A TREATISE OF THE LAWES OF THE FOREST

by M. John Manwood

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TREATISE OF THE LAWES OF THE FO.

rest: Vherein is declared not onely those Lawes, as they are now in force, but also the originall and beginning of Forests: And what a Forest is in his owne proper nature, and wherein the same doth differ from a Chase, a Parke, or a Warren, with all such things as are incident or belonging thereunto, with their severall proper tearmes of Ast.

ALSO A TREATISE OF THE Pourallee, declaring what Pourallee is, how the fame first began, what a Pourallee man may do, how he may hune and whe his owne Pourallee, how farre he may pursue and follow after his chase, together with the limits and bounds, as well of the Forest, as the Pourallee.

Collected, as well out of the Common Lawes and

Statutes of this land, As also out of fundrie learned anneient Authors, and out of the Assists of Pickering and Lancaster,

by IOHN MANYVOOD.

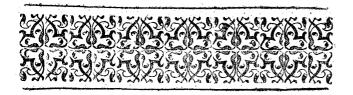
Whereunto are added the Statutes of the Forest, a Treatise of the several offices of Verderors, Regardors, and Foresters, & the Courts of Attachments, Swanimote, & Iustice seat of the Forest, and certaine principall Cases, Iudgements, and Entries of the Assists of Pickering and Lancaster: never heretofore printed for the publique.

LONDON,

Printed for the Societie of Stationers.

Anne Dom. 1615.

Cum Prinilegio.



He auncient Lawes of this realme haning alwaies had a speciall regard vnto the continuall studie and care that Kings and Princes haue in great and weightie affaires of matters of Commonweale, for the good of their Subiests, whereby they are often times wearied with the toyle of the same; ame Lawes haue given sinto them di-

inrespect thereof, the same Lawes have given vnto them diuers royall prerogatives of most noble and princely pleasures
to recreate themselves withall, to put away from them theremembrance of their laboursome toyle. Amongst which prerogatives, the royall prerogative of the libertie of a Forest is
not the least: For, a Forest both is and hath beene alwaies accounted a franchise of such noble and Princely pleasure, that it
is not incident unto any subject of this realme to have the same,
but onely unto the Crowne and royall dignitie of a Prince. And
therefore there have beene alwaies certaine particular lawes
differing from the Common Lawes of this Realme, that were
only proper unto a Forest, belonging to the same for the contimuance of it.

And it doth seeme that Forests have beene of long time, and that they are verie auncient things, although peraduenture, not in that nature that they are now used here in this Realme of England. For it doth appeare, that there were Forests, yea,

King Dauid in his 50. Pfalm.ver.10.

Concordantia Historias.

Gurguntius.

Canutus, a

Dane, was

king here in

England, in

Anno Dom.

1016.

even in the verie time of king David: For he faith in his 50: Psalme these words, O Lord, I need not to offer vnto thee burnt Sacrifices of beafts: for all the wild beafts of the Forest are thine, and so are the cattell upon a thousand Hills: Then Ergo, there were Forests of wild beasts in his time. And it doth also appeare by sundrie auncient Histories, as in Concordantia Historiarum, and others, that Forests haue beene alwaies in this Realme, from the first time that the Same was inhabited. And also you may read there that Gurguntius the some of Belyn being a king of this land, did make certaine Forests for his delight and pleasure in Wiltshire: and so have divers other kings also since his time in other places meet for that purpose: Which forests the Kings and Princes of this Realme have alwaies maintained and preserved (with diuers Priviledges and Lawes appertaining to the same) for places of pleasure and delight for their recreation.

