving their cattle off the commons before the day of the drift; thus, in 1586, the jury presented that William Chubb had driven the Common called Stayldon (Stalldon) before the drift of the Lady the Queen (*136*).

The counterpart of this last proceeding was pound breach, the taking from the pound of cattle rounded up by the Duchy officers as estrays. In 1512, John Coole of Slade, Thomas Coole, Anthony Stodeford, Thomas Hakker, Thomas Cade,

Robert Dunning, Henry Fleisslemond, Robert Stephyn, John Whyte snr., John Whyte jnr., John Lowde, John Dean, Hugh Hele, Robert Brokyng and Nicholas Hele riotously took and drove away 16 steers of the estrays of the lord the King, and at the next manor court were fined accordingly, but did not pay. More than this, on the 22nd July, 1512, they repeated the offence on a larger scale, unlawfully and riotously taking and driving away out of the liberty of the Manor of Lydford, into which they had broken, 40 oxen and steers, and 10 geldings of the goods and chattels of the said John Coole, taken by the Bailiff of the Lord the King of his Manor aforesaid, and imparked at Brattor within the liberty of the Forest of Dartmoor, by virtue of a certain precept of *fieri facias* to the same Bailiff directed, in contempt of the aforesaid King. And this they had done by command of the said John Coole (*41–42*). The offenders were again fined, and again they did not pay.

The entry continues :— And the amount can not be levied because the parties do not dwell within the liberty, and have no goods or chattels there by which they can be distrained." In the result the fine was never levied.

Summarised, the Foresters impounded certain cattle, the property of John Cole as estrays. John Cole presumedly held that he had rights of common, not appurtenant to the Manor of Lydford, and he and his associates broke into the pound and drove away the cattle. Being fined for the offence, they neglected to pay. Thereupon a writ of *fieri facias* was directed to the Bailiff of the manor, calling upon him to levy a distress, in pursuit of which writ the Bailiff seized yet other and more cattle, the property of Cole, and impounded them. Presumedly he seized these within the liberty of the Forest. Thereupon Cole and his associates committed pound breach and recovered the cattle. After which we must assume that Cole kept his cattle out of the liberty of the Forest. As to the writ of *fieri facias*, this was using in a lower court the forms appropriate to a higher. From a higher court the writ would have been directed to the Sheriff, who could have followed the distraint and retaken it wherever it might have been, but the Bailiff, outside his manor, was nobody. It will be seen that the threat of distraint could not always have been a very effective deterrent.

Enclosure has been the worst enemy of Dartmoor; in the Forest the Duchy has qualified as the worst despoiler by encouraging and permitting newtakes vastly larger than the area fixed by custom. On the Commons of Devon the Duchy stood to lose rather than to gain by enclosure. It has been the private individual who has there been the offender. The habit of land-grabbing is of ancient origin,

much earlier than the first available instance from Dartmoor, which dates 1441–2, when John Jeffery was summoned to answer the King for entering the King's Moor between Badeworth (Batworthy) and Mangersford, and appropriating 40 acres of land to his own use (*96*). This would be in the valley of the North Teign, and the land may have been in part in the Commons of Devon, in part in the Forest. The next similar entry is in 1468–9, when Reginal Cole and others are summoned to answer for enclosing, imparking and detaining 200 acres of common pasture of Devon, between the Erme and the Arm (Yealm) (*96*). This was on the Commons of Devon, and we see the early stages of the dispute which led to the insurrection headed by John Cole in 1512. There are other entries in the rolls, alleging similar offences.

Another matter of fairly common complaint was the closing or obstruction of roads and lanes leading to the Moor, to the hindrance of those driving cattle on to the Moor and Forest, or bringing cattle away therefrom. The Abbot of Buckland was one such offender. In the year 1478 the Abbot was presented for preventing by threats and force the herds of the Lord the King and other men, as well of Devon as of Cornwall, to the number of 200 and more from putting their cattle on the Forest (*97*). This may have been armed opposition rather than physical closure of roads. The Abbot also claimed 10,000 acres of the Forest and Commons (*37*). A commission was issued to enquire into the matter and the jury found for the King and the Commons of Devon (*165*). It is to be feared that neither the Abbot of Buckland nor his brother Abbot of Buckfast were at all times good neighbours of Dartmoor.

VENVILLE.

On the 1st September, 1377, Richard II granted to Richard de Abberbury the custody of the Forest of Dartmoor, to hold for the term of his life with all things to the said custody belonging, and also with the profits of the herbage of the said Forest, without paying any rent (*26*).

