

THE NEW FOREST DEER REMOVAL ACT, 1851, AND AFTERWARDS

By HEYWOOD SUMNER

Edited by G F LE PARD

INTRODUCTION by G F Le Pard

In May 1997 the library of the New Forest Ninth Centenary Trust received a collection of books and papers from John Southern. Amongst these papers was a typescript copy of an unpublished paper by the Hampshire archaeologist Heywood Sumner (1853–1940), entitled 'The New Forest Deer Removal Act, 1851, and afterwards'. The paper is clearly ready for publication, and one wonders why it was not printed at the time. With the paper is a copy of a letter from Lawrence John Cumberbatch Southern (father of John Southern, and grandson of Lawrence Henry Cumberbatch, the Victorian Deputy Surveyor of the New Forest) to Heywood Sumner, dated 5th September 1934. From this it can be gleaned that the paper was written between February 1928 and August 1934. Nearer the latter date is more probable as, in his later life, when he found it more difficult to get out and about, Sumner seems to have concentrated on various projects which could be studied by correspondence or library research. For example in 1936 he was studying 18th-century Church-

wardens accounts of payments for killing vermin. The following paper is just such a piece of work, and could have been researched and written without ever leaving the study at Cuckoo Hill. If this is so, then it is the last paper that Sumner ever completed, and post-dates the two essays, probably written in 1933, which were included in *The Book of Bournemouth* (Watson Smith 1934).

The letter from L J C Southern which is attached to the paper, indicates that the typescript is a copy of Sumner's original, and describes it as being 'badly typed'. For this reason it was decided to correct certain obvious spelling mistakes before publication. On the other hand the punctuation and capital letters have been left unchanged, even though the use of the latter is rather inconsistent, particularly in regard to the word 'Forest'. These inconsistencies would undoubtedly have been corrected in the proof stage, but rather than guess what Sumner would have done, it was decided to publish the paper otherwise unaltered.

THE NEW FOREST DEER REMOVAL ACT, 1851, AND AFTERWARDS by Heywood Sumner, FSA

Bygone Acts of Parliament, and Reports of Select Parliamentary Committees appointed to enquire into this or that burning question, are not generally read once, twice & again. Their frequent fate is – to be kept for reference, i.e. put away in some out-of-the-way cupboard; then, as years multiply, and controversial fires have died down to cold ashes, they are forgotten and buried beneath fresh accessions – also kept for reference; while finally,

such dusty accumulation of old Acts and Reports may be condemned for clearance by a callous-minded inheritor.

The following paper aims at removing some of the dust of oblivion from the undermentioned New Forest Acts and Reports that should be better known than they are, for they explain the remarkable change of opinion from imminent disafforestation in 1868, to statutable preservation in

1877; and record the ultimate victory obtained by the Commons & the Public.

The following are the Acts & Reports referred to:-

'The New Forest Deer Removal Act, 1851'.

'The 1868 Report' of the Select Committee of the House of Lords appointed to inquire into the Operation of the said Act.

'The 1875 Report' of the Select Committee appointed to inquire into and report upon the present Condition of Affairs in the NEW FOREST, into the Operation of the DEER REMOVAL ACT 1851, and particularly into the exercise & effect of the Powers of Inclosure given by that Act.

'The New Forest Act 1877'

'The Report of the New Forest Advisory Committee' to the Forestry Commissioners, 1928.

The various prevailing opinions that brought about the passing of the Deer Removal Act appear to have been,

On the part of the Crown, i.e. the Treasury, - a desire for economy, as the maintenance of a herd of 2,000 to 4,000 deer involved considerable expense;

On the part of the Commoners, - an expectation of more pasture resulting from deer removal;

On the part of the Landowners adjoining the Forest, - an expectation of less expense in maintaining their Forest Boundary fences owing to deer removal.

The acts referred to above repay study, & are dryly informing; but the Reports are full of varied interest, and the Minutes of Evidence given by witnesses called before the Select Committees mark the different characters of Select Committeemen, of Crown Officials, of Landowners, of lawyers, of surveyors, of commoners & of Forest lovers. The questions, - by whom put; the replies, - by whom answered; the verbal thrust & parry between antagonist & protagonist; the clash of opinion; the feints to avoid awkward admissions, all these twists & turns supply unflagging interest in perusing these Minutes, - while further we learn how nearly, at one time, the New Forest came to disafforestation.

