

Explanatory Notes to the Forest Charter.

AS there is very little difference between any of the Forest Charters, they being almost word for word alike, I shall explain them as in explaining the one set out, that of the first of King Henry III.

That some idea may be given of the immensity of this great question concerning forests, it will be but necessary to state that in the time when this Forest Charter was granted, the king possessed in all fifty-eight forests, thirteen chases, and seven hundred and eighty-one parks, all governed by laws of great hardship and oppression to the people, especially toward those who by their creation were deprived of what theretofore had been their homes.

Chapter 1.—Simply provides that the king shall return to their original owners all such lands as he or his ancestors had taken for the increase of his forests. All those lands which originally, and of right, belonged to the kings, were to remain in the forests.

Chapter 2.—This is a chapter which was originally inserted in the Magna Charta granted by King John, and forms part of that instrument. It was not inserted by Henry III. in his charter, as he reserved this for future consideration. This consideration had its result in the granting by him of the first Forest Charter itself, and this, of course, became one of its provisions. Before the first of the Forest Charters was granted, all persons residing in any county wherein there were forests were obliged to come before the court in that county, no matter where it was holden. But there were very many people who merely had *rights* in the

forests, or possibly owned a disforested portion of it, and yet did not reside in the county—possibly many miles away. To merely attend this court, which, in any case, was for ceremony only, was forcing upon them an onerous exaction, which this chapter of the charter cured.

Chapter 3.—Provides for a disforestation of all excepting demesne woods.

See, in addition, note to Chapter 1, and note to Chapter 25 of the Magna Charta, relating to Demesne Manors.

Chapter 4.—The term "woods in forests," might perhaps be a somewhat misleading one to many unacquainted with the language of these charters. The woods were only portions of a forest, a thick growth of trees standing by itself, and in the open, and not forming an area large enough in extent for a "cover" wherein a stag or a deer might hide.

The manner in which these woods were to be held is provided for, to be the same as they were held under the reign of Henry II., providing that such purprestures, wastes, or assarts as had been committed previously to the second year of the reign of Henry III., should be forgiven, but any later offences of a similar character should be answerable.

Just what these offences were must be explained.

Purprestures was the limitation put upon any man owning a part of the king's forest. By it he was prohibited from making any unlawful appropriation of it or a part of it. He could not erect buildings upon it, nor could he tear down any that were already there. If he did any of these things he was guilty of a purpresture, and was heavily fined. This purpresture was manifestly an offence which could only be committed by a freeman, one holding some property right in the forest.

For explanation of what is meant by *Waste*, see note to Chapter 4 of the Magna Charta.

An *Assart* is the digging of the soil, the ploughing of it, or using it in any manner for agricultural purposes, which was forbidden. As has been said in explanation of these three offences, "A purpresture would convert it (a forest) into a farm or a village; a waste would deprive the venison of their lairs and coverts; and an assart would destroy the vert and warrens by the ploughshare or harrow."

Chapter 5.—*Regarders* were officers in charge of the forest, were knights, appointed by the king, whose duty it was to go through the forests, and see that the laws concerning them were carried out. The manner in which this charter says they should go through the forests, refers to the law made governing the case by King Henry II.

Chapter 6.—It was anciently the custom that those persons who were tenants in the forests should be allowed for their personal safety to keep dogs, providing they complied with certain restrictions set down for them, or to use their own term, had been "lawed." This lawing was the cutting off of three claws from the fore feet so as to disable the dogs and prevent them from running the deer. For the enforcement of this provision all those dogs were to be brought before a court constituted for this purpose, once every three years. The penalty mentioned in this chapter for keeping an unlawed dog was three shillings, at that time a large sum of money and equal in value to an ox; and, as was the custom at that time, in default of the money fine being paid, an ox was formerly taken.

All these penalties were obliterated by this chapter.

Chapter 7.—*Ale-shots* were a collection taken by the Foresters and Bedels in charge of the Forests. These officers would frequently, in addition to performing their forest

duties, keep houses of entertainment for those who were allowed to hunt in the forests. This collection of ale-shot was a collection made for keeping and buying liquor to be distributed among the Foresters and Bedels, and was at one time a source of great annoyance, and it was oppressive. It amounted practically to a tax.

This chapter of the Forest Charter sets out fully what were meant as "evil customs," so mentioned in the great charter of John.