This led to an authoritative statement as to the nature of the *Fines Villarum*, Abberbury claiming that the receipts therefrom, together with other profits of the Forest were rightly his; and, the auditors of the Duchy retaining such receipts as falling without the terms of the grant, Abberbury petitioned the king for an Inquisition to determine the point in dispute (*27*).

An Inquisition was granted and was taken on the 19th June, 1382, at Lydford. The Jurors found that " the *fines villarum* ought to be paid by the tenants of divers vills next to the Forest of Dartmoor, from the time whereof memory is not, to the Lord the King, and his progenitors, having

profits within the Forest of Dartmoor, to wit that the tenants of the said fined vills with their beasts, may have agistments from the rising of the sun to the setting thereof, and not by night. And the aforesaid tenants of the venvills shall have coals, turf, heath, furze and stones for their own use for the aforesaid fine ; and as to coals and turf as well, the aforesaid tenants, as strangers of the whole county of Devon, may hire one pit yearly for making coals there, and digging turfs for fivepence. They have so used the premises from time whereof memory is not. And whether the premises belong to the King, or to the custody of the Forest, they know not " (*27*). A finding of little avail to Atterbury, but informative as to the nature of venville rents.

At a date not precisely known, but about 170 years later than that of the last cited document there was prepared another entitled " Instructions for my Lord Prince to the King's most honorable council concerning my Lord Prince's Forest of Dartmoor, and in the moors and wastes to the same belonging " (*164*).

This sets out, *inter alia* :—" Every man of the vyndefelde be the Kyng's Tenantes and beryth there Rente as more playnely apperyth in the Kyngs Bockes, and shall with there catell as they may wynter upon there holdynges come to the Kyngs Forrest by Sonne, and goo home by Sonne ; and if he be attayched by the Foster after sonne, he shall be amercyd iij d every night in the yere if he be attayched. And the said tenantes shall have in the Forrest of Dartmore all that maye doo hym good excepte grene ocke and venyson, and if any of the said tenants shall have more catell than they maye wynter apon his teneure, For to paye then as a strange man ; That ys for every oxe, cowe, and heaffer j d. ob. And for every mare, horse, and geldyng ij d " (*164*).

Although the venville tenants might only depasture the Forest by day yet that inconvenience could be avoided, since, on the payment of an additional threepence a year they may depasture by night also. See *Survey of Duchy*, 1608 (*54*).

The Forester's account for 20–21 Henry VII, 1505–6, gives the following list of the vills paying venville rents :—(*39 et seq.*).

EAST BAILIWICK.

villat de Chagford xijd
hamelett de Tenkenhmhome infra parochia de Chagford iiijs
villat de Hareston xxd
Villat de Litterford in parochia de North Bovye iiijd
hamelett de Hokyn in eadem parochia iiijd
hamelett de Kyndon jd
hamelett de North Worthied in parochia de Whitecombe (Widecombe) iiijd ob.

villat de (blank) in eadem parochia iijs
villat de Shirwell in eadem parochia iijs
hamlett de North Catrowe in eadem parochia xviijd
villat de Higher Catrowe in dicta parochia iijs vijd
villat de Grendon in eadem parochia xijd
villat de Fenne in parochia de Chagford iiijd ob.
villat de Jurston in eadem parochia viijd.
villat de Willuhed in eadem parochia vd
villat de Esworthie vjd
villat de Higher Jurston iijd
villat de Chalnecombe in parochia de Manoton vjd

WEST BAILIWICK.

villat de Shawe vijd
villat de Brightesworth in parochia de mewe ijs.
hamelett de Louyngton in eadem parochia ijd
villat de Gadmewe in eadem parochia ijd
villat de Mewey ijd
parochia de Shidford (Sheepstor) iijs
villat de Dencombe in parochia de Walcamton xviijd
parochia de Samfnd Spauley xijd
parochia de Whitechurche xijd
parochia de Peturspavy vd
villat de Chodlype vd
Twyste in parochia de Tavestoke ijd ob.
Raddyche et Pytchclyff iijd
Margaretlond in eadem parochia ijd

SOUTH BAILIWICK

villat de Helle xviijs
hamelett de Stourton in parochia de Bulkefastlegh xvijs
villat de Shiridon in parochia de Dene (Dean Prior) vijd
villat de Vgbirough vd

NORTH BAILIWICK

villat de Trulegh (Throwleigh) ijs vjd
villat de Collerowe in parochia de Chagford vijd ob.
parochia de Southtawton vijs iiijd ob.
villat de Sele vjd ob.
parochia de Kelston iijs (Belston)
villat de Hellestoke ijs vjd
parochia de Stourton (Sourton) iiijd ob.
parochia de Bridestowe ijs.
villat de Willesworthe ijs.