'The New Forest Deer Removal Act, 1851', begins with a preamble stating the Persons having Rights of Common etc., & Persons having Estates

adjoining the New Forest would be greatly benefited by the Removal of the Royal Deer within the said Forest; and that Her Majesty had signified her Intention to give Direction for their Removal with all convenient speed, & to consent to the Extinguishment of the Crown Right to stock the said Forest with Deer in consideration of the Compensation herein-after stated; and that by an Act of King William III, 1698, and by the Act of King George III, 1809, Her Majesty is empowered to inclose 6,000 Acres in the said Forest, and when the trees therein have grown to be past Danger of Browsing to lay open, and other lands of equal Quantity to be thereupon inclosed in lieu thereof:

'May it be enacted by the Queen's Most Excellent Majesty:-

- | | |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section I | Deer to be removed with Two Years. |
| Section II | The Right to keep Deer in the said Forest to cease. |
| Section III | In lieu of such Right, Her Majesty empowered to inclose not exceeding 10,000 acres in addition to the 6,000 acres already inclosed |
| Section IV | Such Inclosures to remain in Severalty in the Possession of the Crown, freed from all Rights of Common & other Rights |
| Section V | When Trees within the Inclosures are past Danger of browsing of Cattle etc., such Inclosures to be thrown open, & new Inclosures made in lieu thereof |
| Section VI | Direction as to defraying Expenses of Inclosures |
| Section VII | Saving Her Majesty's Rights, except as regards keeping of Deer |
| Section VIII | Power to Commissioners of Woods, etc. to lease parts of the New Forest |
| Section IX | Her Majesty may grant Licences to sport over the New Forest |
| Sections X to XLI | Refer to Claims to Common of Pasture, of Turbary, of Estovers & Rights of Pannage, & to dig Gravel, Sand & Marl, & |

cut Furze Heath & Fern: and to the compilation of a Book of Claims that have been allowed according to the terms of this Act'

Section XLII
Section XLIII

Clark to Verderers
Extent of Inclosures on behalf of Her Majesty (300 acres at least).

When the above Act was passed, the deer in the Forest were estimated at about 2,000 in number, & during the next two years, their doom of removal was carried out.

At the end of such time, the deer were held to have been removed as the Act directed – but a remnant had escaped to the large woodlands on the northern & western sides of the Forest, and their descendants still occupy the forest haunts that have belonged to this unique breed of fallow deer from time immemorial; indeed, they would soon multiply to their former numbers if they were not kept down by the buck-hounds, and by the keepers' buck-shot.

As years went on, it was found that the removal of the deer had not benefited the feed, – as was expected; rough herbage & young holly, on which the deer fed in winter were now invading the lawns.

Although the deer had been removed, and the Crown Right to keep deer in the Forest had ceased, the Crown Officials still claimed the right of 'Fence Month' (a fortnight before, and after, Midsummer Day) for exclusion of commoners from the Forest when deer were supposed to be fawning – and of 'winter heyning' (Nov. 11th to Apl. 23rd) for exclusion of commoners from the Forest at a time when deer-feed was scanty. Both of such rights the commoners claimed had ceased with the deer removal.

Commoners further protested against what was called the 'rolling power', claimed by Crown Officials under Section V, Deer Removal Act 1851, which, in time, would have resulted in the whole forest area being covered with planted inclosures.

Complaints were also made as to the large size of the new Inclosures made under the Act, –creating difficulties of cattle access to feeding

grounds; and also as to insufficient notice given respecting where such new inclosures were going to be made.

Commoners had various other complaints, which may be summed up in, 'Dissatisfaction with the working of the Deer Removal Act 1851.'

Crown Officials, on the other hand, repudiated these complaints of the commoners, saying that if they were not allowed to operate the 1851 Act according to their own interpretation, they would advocate disafforestation.

Such was the state of affairs in the New Forest after 17 years had elapsed since the Deer Removal Act had been passed in 1851. Accordingly, in view of this conflict of opinion between the Crown Officials & the commoners, a Select Committee of the House of Lords was appointed in 1868, to inquire into, and report upon the Operation of the New Forest Deer Removal Act 1851.

This Committee held 6 meetings, and examined 14 witnesses, – of the varied types mentioned above, 1102 questions being asked, & replies given. The resulting Reports cautiously admitted that there was substance in the complaint of the commoners, acknowledged that under the Crown Officials' interpretation of the 'rolling power', plantations would in time extend over the greater portion of the forest, and then finally concluded as follows:-

'The interests of the Crown & of the Commoners are at variance, and there must be a perpetual struggle of conflicting interests.

'The Committee are of opinion that the effective remedy for this unsatisfactory state of affairs will be found in the adoption of the course pursued in regard to other Royal Forests.

'This course consists in the appointment of a Commission for the purpose of allotting to the Crown certain portions of the Forest in fee, freed from all common rights, and leaving the residue to the commoners to deal with in such manner as they may think best. The subject is one of a difficult and delicate nature, and full opportunity should be given to all parties interested to make representations which should be fairly and impartially considered. It is desirable in the interest of the commoners that the Crown should take all

existing inclosures as a portion of the allotment for the rights of the Crown, and that the allotments for the Crown should be made in such portions & situations as may least interfere with the convenience of the resident commoners.'