And if it happen that any offendors did enter into those priniledged places, and that they did any trespasse therein, then they were punished with verie sharpe lawes and punishments according to the lawes that then were in force, which were sharpely executed, and which lames were then altogether uncertaine; and the offenders were punished at the kings will and pleasure. and not by any law certain: and those laws & punishments were duly executed and continued by the kings of this realme, untill that Canutus a Dane came to be king of this land, which was a. bout the yeare of our Lord 1016, who taking as great delight and felicitie in forests as other most noble Princes of this realme had done before his time, He for the better preservation and maintaining of those priviledged places of pleasure did establish certaine Laws & Canons, only concerning forests, which laws I have here placed first of all in this booke: for although that they have beene raked up a long time in the embers of oblinion, yet they are worthy to be remebred againe: And because that they

are the most ancientest laws that I can find concerning forests,

there-

therefore I have placed them first of all before any others, to thend that those that shall read this booke, may both see and know what lawes there were in the beginning, concerning Forests, and how they have altered and chaunged from time to time: and to that end I have here set down all the statutes concerning forests that have beene made since the time of the making of the said lames, because that it may thereby appeare the more plainely how any one of them hath abrogated another, or any port thereof: by reason whereof, that which is law and in force at this day may the more easier bee descerned and knowne.

It appeareth by the lawes of Canutus the Dane king in his Canon the 30. that before his time, all wild beaftes and birds mere onely the kings: and that no other person might kill or hurt them. For the king by his royall Prerogative, his right Canucus and priviledge was such in England, that all such things that none of his subiects could challenge any propertie in, they were then said to be the Kings: as wild beasts, birds, and such like, in whose lands or woods soener they were found. Wherefore the same King made this law, Volo vt omnis liber homo pro libito suo habeat venerem sue viridem in planis suis super terras suas, sine Chacea tamen: & deuitent omnes meam vbicunque eam habere voluero, which is: that from henceforth, I will (saieth the King) that every free man may take his owne vert and venison or hunting that hee can get upon his owne ground, or in his owne fields, being out of my Chase: And let all men refraine from my veneric in enery place where I will have the same. And also it appeareth in the booke of S. The booke Edward the confessor, which booke is the verie roote and origion of the lawes of S. Edward nall ground of all the auncient lames of England, that the same the Confessor King Edward the confessor did confirme the same law in these words: Volo vtomnis homo sit venatione sua dignus innemore, campo, & dominico suo; & abstineat omnis homo a venerijs meis vbicunque pacem eos habere volo superpoenam vita. And so it appeareth, that both the said Kings

kings did grant and make this law that after that time it should be lawfull for everie subjest to enjoy the benefit of his owne hunting that he could anyway take in his own land, or in his own woods or fields. so that everie manshould refraine from hunting the kings wild beafts in his owne forests and priviled ged places for them, upon paine of the losse of life of such an offendour.

Which lawes William the Conquerour did afterwards in

his time confirme, as it doth appeare in the said booke of the said Lames, Chap. 47. And also he did continue the same all his life time. And after his death William Rufus his

sonne in like sort continued those Lawes during his life, vntill hee was slaine in new Forest as hee was in hunting. And after the death of the said William Rusus without issue of his bodie, King Henriethe first his brother succeeded him

Williamthe

William Rufus.

Henry the first.

Liber Rubrus cap.I.

Conqueror.

as next heire unto the cromne of this Realme, and by his Charter did confirme all the faid Lawes of the Forest of Saint Edward the Confessour, as it doth appeare in the Red booke in the Exchequer called Liber Rubrus cap. 1. Legum suarum, and also in the second Chapter of the said booke of the lawes of the forest in these words, Forestas vero Communi assensu omnium Baronum meorum in manu measic retineosicut pater meus eas retinuit. And then aftermards in the 18. Chapter of the said booke, the plees of the forest are there specified and rehearsed in these words, Placita quoque forestarum satis sunt in commoditat valliat, sicut de assertis, de Cessione de venatione de combustione &c. Which lawes of the forest afterwards did more and more increase, and so did continue during all the life of the said King Henriethe first. And after his decease King Steuen by his Charter did

confirme all the said Priviledges, Lawes, and Customes made and graunted by Saint Edward the Confessour, and also by King Henry the first, his uncle, as it appeareth in the booke of the said lames: All which said Lames and Customes the said King Steuen did continue all his life. And after his decease

King Henrie the second succeeding him as next king of this

realme,

King Steuen.