In 1624 we find the list for the North Quarter to be (60) :—

Item for the venvell of Throwlye 2—6
(no entry for Collerowe)
Item for the venvell Rente of South Tauton 8—0
(no entry for Sele)

Item for the venvell Rente of Bellsoun	4—4
Item for the venvell of Holstocke	2—6
Item for the venvell of Sorton	0—4½
Item for the venvell of Briddestowe	2—0
Item for the venvell Rent of the Hamlet of Wolsworthie	2—0

In 1505–6 the totals are, East Quarter £0-18-9, West Quarter £0-11-0½, South Quarter £1-16-0, North Quarter £1-0-11, total for the four quarters £4-6-8*2* (*39*). This may be compared with the figure given in an " extent " of Dartmoor, dated 1344–5, where the total of the venville rents is entered as £4-0-0 (*19*).

As to the north quarter where we have details in 1505–6 (*39*) and 1624 (*60*), the earlier total is £1–0–11 and the later, although there are fewer entries or items, is £1-1-8½. But it does not follow that, although fewer items are stated, any rent has been omitted ; thus the South Tawton item of the later list may well include both South Tawton and Sele of the earlier.

We also know the account of venville rents collected in the south quarter in the year 1584 ; it runs (*149*) :—

Parochia de Holl (Holne)	xviijs
Buckfastleigh	xvijs
Skyrdon (Skorriton)	vijd
Vgborough	vd

making a total of thirty-six shillings, the same amount as was collected in 1505–6.

In 1342–3 we have the accounts of John Dabernan, receiver (*16*) ; at that time the Moor was divided into three quarters, east, west and south, and he accounts for a total of £4-12-7 in respect of venville rents. It is obvious that, subject to incidents of collection, the rents in venville were a constant sum. Mr. Percival Birkett (*Dartmoor Preservation Association, I*, page xxv) concludes—" I understand the Venville tenants to be the owners and occupiers of all land in respect of which Venville rents are now, or formerly were, paid to the Duchy . In some cases these rents are paid by the Overseers of the poor in respect of the whole of the land in the parish ; in other cases by the tenants of specific farms, manors or vills."

There can be no doubt these payments were true rents, and in no way fines in the modern acceptance of the word, that is to say penalties for trespass. *Fine* and *redditus* were synonymous, and the wording of the findings by the various juries engaged on inquisitions is in itself fully sufficient to establish this. As to the word *venville*, the men of Dartmoor have recast the phrase *fines villarum* in this more " suent " and acceptable form.

The venville tenants had responsibilities as well as rights ;

the *Instructions for my Lord Prince* make it clear that the vyndefyld Tenants owed suit to the manor court of Dartmoor, they were to come to his Grace's Court holden at his Manor and Castle of Lydford as often as they were summoned for the King and my Lord Prince, there to present all faults belonging or appertaining to the Forest of Dartmoor and the Commons of Devon (*164*). It would appear that the courts, at which all matters and misdemeanours within the Forest were presentable, were held three times a year at Lydford; the tenants of the thirty-five ancient tenements within the Forest also owed suit. There was some irregularity in the dates of these courts, but they were more usually held early in May, in July, and on or about the 21st September. At times there would appear to have been no more than two courts in the year, but rarely there were four.

The inquisition of 1382 speaks of the venville vills as " next to the Forest of Dartmoor (*27*)." John Gaskyne of Withicombe, in his deposition made in the matter of a suit concerning tythes, in 1702, speaks of the venville men (*86*) " who live in the parishes adjoining the purlieus of the said Forest, Moor or Waste." Similar phrasing may be met elsewhere, but the words *next to* or *adjoining* must not be interpreted too strictly, there were and are lands in venville in parishes no parts of the boundaries of which touch the Forest; such parishes, for instance, as Tavistock and Meavy, while Whitchurch, Sampford Spiney and Meavy extend to the Commons of Devon, which may be regarded as purlieus of the Forest, but do not make contact with the Forest. None-the-less the parishes must have had a very real urge to have some common boundary with, and to extend to, the Forest, as a reference to the map of Devon will clearly show. No less than twenty-two parishes so extend (twenty-three if we include what I might call " Lydford without "). In many instances the connection is effected by means of a mere corridor. Harford and Ugborough afford extreme examples. In Ugborough, from Spurrells Cross to the Forest Boundary is a distance of nearly four miles; the width of this northward extension of the parish nowhere exceeds three-quarters of a mile, and is at places less than one quarter. Parallel with this runs a strip of similar length belonging to Harford, and this strip nowhere exceeds one mile in width, while in places it is reduced to a little over a quarter of a mile. See figure 1.