It should be noted that the above remedy of disafforestation only expressed the bare majority opinion of the Committee, - 6 members were in favour of while 5 members were against, disafforestation (see 'Proceedings of the Select Committee', p.XII in the 1868 Report).

In 1871, the Honourable Kenneth Howard, Commissioner of Woods, having the management & direction of the New Forest, promoted a Bill to disafforest the New Forest in the same manner as had been carried out in other, but smaller, Crown Forests. This Bill, which was duly prepared & introduced into Parliament, was withdrawn on the 10th May, 1871; but on the 20th June, 1871, the House of Commons passed the following resolution proposed by Mr Fawcett:-

'That in the opinion of this House, pending legislation on the New Forest, no felling of ornamental timber, and no fresh inclosure should be permitted in the New Forest; & that no timber whatever should be cut, except for the purpose of thinning the young plantations, executing necessary repairs in the Forest, and satisfying the fuel rights of the commoners.'

The passing of this resolution shewed that in the interval between 1868 & 1871, public opinion had been aroused by the 1868 Report; that the commoners had found a valuable ally in the public; that legislation on the New Forest was now pending; and that disafforestation was no longer in the ascendant.

Accordingly, in 1875, a Select Committee was appointed 'to inquire into and report upon the present condition of affairs in the New Forest, into the operation of THE DEER REMOVAL ACT 1851, and particularly into the exercise and effect of the Powers of Inclosure given by that Act.'

The last paragraph of the above term of reference was founded on the unfavourable impression aroused by the Crown Officials' claim to carry out the Deer Removal Act according to their own interpretation, to the patent detriment of common-

ers' rights, cf. Minutes of the 1868 Select Committee of the House of Lords, p17,

Q. 129 - Viscount Eversley, 'You complain that the method of making Inclosures amounts, as you say, to a confiscation of your property, will you state in what way?'

W.C.D. Esdaile Esq.

- 'Because in the first place we find that the Crown claims the power of taking the acreage over which they have the power of planting *ad infinitum*; they say, 'when we take 6,000, we may take 6,000 more; when we take 6,000 more, we may take 6,000 more and so on *ad infinitum*; and then the Deer Removal Act is a simple amplification of that power by adding 10,000 acres; therefore the position of the Crown, as it is claimed (I put in those words advisedly), is, that they have 16,000 acres to take in and fling out as often as they please; I do not think that we should have the slightest difficulty in proving to your Lordships that must end in total confiscation'

(The above reply describes the 'rolling power' Crown claim, mentioned before)

Again, a most unfavourable impression was caused by the following Crown Officials' policy as advocated by Mr L.H. Cumberbatch, Deputy Surveyor, in a letter addressed to the Hon. Kenneth Howard, one of the Commissioners of Woods, Dec. 31st, 1853, in which the following passage occurs:-

'It appears to me to be important that the Crown should, as soon as possible, exercise its right of inclosing the 16,000 acres, because, exclusive of other advantages, by so doing all the best pasture would be taken from the commoners, and the value of their rights of pasture would thus be materially diminished, which would be of importance to the Crown in the events of such Rights being commuted' (i.e., in the event of disafforestation).

This Machiavellian policy did not suggest that 'the interests of the Crown would be carried on, on a fair system with the Commoners',² and even yet

lower depths were reached in reply 355, below, -
cf. 'Minutes of the 1875 Select Committee',

- Q,349. Lord Henry Scott. 'Has your attention ever been called to the letter that was written by the deputy surveyor on the 31st December 1853?'
The Hon Kenneth Howard 'On what subject?'
350. 'You will find it in the Report of the Committee on Crown Forests in 1854, as to the policy which was to be adopted with regard to the forest.'
'Yes, I know it very well.'
351. 'That was alluded to in 1868, was it not?'
352. 'Yes.'
353. 'Has any answer ever been made to that letter?'
354. 'I believe that Mr Cumberbatch answered that before the Committee of 1868, he was asked a question upon it.'
355. 'But I mean, was any answer sent from the Office of Woods?'
356. 'I do not know, I never knew of any.'
357. 'You know the sentence that I allude to, I suppose?'
358. 'Yes.'
359. After quoting the sentence from Mr Cumberbatch's letter set forth above, Lord Henry Scott added, 'Do you think that is a fair policy to adopt towards the commoners in the Forest?'
360. 'I think it was good advice for the deputy surveyor to give to his employers; but he had better have done it *viva voce*.'
361. 'Has that policy ever been repudiated by the Wood & Forests?'
362. 'I do not see how it could. By the Act of Parliament, we must take the land best adapted for the growth of timber; that is the first thing, the most convenient & best adapted for the growth of timber; and then after that comes 'that can be best spared from the commons and highways', but we were to take the land best adapted for the growth of timber.'
363. 'You are not disposed to repudiate this sentence of Mr Cumberbatch's letter of 31 December 1853?'
364. No, I do not repudiate it, I only say it had better not have been printed.'