The further provision regarding the number of these officers is very important. At one time they were legion—existing in very great numbers. They were so many that, having no legitimate means of earning a living, they resorted to the exactions mentioned in this chapter, and which it cured.

To prevent these extortions they provided that the Regarders should appoint only a reasonable number of these officers, or as many only as were needed for the purpose, and no more.

A *Bedel* was an officer whose duty it was to summon the Forest Courts into session, issue warrants, and proclamations, etc.

Chapter 8.—*Swainmote* was an inferior court of the Forests. It was composed of the freeholders and other inhabitants of the forests. It was a court easily convened, and was on this account very unpopular, as it subjected the forest inhabitants to great inconvenience on account of its frequent summons, which, instead of being made thrice a year, were made continually.

By *Vert* is meant those separate parts of the forests composed of small undergrowth and of young trees, capable of holding in cover animals as large as the hart, the hind, and the hare.

The *Verderers* were the officers whose duty it was to look

after the protection of the Vert, and to see that it was not cleared away.

The Verderer was required by law to be a man of estate, a freeholder, and also learned in the law. All his inquiries were to be concerning the destruction of the Vert and the killing of the Venison.

The *Agistators* were officers whose duty it was to admit cattle to the pastures of the forests, and to see that they committed no harm to the Vert.

Pannage was the price or sum of money paid for the food that the swine ate while in the forest.

It may further be said in explanation of this chapter that all persons owning a part of a forest were allowed in it certain privileges. These privileges were the right under certain conditions to hunt and kill each year a certain number of animals which was prescribed by law. They also had the right of agistment and pannage; that is, the right to send into that portion of the forest owned by them their cattle for pasturage. This pasturage of cattle was called agistment, and the feeding of the swine was called their right of pannage.

It was customary that a Swainmote be held in the Forest every forty days for determining disputes relating to these questions. Instead of the Swainmote meeting every forty days, this charter changed its meeting to three times in the year.

Chapter 9.—This chapter gives the freeholder owning a part of a forest the right to drive his cattle through that portion of the forest belonging as of right to the king, for the purpose of his reaching his own holding further in. In thus driving his cattle and swine for their agistment and pannage, the cattle and swine were allowed to remain on the road for the period of one night without fine, as that was always considered a sufficient length of time for the cattle to be driven

to their pasturage. If they were on the road for a longer length of time than one night, then a fine was levied consistent with the damage done, which was to be ascertained by the Verderers, and reported by them to the Swainmote, which court assessed and collected the fine.

Chapter 10.—This chapter, so far as it reads, is too clear to require explanation as to its meaning. It was the first enactment which substituted the penalty of fine and imprisonment in lieu of death, the former penalty for violations of the laws regulating the forests.

Chapter 11.—Allows certain persons, not owning any of the afforested lands, who would not otherwise have any right to do so, to kill as many as two deer, providing it were done in the presence of a Forester. If he were not present a horn was to be sounded lest it should seem a theft; as any one passing silently through a forest was always looked upon with great suspicion, and liable to seizure and arrest.

Chapter 12.—The granting of this chapter was the greatest privilege accorded to those dwelling in the Forests. It was one of the privileges and rights they had been clamoring for, for many years, and not being able to get the privilege they then clamored for the disforestation of the forests so as to exclude their lands from the operation of the oppressive Forest laws. The only restriction placed upon this grant is that no harm shall result from their creation. If a dam were built so that it spread the water over vast warrens, a great harm would necessarily result and be the cause of complaint to the court for remedy.

Chapter 13.—The only grant of importance in this chapter is that portion of it relating to Honey. It was at that time a very valuable article of commerce and had a ready

market, being the only substitute the people at that time had for sugar.

Chapter 14.—*Cheminage* was a toll or a tax levied upon those having no right upon any pretext to go into the forests, for the right of way through the same. As it was necessary for tradesmen in the vocation of their business to pass in and out of the forests, this tax or toll was levied to prevent frequent trespass, as any trespass at all was sufficient to frighten the deer.

Chapter 15.—Is very short, clear and concise, and needs no explanation.

Chapter 16.—This chapter bears such great similarity to Chapter 14 of the Charter of King John, that the reader is referred to the note in explanation of that chapter in explanation of this one. The Great Charter of John took away from the constables and governors of castles the right to hold pleas of the crown, and this chapter takes away from the same class of men the right to hold pleas of the Forests, transferring such cases to the Chief Forester, or Justice in Eyre, as he was called.