Since the Forest is wholly within the parish of Lydford and " Lydford without " is touched by a parish which does not reach to Dartmoor, it follows that the parish of Lydford has, at one place and another, contact with twenty-three other parishes; a condition probably unique, but which hardly justifies the pleading of John Leere, John Brounston

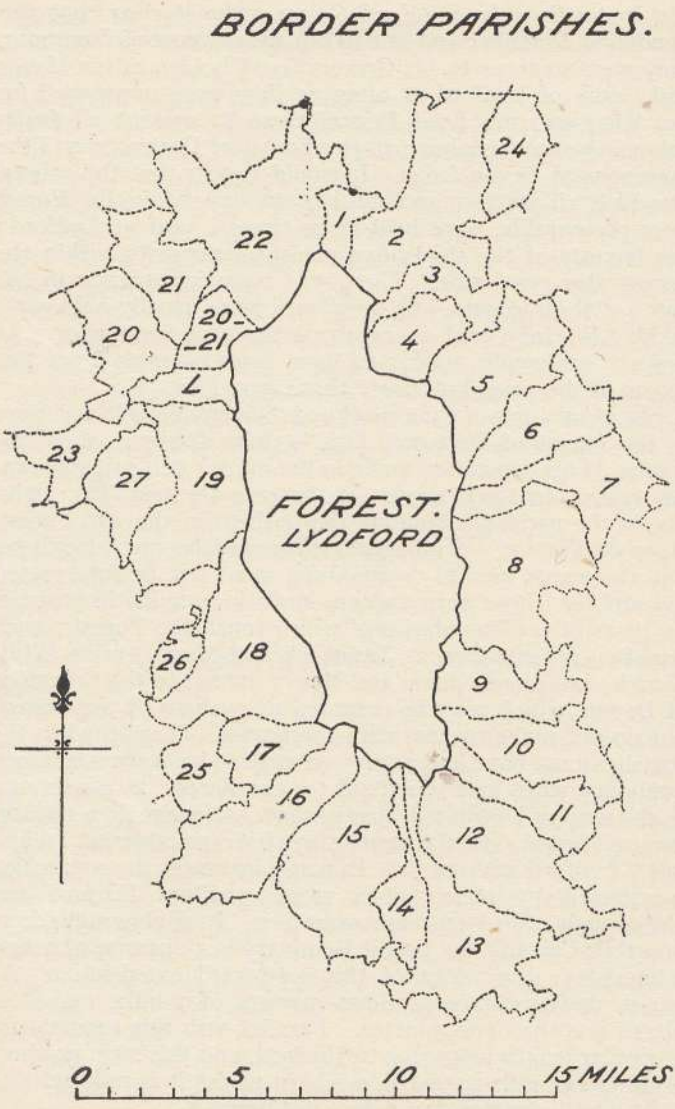

FIG. 1.

DESCRIPTION.—*The Forest or Chase of Dartmoor,* boundary shewn in full line, lies wholly within the parish of *Lydford* ; its area is 76.6 square miles. The boundaries of the border parishes are drawn in dotted lines. Of these parishes Nos. 1 to 22, inclusive, extend to and touch the *Forest.* That part of the parish of *Lydford* which lies without the *Forest* has an area of 3.4 square miles ; thus the whole extent of

Lydford parish is 80 square miles. It makes contact with the border parishes numbered 1 to 23 inclusive.