359. 'Do you mean to commit yourself to this statement, that the Crown should exercise the right of inclosing 16,000 acres, 'because, exclusive of other advantages, by so doing all the best pasture would be taken from the commoners, and the value of the rights of pasture would be materially diminished?'

'In answer to that I say, that the Crown Officers are bound to take the land best adapted for the growth of oak, and the land best adapted for the growth of oak is certainly that best adapted for pasture.'

I think that the above extracts explain the commoners' complaint that Crown Officials' management of the Forest since the passing of the Deer Removal Act, 1851, aimed at diminishing the value of the commoners' right of pasture, and although this unfair policy was stopped by the subsequent Act of 1877, suspicious memories lingered on, and have only gradually been dispelled.

The 1875 Select Committee held 11 meetings, & examined 21 witnesses of the varied types mentioned above; 3770 questions were asked & replies given. The reader of the Minutes of Evidence will probably come to the conclusion that the case for the commoners, & for the public, was much more convincingly stated than was that for the Crown Officials, & the Select Committee's uncompromising Report supports such conclusion:-

REPORT

THE SELECT COMMITTEE appointed to inquire into and Report upon the present Condition of Affairs in the NEW FOREST, into the operation of THE DEER REMOVAL ACT 1851, and particularly into the exercise & effect of the Powers of Inclosure given by that Act; HAVE considered the matters to them referred, and have come to the following RESOLUTIONS, which they have agreed to report to the House:-

THAT the New Forest shall remain open & uninclosed except to the extent to which it is expedient to maintain the existing right of the Crown to plant trees.

THAT the ancient ornamental woods and trees shall be carefully preserved, and the character of the scenery shall be maintained.

THAT powers of inclosure conferred by Statute shall be exercised only on that area which has hitherto been taken in at various times, and been either kept or thrown out under the Acts 9 & 10 Will.3, c.36., 48 Geo.3.c.72, and the Deer Removal Act 1851.

THAT the Crown should retain the power of keeping 16,000 acres of growing timber & trees planted under the Acts of William III & 1851, at all times under inclosure; and that the Crown be entitled to inclose & throw out at will any portion of the area over which the powers of planting are to be exercised, with a view to its unrestricted use in such a manner as may be deemed expedient for the most profitable growth of timber and trees; but that the rolling power over the open portion of the Forest not now planted or inclosed under the Acts of William III, or 1851, should cease.

THAT a nominal quit rent be charged by the Crown to the commoners for the exercise of the right of common during fence month & winter heyning; provision may be made, if possible, for the payment of such quit rent by some body representative of the commoners.

THAT the Verderers' Court be reconstituted so as to better represent the commoners, and to have power to regulate the exercise of commoners' rights over the Forest, and to appoint officers to prevent encroachments on them.

THAT all the rights of the Crown reserved under Acts of William III & 1851, except as herein suggested that they should be modified, be maintained.

THAT provision be made in the event of any future severance of interests in the Forest between the Crown and the commoners, the limitations now proposed to be placed on exercise of rights of the Crown should in no way prejudice the claims of the Crown.

16th July, 1875.

Thus was the way prepared for embodying the above Resolutions of this 1875 Report in 'The

New Forest Act 1877', and for the first time in its history was forest beauty recognised as an asset for statutory preservation.

The Act contains 39 clauses, of which the first 9 are quoted below in full, and the remainder, that apply mainly to the amended constitution of the Court of Verderers, omitted.

CHAPTER CXXI

AN ACT to amend the Administration of the Law relating to the New Forest in the County of Southampton; and for other purposes.

23rd July 1877

BE IT ENACTED by the Queen's most Excellent Majesty, by & with the advice & consent of the Lords Spiritual & Temporal, & Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary

1. THIS ACT may be cited for all purposes as 'The New Forest Act 1877'.
2. THE ACTS mentioned in the first & second columns of the following table are in this Act referred to by the short titles set forth in the third column of the said table in reference to such Acts respectively.

Table of Acts

Year of Act	Title of Act	Short title by which Act referred to in this Act.
9 & 10 Will III. c.36 AD 1698	'An Act for the increase & preservation of Timber in the New Forest in the County of Southampton'.	Act of 1698.
Geo III. c.72 AD 1808	'An Act for the increase and preservation of Timber in Dean & New Forest'.	Act of 1808.

14 & 15 Vict.
c.76 AD 1851

'An Act to extinguish the Right of the Crown to Deer in the New Forest and to give compensation in lieu thereof & for other purposes relating to the said Forest'.

Act of 1851.