King Henrie the fecond.

realme, by his generall Charter did confirme the said lawes of the forest inmost things, and principally concerning the beginnine of Charta de Foresta: For in the first booke of his lames made in the 19. yeare of his raigne, Chap. 16. hee rehearseth and declareth the Law of the forest, and the verie nature of that, and doth farther shew there, how that the Lawes of the Forest doe varie and differ from the Common Law of this realme, as it doth appeare in the said Red Book in the Exchequer, in these words, Sane Forestarum Lex, ratio, poena quoque vel absolutio delinquentium, fiue pecuniaria fuerit siue corporalis, seorsu ab alijs regni Iudicijs secernunt, et solius regis arbitrio, seu cuiuslibet familiaris ad hæc specialiter deputati subijcitur; legibus quidem proprijs subsistit, quæ non Iure communi sed voluntaria principum Institutione subnixæ esse debent, adeo vt per legem eius factum fuerit non Iustum absolute, sed Iustum secundum legem Forestæ dicatur, quia in Forestis penetralia regum sunt et eorum maximæ delicie, ad has quidem venandi causa Curis quandoque accedunt, vt modica quiere recreentur. And afterwards in the twelfth Chapter of the same booke, there doth follow another sentence concerning the lames of the forest, in these words, In singulis Comitatibus foresta regis non est, sed in nemorosis vbi ferarum latibula sunt & vberior pastura, nec interest cuius sunt nemora, siue enim regis siue regni procerum, liberos tamen & indemnes habeant feræ circumque discursus. So that by those texts before rehearsed, it doth appeare how the Lawes of the Forest were taken and vsed in times past, and by these words, Necinterest cuius sunt nemora &c. It is plainely shewed that the King then might and yet may also make a Forest in every place where hee pleaseth, aswell in the lands and inheritance of any of his subjects as in his owne demeasne lands and inheritance, which was a great losse and hinderance to those that were owners of those lands that were so afforested. For after the same was so afforested, their pastures & profits of their landswas denoured

denoured by the mild beafts of the King mithout any recompence for the same to be made unto them. And this law of afforesting of the lands and inheritance of other men didthen dayly so encrease, that the same was thought avery extreame heavie burden, as well unto noble men and gentlemen, as also unto the poore comminaltie of this realme to beare; for that they might not inclose their land, nor improve the same to their best profit, that was so afforested by the King, But they were forced to suffer their said lands afforested to lie open and not inclosed: And if any of them did chaunce to offend against the Assists or Lawes of the forest, the punishment was sometimes verie great for a small offence; and the forfeitures for the same, according to the will and pleasure of the King, and not according to the quantitie of the trespasse, nor yet according to the course of the common law of this realme. And this law did continue during the life of king Henry the second. And after his decease, the same continued likewise during the raigne of king Richard the first. And then after his decease, likewise during the raigne of king Iohn. And every one of the said kings did dayly increase and make more new forests and more in the lands of their subjects, to the great hinderance and impouerishing of their subjects.

Richard the first. King John.

Henrie the third. Edward the first. And this mischiefe was not at all remedied untill the making of the Charter of the liberties of the forest, which was made by king Henry the third: And afterwards the same Charter was consirmed and enlarged by king Edward the first his sonne: which Charter was made for the pacifying of the comminaltie of this realme that then were much grieved at this mischiefe. And therefore the same Charter called Charta de Foresta, even in the verie first. Article of the same, did provide a remedie in that behalfe in the sewords, Omnes forestæ quas Henricus auus noster afforestauit videantur per bonos et legales homines, & si boscum aliquem alium quam su dominicum afforestauerit, ad damnum illius cuius boscus ille suerit, statim deafforestentur. & c. By which braunch of the

said Charter, you do see, that all forests that King Henry the third had made of the lands of any of his subjects, which were not the kings owne demeasine lands, are here appointed to be disafforested againe.

And againe, in the third article of the said Charter of the forest, there is the very like remedie and provision, that all such forests which King Richard the first, and also King Iohn had afforested and made of the lands or woods of any of his sub-iests, being not the demeasne lands of the Crowne, that then all those lands and woods should be disafforested againe: For these three kings, that is to say, king Richard the sirst, king Iohn, and Henry the second had the newly afforested so much of the lads of their subjects, that the greatest part of this reasme was then become forest.