The reference numbers are as follows:—1, *Belstone*. 2, *South Tawton*. 3, *Throwleigh*. 4, *Gidleigh*. 5, *Chagford*. 6, *North Bovey*. 7, *Manaton*. 8, *Widecombe*. 9, *Holne*. 10, *Buckfastleigh*. 11, *Dean Prior*. 12, *South Brent*. 13, *Ugborough*. 14, *Harford*. 15, *Cornwood*. 16, *Shaugh Prior*. 17, *Sheepstor*. 18, *Walkhampton*. 19, *Petertavy*. 20, *Bridestowe*. 21, *Sourton*. 20–21, lands common to *Bridestowe* and *Sourton*. 22, *Okehampton*. 23, *Brentor*. 24, *Spreyton*. 25, *Meavy*. 26, *Sampford Spiney*. 27, *Marytavy*. L, that part of *Lydford* which lies without the *Forest*.

and Thomas Fleshman, all of the parish of Tavistock, who say, in 1665, that the parishes bordering the Forest are at least forty in number (*76*).

It should be noted that the lists of vills in venville which have been given above are certainly not complete. They are conclusive only as to rents received at their several dates.

FOREIGNORS AND WREYTORS

We owe the phrase "foreignors and wreytors" to Daniel Honnawill, yeoman, in his deposition of 1702 (*88*). At an earlier date, 1381–2, in the matter of an inquisition respecting Richard Abberbury's grant of the custody of the Forest, the word is "*extranei*" (*27*) which may be translated "strangers" (literally "outsiders"). These people are defined as being all the inhabitants of Devon, except those of Barnstaple and Totnes, and excepting also the Forest men and the Venville men. Why Barnstaple and Totnes should be something less than foreigners is not known. As boroughs they may have been outside the Forest of Devon when that had its greatest extent, but so must Exeter almost certainly have been, and the exclusion from privilege of common does not extend to Exeter.

With the exception mentioned, all the inhabitants of Devon had a right of common in the Commons of Devon, without any payment, provided "the said commoners will be deposed upon a book unto the King's officers that their cattle did not come and pasture within the bounds of the Forest" (*48*). But if their animals pastured within the Forest, then the commoners aforesaid must pay for every ox, cow or heiffer 1½d. and for every mare, horse and gelding 2d.

The *Instructions for my Lord Prince*, before referred to (*c.* 1542) make the further statement that if cattle come out of Cornwall into the Commons of Devon, or apparently into the Forest, the same payments as last named should be made (*164*). Notwithstanding which statement it is doubtful whether the Cornishmen had any rights of common on either the Forest or the Commons of Devon; their user was probably at the will of the Lord.

For sheep the men of Devon paid nothing either in the Forest or in the Commons of Devon. As to coals and turf as well, the strangers of the whole county of Devon might hire one pit yearly for making coals and digging turfs, for fivepence. (Atterbury Inq. 1381–2) (*27*).

The use of the term *wreytors* as an alternative for *foreignors* or *extranei* presents no real difficulty if we transcribe it to its modern spelling, when it appears as *Writers*. Whatever cattle were the subject of grazing charges were of necessity entered on the agistment roll, and were thus *scripti*. The Forest tenants depastured their sheep and other cattle in the Forest, without payment. The venville men so depastured their animals, but subject to the limitation that they must not exceed the number that they could winter at home; if they exceeded this number of beasts they must pay for the excess, and so, in respect of the excess there must be entries in the agistment roll, and in that respect the venville men might at times be described as *writers*. The foreigners, of the rest of Devon, could depasture cattle on the Commons of Devon free of charge, but only if they deposed on oath that the cattle did not stray off the commons into the Forest. For all pasturing in the Forest they paid at per head of beasts, and entries were necessary on the roll. These foreigners were accordingly pre-eminently the men whose business it was to see that their beasts grazing on the commons or in the Forest were written in the agistment roll, and hence they were called *writers*.

The phrasing of the court rolls bears out this explanation; we find :—

1382–3. Robert Stoke presented as having cattle agisted in the Forest *non scripti* (*95*).

1443–4. Robert Breston, a venville man, attached to answer for having 15 cattle wintering out of venville (that is to say more than he could winter at home) agisted in the Forest, and *non scripti* (*96*).

Those who dug peat within the Forest, excepting the holders of the ancient tenements, were subject each to an annual charge of 5d., and their names were also entered on record; the same phrase was used in respect of them in the manor court roll, thus :—1410–11. John Jose summoned to answer that he, being *non scriptus*, dug coals *in vasto domini* (*95*).

FOLDAGE.

No unlicensed person might be in Forest or Chase by night. The Forest men, who held the ancient tenements, and whose houses were within the Forest, necessarily were privileged. The Censarii, not being occupiers of ancient tenements, but resident in the Forest, paid a poll tax. The venville men

could compound for the privilege by paying night rest of 3d. the year.