3. 'THE FOREST' means, for the purposes of this Act lands whereof Her Majesty is seised in her domain as of fee, subject to the rights of commoners therein or thereover, situate within the boundaries of the New Forest in the county of Southampton, including all such lands as may at the commencement of this Act be inclosed in pursuance of any commission issued in pursuance of the Act of 1698, the Act of 1808 & the Act of 1851, or any of such Acts. Register of common rights made in pursuance of the Act of 1854 'means the register of the decision of claims of rights of common & other rights in & over the New Forest made by the Commissioners acting under the Act of the seventeenth & eighteenth year of the reign of Her present Majesty, chapter forty-nine, entitled "An Act for the Settlement of Claims upon & over the New Forest."'
4. THE EXPRESSION 'HER MAJESTY' includes the heirs & successors of Her Majesty, and the expression 'The Commissioners of Woods' means the Commissioner or Commissioners of Her Majesty's Woods, Forests & Land Revenues, or such one of them as may for the time being have the management or direction of the New Forest.
5. EXERCISE OF RIGHT OF INCLOSURE
The right of Her Majesty to inclose any lands in the Forest for the growth of timber or trees, in pursuance of the Act of 1698, the Act of 1808, & the Act of 1851, or any of such Acts, shall be exercised only on such lands as are at the date of the passing of this Act inclosed, or as have previously to such date been inclosed, by virtue of Commissions issued in pursuance of the said Acts, or some of them.
6. WITH RESPECT TO THE LANDS IN THE FOREST which are at the date of the passing of this Act inclosed by virtue of any such Commission as aforesaid, it shall be law-

ful for Her Majesty, from time to time, without the issue of any Commission, & when & in such manner & as often as to Her Majesty seems meet, to cause any part of such lands to be inclosed, planted, laid open, replanted, or reinclosed; provided that the whole quantity of such lands under Inclosure does not exceed at any one time sixteen thousand acres.

Provided also, as respects the lands in this section mentioned, that in cutting timber or trees for improving the woods, or for sale, care shall be taken to maintain the picturesque character of the ground, and not wholly to level or clear the woods, but to leave from time to time a sufficient number of the most ornamental trees; and to keep the woods replenished from time to time by protecting the self-sown plants, and by planting trees in the vacant spaces, having regard to the ornamental as well as the profitable use of the ground. One month's previous notice shall be given to the Verderers by the Commissioners of Woods of their intention to inclose, lay open or reinclose any lands which Her Majesty has power to inclose under the provisions of this Act, but the Verderers shall have no power to object to any such inclosure, laying open, or reinclosure.

7. ANY PART OF SUCH LANDS as may for the time being be inclosed shall be appropriated to growing timber and trees, and it shall be lawful for Her Majesty to plant in such inclosed part any timber or trees which may be thought expedient, & during the time that it seems meet to Her Majesty to keep such parts inclosed for the growth & preservation of timber & trees, such part shall remain in severalty in the actual possession of Her Majesty, free from all rights of common, and from all other rights, privileges, & claims whatsoever, except a right of the public to use any public highway which may traverse the said lands.
8. THE ANCIENT ORNAMENTAL WOODS & TREES in the Forest shall be preserved, & except insofar as is provided by this Act, the Forest shall remain open & uninclosed,³ & wood shall be provided for the satisfaction of fuel rights without the sacrifice of ornamental timber.
9. FENCE MONTH AND WINTER HEYNING
In consideration of a payment to Her Majesty by the Verderers on behalf of the commoners

of the sum of twenty shillings on or before the fourteenth day of January in every year as an acknowledgement of the absolute rights of Her Majesty to enforce the fence month & winter heyning, it shall be lawful, unless otherwise provided by Parliament, for any person entitled to any right of pasture in the Forest, to exercise such right during the time of the fence month & during the time of the winter heyning, subject nevertheless to such limitations & restrictions in respect of such right of pasture during the time of winter heyning as may be imposed by any byelaws made in pursuance of this Act; (Followed by para. as to default).

- 10. Refers to sale of intermixed lands.
- 11. Refers to appropriation of a certain balance.
- 12 & 13 Refer to the saving of certain Crown Rights.
- 14 to 39 Refer to amended constitution of Court of Verderers.

Such are the provisions of the New Forest Act 1877— the latter day Chartâ de Forestâ of the commoners & the public, — that does not favour disafforestation — & that has in practice fulfilled the opinion of Lord Henry Scott (afterwards Lord Montagu), 'that the interests of the Crown might be perfectly well carried on, on a fair system with the commoners, without an Inclosure Act (i.e. disafforestation, cf. Report of 1868 Select Committee, 466 & 469);' and in spite of official forebodings, the Act has justified, & is justifying, the foresight of its promoters.

In recent years, 1925–1926, tree-cutting was carried out in the Crown Inclosures of Pitt's Wood, & Burley Old that contravened the directions contained in Section 6 of the 1877 Act. In both instances, areas had been cut 'smack smooth'; complaints were made, & the late Lord Lovat, who was then Chairman of the Forestry Commission, held two meetings on the spot at Burley Old, & one at Lyndhurst on January 12th 1926, with result that a New Forest Advisory Committee representing the Verderers, the New Forest Association, the National Trust, & the Commons Preservation Society, was appointed to confer with the Forestry Commissioners as to the future treatment of the Crown Inclosures, with special reference to the maintenance of forest beauty.