It appears from the Inquisition of 1388 (*28*), made at the petition of Abberbury, that the ' foreigners " had devised a convenient method of avoiding the prohibition of staying in the Forest with their herds by night, or rather a workable scheme for avoiding the necessity of so staying. They constructed folds near the Forest, presumedly on the Commons of Devon ; the animals passed the night in these folds and depastured the Forest by day. And, as Abberbury asserts by the connivance of the foresters, they derived the further advantage that in place of a payment of 1½d. per head for their cattle they each paid but 2d. for " foldage " which covered the charge for all the animals. To this the foresters added another penny, making threepence in all, whereof the Duke received twopence and the foresters took the third penny. This was an extremely bad bargain for the Duke, and it is not surprising that John Dabernan, Constable of Lydford Castle and Receiver of the monies arising out of Dartmoor, at that time Steward of Edward Prince of Wales, ordered that the men having animals and folds should pay 1½d. yearly for every animal, like the rest of the foreigners, should be discharged of the payment of the 2d. for foldage, and incidentally discharged also of the payment of the penny which the foresters had kept. With that order " foldage " died ; but the auditors of the Duchy accounts, finding it entered in previous years, desired that Abberbury should still account for it ; hence Abberbury's petition, and the inquisition which freed him from the demand. A good instance of interested persons attempting, and for a time successfully, to vary an ancient custom.

THE MANOR COURTS.

While still a royal Forest, Dartmoor must have had a court of swainmote, the holding of which was, by the Charta Forestae, 1217, restricted to thrice in the year, namely in the beginning of fifteen days before Michaelmas, about the feast of St. Martin, and in the beginning of fifteen days before the feast of St. John the Baptist. No records of the swainmote courts appear to have survived, and in 1239 Dartmoor ceased to be a forest and became a chase. The first courts of which we have knowledge were the three weeks courts at Lydford (*73*) (*84*), and the courts held three times a year at the same place (*73*). Tne forest men were to come to both these courts ; the venville men appear to have been summoned to the court held thrice yearly, and not to the three weeks court, but some witnesses state that venville men might be called, individually, to the three weeks court (*87*) (*88*). What

were these respective courts ? They are variously described in the rolls as of " the manor of Dartmoor," of " the manor and forest of Dartmoor " and of " the manor of Lydford." Evidently manor courts, although there are instances of the heading of the roll being " Dartmoor, *curia legalis Foreste de Dartmoor tenta apud* Lydford."

In general there were two classes of manor court, the one a necessary incident of every manor, and known as the court baron, strictly requiring that there should be freeholders of the manor, but still held by use and custom where there were no freeholders, but only copyholders. This was, as its name implies, the lord's court and had jurisdiction in matters affecting the lord and his tenants. The second, the court leet, could only be held by charter, and in some manors. It was a court of record for the punishment of all offences against the Crown, under high treason, but not empowered to award punishment involving life and limb.

In early days at least the court baron was often held every three weeks, while courts leet were held three times a year. From the fact that the forest men, who were the customary tenants of manor, were required to attend the three weekly courts, while others such as the venville men as a body owed no such suit, it appears that these courts, although at times spoken of as " the Forest Courts, were courts customary, the equivalent of courts baron. But one can not readily believe that attendance was very regular ; there must have been many essoigns, or excuses. The inhabitants of Babeny and Pizwell had long been excused attendance at the parish church at Lydford, and permitted to attend for worship at Widecombe, Bishop Bronescombe having determined, on the evidence of credible witnesses, that it was eight miles from Babeny and Pizwell to Lydford in fine weather, and fifteen miles in time of storm, when tempest and overflows of water prevailed. It was certainly no less distance to the castle. It is true that they were only to attend in turn, three at a time (*88*). The venville men were to attend only when summoned, which was two, three or four times a year, but one witness says they were to take their rota of three-week courts) ; these courts to which the venville man came we know, from the rolls, to have been combined courts baron and leet. There were presentments of the deaths of customary tenants, naming the next heir (*147*) ; and surrenders of tenements, followed by the admission of new tenants (*123*). Decay of hedges and gates was reported ; and there were presentments relating to the Forest, such as mastiffs remaining unlawed (*109, 110*), that is to say without three claws of the forefoot cut off by the skin, or in the alternative the ball of forefoot cut out. And persons were presented for poaching (*114*).