The Forestry Commissioners held numerous

Meetings with the above Advisory Committee on the various New Forest Crown Inclosure areas, and eventually, on the 20th January, 1928, at a meeting held at Brockenhurst, the following report was presented by the Advisory Committee, & after full discussion, concessions were agreed as set out in the list below. (The report of this meeting is taken from a typed copy that was sent to each member of the executive committee of the New Forest Association).

NEW FOREST

THE REFERENCE TO THE ADVISORY COMMITTEE was as follows:-

'To advise the Forestry Commissioners as to the selection & special treatment of areas within the inclosures of the New Forest which are of outstanding picturesque interest.'

A MEETING between the Forestry Commissioners & the New Forest Advisory Committee was held at Brockenhurst on the 20th January 1928, to discuss the report of the Committee on areas which they had selected.

There were present:-

Lord Clinton, (Chairman)	}	Forestry Commissioners.
Sir Hugh Murray,		
Mr R L Robinson,		
Mr L S Osmaston,		
Lord Forster, (Chairman)	}	New Forest Advisory Committee.
Lord Montagu,		
Miss Clough,		
General Powell,		
Major Darling,		
Colonel Cecil,		
Major Buxton,		
Mr Roby,		
Sir David Prain was unable to attend.		

REPORT OF THE NEW FOREST ADVISORY COMMITTEE to the FORESTRY COMMISSIONERS

We have visited the various Inclosures and append a schedule of the area which we consider should be reserved for special treatment.

In selecting the areas referred to, we have been influenced by the following considerations which apply to the future as well as to the present:-

1. The value of the area in the landscape.
2. The intrinsic beauty of the wood & its accessibility.
3. The use made of it by the public.
4. Its situation in the Forest & its relation to the inclosures & woods in its neighbourhood.
5. Its special value to those who lie near it, e.g. Raven's Nest, Godshill, Setthornes, Ober Corner, Aldridge Hill.

We desire to make it clear that while we have selected areas for special treatment in accordance with the terms of reference, we have neither the wish nor the power to vary or modify the provisions of the New Forest Act of 1877, relating to the picturesque character of the Forest & the ancient & ornamental timber within it.

We think that much, if not all, that we have selected would, or should, have been preserved under the Act, but we have included all these areas so as to avoid any question of this sort arising.

We welcome the explicit declaration of Lord Clinton at the Meeting of the Forestry Commissioners with the Advisory Committee on the 14th October 1927 that the proper interpretation of the Act was that the amenity of the New Forest was the first object of management & that consideration of profit should take a secondary place.

We welcome also the policy of the retention of belts & the statement that the belts may be replanted when possible with broad leaved trees.

We consider also that Yew, Chestnut, Service & Crab Apple trees are of such value from the picturesque point of view that they should receive special consideration in the groups to be preserved.

Lord Clinton, in opening the proceedings explained generally the views of the Commissioners, & discussed the areas recommended for selection by the Advisory Committee, giving sympathetic reception to their report.

Mr Robinson felt that it was not impossible to reconcile amenity with economic forestry provided that the principles underlying both were clearly comprehended.

Lord Forster, on behalf of the Advisory Committee, thanked the Commissioners for the answer they had made to the report of the Advisory Committee & hoped that the more friendly feeling which had been created between the parties concerned would continue.

A general discussion followed.

The areas proposed by the Advisory Committee to be selected for special treatment were next considered in detail, inclosure by inclosure, & agreed as stated in the appended list.

The total area agreed for special treatment exclusive of reservations such as roadside & other belts to be left in the ordinary course of management amounts to nearly 1,100 acres. It is estimated roughly that the belts may amount to about 500 acres.

The agreement so arrived at will be incorporated in the revised working Plan which will be for the 10 years 1929-39. In view of the difficulty of forecasting events for a longer period, the Advisory Committee will be consulted when the time falls due for a further revision of the working plan.

Further meetings are to be held from time to time between the Commissioners & the Advisory Committee to discuss the special treatment of the areas which have been agreed for selection.

Notes on Objects & Methods of Management to be contained in the revised Working Plan 1929-39 & the following agreed list of Inclosures to be selected for special treatment, are appended to the above type-script account of the Meeting on Jan. 20th 1928 between the Forestry Commissioners & the New Forest Advisory Committee.

SUMMARY OF AREAS AGREED BY THE COMMISSIONERS & THE ADVISORY COMMITTEE FOR AMENITY TREATMENT

Areas selected for Special Treatment

<i>Name of Inclosure</i>	<i>Acres</i>
Shufers	3
Denny	110
Wood Fidley	20
Hawkhill	11
Knightwood	80

Vinney Ridge	29
Dames Slough	15
Long Beech	70
King's Garn	3
Coppice of Linwood	50
Ocknell	248
Old Sloden	91
Pitts Wood	111
Burley Rails	1
Puckpitts	26
S. Oakley	37
Highland Water	59
Ober Corner	6
Burley Old	108

Inclosures in which special attention will be paid to the reservation of belts of standing trees:-

Wilverley, Burley New, Roe Wood, Stockley, Amberwood, Holmsley, Rhinefield Sandy.

Inclosures subject to limited or unusual treatment.

Broomy, Holly Hatch, Bratley, Raven's Nest, Godshill, Anderwood, North & South Bentley, Salisbury Trench

(Yew, Chestnut, Service & Crab Apple trees to receive special consideration in the groups to be preserved)

The agreement thus reached was a real achievement & greatly to the credit of all parties concerned, to whom our appreciative thanks are due, and rendered; while further, we owe thanks to the Forestry Commissioners, & specially to Sir Hugh Murray, the Commissioner in charge of the management of the New Forest, for the small experimental inclosures that they have made in the decaying areas of Old Sloden, - an area is within the Sloden Crown Inclosure & also without! It was not included in the reinclosure & planting of 1864 for the sake of preserving the beautiful yew groves here (cf. 1875 New Forest Report, p. 93-1077).

Natural regeneration of oak, beech, birch, yew & scots pine, are now beginning to show good results within these small inclosures, and give promise that in a few years they may shew (if difficulties can be overcome) that such methods would help to re-stock decaying areas of other old woods, in time, to supply ornamental trees, & maintain the character of the scenery according to the intention of the New Forest⁴ Act 1877.

Heywood Sumner

LETTER TO HEYWOOD SUMNER

by L J C Southern

Sept. 5th 1934.

Dear Mr Sumner,

I am afraid you will think I have kept your article too long; but I found it very interesting, and wanted to take a copy, not only of our article, but also of the principles laid down by the N.F. Advisory Committee, and waited until I could do so. I hope you will forgive my liberty in taking a copy; I do not know whether a rather unpleasant carbon copy might perhaps be of any use to you, so I enclose it; if you find it too nasty you can destroy it; it is badly typed.

Your article told me many things I wanted to know, and will be of permanent value to me. As soon as I had seen you, I wrote to London and received, by return, a copy of the 1875 Report from the Stationery Office, which I have read through (with a little skipping of the legal parts), and found surprisingly interesting, not only from the point of view of the Forest but also, as you say in your article, from the wordy fencing which appears so clearly.

The policy of the Crown, so fortunately exposed by my grandfather's letter, after 1851, does appear quite inexplicable. It is difficult to understand why Crown Officials, who had no financial incentive, should have taken such a lop-sided view of their duties as regards planting trees and growing timber in the Forest; and, at all events in these liberal days, no less extraordinary that they should have been so blind to the interests of the public & the commoners.

My grandfather's letter is very demanding, but he was certainly not more than 23 years old when he wrote it, and must have only echoed the policy which had been instilled into him from above. He certainly had a great love of the Forest, odd though that may appear, and one is surprised that in twenty years he had not learned to repudiate such a letter. Of course, Mr Howard & Mr Clutton were great friends of his, and they always had, I believe, a great regard and affection for him, and supported him with great loyalty till his retirement.

His attitude towards the commoners is equally inexplicable, since my aunt, Miss Cumberbatch, who lives at Brockenhurst, his second daughter, tells me he was always understood to 'stick up' for the commoners; and I myself have always heard him mentioned with affection by the forest men who worked for him.

It is interesting that many of those who were most vehement against the Crown policy were, I believe, old friends of his. Mr Lovell's wife, Lady Rose, was a great friend of my grandmother; and I have always heard my mother talk of Mr Esdaile, of Burley, and some of the other witnesses as if they must have been at all events close acquaintances.

He began his career as a clerk in Cluttons' office in London, so may have imbibed the 'Crown' ideas there, and was ready with them in 1853, 4 years after he came to the Forest.

WOOD FIDLEY. I rode there the other morn-

ing, I believe the first time I was ever there, and was very greatly impressed with the free-growing beeches; one, just on the far slope of the hill and to the left of the ride across the top, was almost awe-inspiring with so great a mass of solid trunk clean to within a very short distance of the top, and many others were almost as fine. Both this and the 'clumps' of old trees left do lose definitely by being surrounded by masses of smaller and quite different trees; perhaps psychologically by being in an inclosure, and perhaps actually by having smaller undergrowth and young trees underneath them. Mark Ash gains greatly in appearance by being so clean underneath; there can be few woods so beautiful in the world. It is very curious that the Officials were predicting 60 years ago that in 50 years Mark Ash would be almost gone. I can remember it for 30 years with very little change, and you for more, as I think you have said somewhere ('Local Papers').