On the other hand there were entries of misdemeanours which were not directed against the lord, but were presentable at the leet. For example, on the 21st September, 1586 (*137*), Humfrey Pitford sought remedy against John Thorn and Maria his wife in the matter of " quinque les Callacowe et hulland bands tres les handkerchiefs et unum les wollen wastecoatt," and the aforesaid John and Maria did not come to answer the aforesaid Humfrey in the matter of the plaint. Wherefore it was ordered that the Forester appoint two honest and lawful men to value the aforesaid goods, and he appointed accordingly William Gill and Thomas Batten, who being sworn, upon their oaths assessed the value at 6s. 8d. This was an ordinary civil case, in which the lord can not be supposed to have had any personal interest. It affords an excellent example of the strain put upon the latinity of the Steward, or the Bailiff and the consequent use of mixed tongues, low Latin, English and a sprinkling of Norman French articles.

The courts were not without their touch of pomp and circumstance. The Officials seem to have anticipated the British Broadcasting Corporation, by many years, in their taste for incidental music. At the Court held at Lydford on the 22nd September, 5 James I (*109*), the jury presented Abell Whitechurch, the Forester of the West part of Dartmoor, in that he neither had nor sounded his horn at that Law Court, and he was amerced two shillings, for according to custom he had ought.

TITHES, AND OTHER PAROCHIAL MATTERS.

The Forest appears at all times to have been regarded as within the parish of Lydford, probably as a matter of convenience in secular affairs. In such matters the Forest was a place to itself, the *Instructions for my Lord Prince*, clearly stating that " if a man die by misfortune, or be slain within the said Forest, mores and waste, the Crowner of Lydford shall crown and sit upon him, for the said Forest, moors and waste is out of every tithing " (*164*). It may be added that, if out of every tything, then also out of every hundred. The Forest did not fit in with the normal units of local government.

The same was to some extent true in matters ecclesiastical. Dartmoor as a royal forest was not titheable, but Henry III in 1236–7 granted to God and the Church of St. Petrock at Lydford, and the chaplain ministering in the same Church, whosoever for the time being shall be chaplain there, for his maintenance, the tithe of the herbage of the Moor of Dartmoor (*5*). Two years later Henry granted the Forest of Dartmoor to his brother Richard, Earl of Cornwall (*5*). The

Chase, as it now became, would have remained tithe free, but for the grant voluntarily made by Henry. We have the accounts of Edward, Earl of Cornwall ,for 1296–7. From this it appears that sixty shillings were paid to the parson of Lydford, as and for the tithe (*9*). Seeing that the receipts from the herbage of the Forest did not amount to thirty pounds (*10*) this may be taken to have been an equitable composition.

If sixty shillings is regarded as insignificant toward the living expenses of the parson we may compare it with the wages paid to the foresters and other officers. There were six foresters in the year 1301–2, who received 62 shillings between them (*11*), or at the rate of 10s. 4d. apiece ; while the stipends and food of twelve herdsmen, from May to August cost in all 66s. 6d. (*11*) or at the rate of 5s. 6½d. a head. In 1316–17, the stipend and keep of six foresters cost 42s., at the rate of 7s. a head (*13*). So that, on comparison, the parson's sixty shillings, which was a part only of his revenues, would not appear entirely inadequate.

This composition of sixty shillings became customary.

It is to be noted that when Bronescombe, in 1260 (ROWE, 267), attached the ancient tenements to the parish of Widecombe, for certain religious observances, he determined that Lydford should still be their mother church, but that the vicar of Widecombe should receive the tithe lambs. It nowhere appears that either the Crown or any other having interest in the Forest confirmed this decision.

As the years passed the parsons of Lydford became dissatisfied with the 60s. composition, and sought to increase their revenues by actions for tithes directed against individuals. It is noteworthy that in their pleas they do not mention the composition. The trouble began in 1610, when William Hunt the rector of Lydford filed a bill against parishioners of Sampford Courtenay, Whitchurch and Tavistock for the tithe of the agistment of sheep on Dartmoor and the Commons of Devon (*56–57*) ; the men were not his parishioners, nor were the Commons of Devon any part of his parish. Next year he followed this with another bill (*57*), against Gregory Newman the vicar of Walkhampton, and parishioners of Petertavy, Tavistock, Bickleigh, Bridestowe and Spreyton. Apparently Newman of Walkhampton was getting tithes which Hunt of Lydford considered should be his. Incidentally Hunt, in his replication, gives the information that the vicar of Widecombe had in fact received and still did receive the tithe lambs and the offerings of the dwellers in the Forest tenements, as determined by Bronescombe. Mr. Stuart Moore did not search for the verdict in these cases ; but we learn from the pleadings in a later case that, in or

about the year 1622, one Richard Harbin, a layman, having obtained a lease of the tithes of Lydford, brought a similar suit, which was either stayed by order or withdrawn (*80*).