Please do not give yourself the trouble to answer this verbose letter; I hope you may forgive both my using a type-writer (which is really for your benefit hardly less than my own) and my having taking a copy of your article, which indeed I should be happy to send to you if you would prefer to keep it.

With many thanks,

Yours very truly,
[L.J.C. Southern]

DISCUSSION by G F Le Pard

Heywood Sumner was a remarkable many-faceted man, and this paper is the result of several of his interests. He had been trained as a lawyer and was called to the bar in 1879. He never practised, however, choosing instead the career of an artist. He had a great love of trees and there are very few of his drawings, or even archaeological site plans, which do not include at least one tree. His delight in the New Forest is well known, and he was fascinated by all aspects of its history, both ancient and modern. In fact he probably knew the New Forest and its inhabitants as well as any person then living.

It was this love of trees which was, I suspect, partly responsible for the writing of this paper. His essay 'Trees and Anno Domini' (1931), is a celebration of trees;

There is a curious sense of personality that seems to emanate from old trees ... Rooted below, wind-blown and bird-haunted above, they fulfil their constant succession of bud and leaf of flower, fruit and seed, year after year, century after century; accepting elemental changes and chances, sunshine, rain, drought and storm, with persistent will to live, to grow, and to make the best of things.

one cannot gaze on a fine old tree without reverence – the reverence due to achievement, to age, to a span of life so infinitely greater than that of any other living thing.

In this essay there is a section entitled 'Of Cutting'. Here he describes recent (to him) fellings in the New Forest;

The cutting in Amberwood was begun in 1916–17, when a large clearance was made of oaks planted in 1815 [it] continued along the belt of fine Scots pine that screened the oak plantation towards the West and North-West – leaving only a thin windscreen rank of pines along the verge of the wood. The result of this changes the landmark of Amberwood. It used to tell as a dark mass of trees rising up to and crowning the top of Gaze Hill; it now tells, in silhouette at a distance, as a continuous, grid-iron-like (trunk) appearance, surmounted by a dark band of foliage.

The cuttings in Pitt's Wood of the fine oaks that worthily commemorated the name of John Pitt is unqualified loss from the forest-lover's point of view. The forest landmark ... was cut 'smack smooth' These cuttings have ignored section 6 of the 1877 New Forest Act. [Sumner then describes briefly the resultant controversy, and the formation of the New Forest Advisory Committee]

This is as critical as Sumner ever gets about the actions of the Crown Officials and Forestry Commission, since he seems to have constantly avoided criticism owing to a deep seated dislike of argument and controversy. This possibly derived from his father who was regularly involved in trying to adjudicate and keep the peace between the various groups within the Diocese of Winchester (Osborne 1903).

In the New Forest of Sumner's day there was great distrust between the commoners and the Crown, as represented by the Forestry Commission, and Sumner saw this as detrimental to the proper management of the 'Ancient and Ornamental' woods. In this paper, and elsewhere (Sumner 1926; 1931) he traced the causes of this distrust back to the Deer Removal Act, and the way in which it had been interpreted. He actively supported the work of the New Forest Advisory Committee (which continued working with the

Forestry Commission until the Second World War, when it ceased to exist). I suspect he was hoping to show that, since the original causes of the commoners complaints had been removed, there should now be no reason for such distrust. That this hope was not fulfilled is clearly illustrated by any study of the post-war history of the New Forest (e.g. Pasmore 1977) or recent reports of the New Forest Association.

At the beginning of the paper Sumner gives another reason for writing it, to record the history of the (then) current legal framework of the New Forest. He was a bibliophile with a very extensive library of local topographical works, which doubtless included copies of all the Acts and Reports mentioned above, but he realised that others might not have access to such documents and wanted to make them more widely available.

We shall probably never know why the paper was not published during Sumner's lifetime, but whatever the reason, I have little doubt that he would have approved of its appearance here, sixty-five years late.

Original footnotes to Heywood Sumner's article

- 1 This Book of Claims was compiled between the years 1851–54 and gave a statutory position to those commoners whose claims were admitted. 1311 Claims were adjudicated upon, of which 460 were expunged.
- 2 [Sumner marks a footnote here, but none is included in the paper, he was probably going to give the source of the quotation.]
- 3 This clause & the influential opposition of the Forestry Commissioners, the Verderers, & Sir Leslie Scott, President of the New Forest Association, prevented the proposed line of electricity pylons being carried across the Forest.
- 4 The New Forest area divided into classes of lands:-

Open heath and pasture	39,678 acres
Open land with timber	5,300
Plantations inclosed	11,138
Plantations open	6,532
Freehold lands of the Crown	2,089
Private Property within the New Forest	27,658

 (from 'Thirty Five Years in the New Forest', by the Hon Gerald Lascelles, p8)

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Editor: G F Le Pard, 7 Elziver Close, Chickerell, Weymouth, Dorset, DT3 4LN

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