Again, in 1625–6, a rector of Lydford, William Barber, was seeking to recover tithes, but this time in the Court Christian. William Northcote of Sampford Spiney brought a suit for the prohibition of Barber's suit in the Court Christian (*61*), and the Exchequer of Pleas granted the prohibition. Subsequently Northcote appears to have satisfied the law Barons, by sufficient witnesses, that no tithe was due. The judgement was not entered up, but the tithes were not paid. Barber was persistent, and brought another suit in the Ecclesiastical Court, whereupon William French and others filed, in 1627, a bill in the Exchequer (*62*). In 1630, an order was made to stay the proceedings in the Ecclesiastical Court, and that this cause should be tried at the assizes (*67*). The result has not been seen, but the pleadings in the later suit above referred to state that Barber's claim was dropped.

These various suits resulted, in one instance, in testimony by a witness as to the character of his rector. William Pellow, of Lydford, says of Barber that he keepeth a good house for the entertainment of his neighbours and the poor, that the poor were much relieved by him, and that he is a man of honest conversation, duly dischargeth his cure in preaching, and demeaneth himself well, and hath a great charge of children (*65*).

Parsons came and went, but the dispute as to the tithes remained. In 1682–3 we find Michel Man, John Hext and William French seeking to have Richard Pote, the rector of Lydford, restrained from bringing suits of law for tithes in the Forest (*76*). Their statement is that Pote well knew in his own conscience and by long observation that tithes in kind were not due, nevertheless out of a surly and greedy mind and humour and covetous desire to wrest and extort from them tithes which he well knew did not belong to him, he brings suit at law. Pote replies that he ought to have tithes from the plaintiffs, but that there has been a collection to prosecute him, and that he is thereby reduced to extreme poverty. The result is not known, but it does not appear that the tithes were ever paid.

The conflict was not ended, for, in 1689, David Birchincha, rector of Lydford, brought an action against certain parishioners of Lydford for tithes (*78*). In this action he was successful; and thereupon, in 1692–3 he brought a further action, this time against tenants in other parishes (*79*); there was no answer, so presumedly he succeeded. But two at least of the defendants would appear to have still refused to pay, and, in 1699 he filed another bill against these two, and other

defendants (*80*), with what success I do not know, but the claim against other than his parishioners may well have failed.

Still the matter was not effectively decided. Thomas Bernaford, rector of Lydford, found it necessary, in 1702, to bring an action against John Hext and others (*83*), claiming tithes in the tithable places in the Parish of Lydford, in the waste of Dartmoor, from thirty-five ancient tenements, and the newtakes thereto belonging. This action was vigorously contested, but ended in a finding for the rector, on the 10th June, 1706. I do not know what happened thereafter.

It is not for me to revise the decisions of the courts, but it is significant that the rectors met no success until the case came before tribunals which were far removed in date, and very possibly in knowledge, from the origin thereof.

The one happy feature of the whole dispute is the contribution to the history of Dartmoor, its tenants and its customs which can be derived from the voluminous depositions in the successive suits. That consolation is ours alone; it never softened the acerbity of the disputants.

WORKS OF REFERENCE.

LAW.

1607. Le Court Leete et Court Baron, *John Kitchen.*
1650. The Compleat Copy-Holder, *Sir Edward Coke.*
with which is bound :—
Relation between the Lord of the Manor and the Copyholder, *Charles Calthrop.*
1671. Les Termes de la Ley.
1672. *Manley's* Interpreter of Words and Terms used in the Law.
1743. The New Law-Dictionary, carefully abridged, *Giles Jacob.*
1756. Statutes at Large, made for the Preservation of the Game.
1876. Select Charters and other Illustrations of English Constitutional History, *William Stubbs.*

DOCUMENTARY EVIDENCE.

1848. A Perambulation of the Antient and Royal Forest of Dartmoor, *Rev. Samuel Rowe, M.A.*
1890. The Rights of Common upon the Forest of Dartmoor and the Commons of Devon, *Stuart A. Moore,* with Introduction by *Sir Frederick Pollock,* Bart., and a contribution by *Percival Birkett.* Dartmoor Preservation Association's Publications, I.