And because the mischiefes, inconveniencies, and burthens that were then laid upon the comminaltie of this realme, were very great and heavie, by the meanes of the lawes of the forest: therefore the said Charter of the liberties of the forest, hath now moderated the extreamnesse of those laws in a more mulder order, as you may perceive by the same.

For hee that doth attentinely read and examine the whole Charter of the forest, and enerie article therein, may thereby partly perceive how hard and sharpe the lawes of the forest were in times past before the graunting of the same Charter: And also what inconveniences the inhabitants in Forests did then indure and suffer, by reason of the Forest lawes: all which are now provided for, and in a mesurable manner remedied, as you may perceive by the examination of everie article of the faid Charter. And whereas the same Charter did allow or suffer any thing that hath since that time beene thought to bee ouer hard or sharpe: the same hath since againe beene moderated, as you may here perceine by those Statutes that have beene made fince that time: So gratious and mercifull have the Noble Princes of this realme beene towards their loning subiects: So that now at this day, although

Shough that lawes of the forest are of themselves very mild, gentle & mercifull laws towards the subjects of this realm, over that they have beene intimes past; Yet notwithstanding, wee do at this present live under the government of so gracious and mercifull a Queene, that her elemencie in the execution of those lawes is much more greater than the favour and elemencie of the lawes themselves: Whose long life, prosperous raigne, and most happie daies, GOD of his mercifull goodnesse grant long to continue, to the great comfort of all good Christian subjects. Amen.

This Preface was annexed to the Authors first collection of the Forest Lawes.

To

To the Reader.

Am not ignorant, (gentle Reader)
how dangerous a thing it is, to range
in so large a field, as I haue here vndertaken (which is to write of the
laws of the forest being so learned a
subject) considering how many sundry learnedmen may be able to controlline, & also how many excellent
able far to surpasse me. But, seeing that the best

Trolline,& also how many excellent wits are able far to surpasse me. But, seeing that the best able do seeme to be filent in this so necessarie a matter, give me leaue, I pray you, as one that worst may, to hold the candle, & to begin the first enterprise herein: to thend, that fome other of greater judgement and learning may inlarge and amend that, which I have begun: for, many wil be willinger to amend a thing begun by another, than to begin the same themselves. The reasons that moved me to vndertake this businesse, are these: First, the necessarie vse & comon good that may arise and grow to all in general, by the publishing of this treatise, in making the forest lawes more certainly knowne than they were before, leeing that lo few do know those lawes, & yet so many do fal into the danger therof: Secondly, for that I do see by experience, that the forest lawes are growne cleane out of knowledge in most places in this land, partly, for want of vse, and partly, by reason that there is very little or nothing extant of it in any treatife by it seefe, but lying scattered here and there in the reports of the yeres and termes of the common law, and in some other ancient Records remaining in fundry places not readily to be come by : by reason whereof, great iniuries & wrogs have insued to many, & for wat of the knowledge of these lawes, many fond opinions of vnlearned men, meere vanities and conceits, are taken and holden for law, which are neither law nor reason: Wherefore, as well to reulue in memorie these lawes being so ancient and learned prerogatine lawes, as also to satisfie the fond opinions and

To the Reader.

and blind conceits that such vnlearned men doehold, I held it requifite to write this treatife, which I hope even by the judgement of the learned, shall be thought both needfull and very convenient. And, in writing of this treatife, least, by following of mine ownopinio & conceit, I might therby the rather erre & be deceived, I have set downe nothing, for the which I have not called to warrantie some one Author or other, & that not of the valearned fort, but euen of the best & learnedest writers, approuing euery argument by some lawfull authoritie, as you may see by the marginall notes therin, & that not by mine own weak opinion, but by the judgement of grave and learned me, whose good help and adule I have had in the peruling of this treatise: besides the approbation & allowance of the same by some of the most reverend and learned Iudges of the common lawes.

For the order and method of this treatife, I have drawn it into twentie seuerall chapters or heads, every chapter cotaining in it selfe certaine particular arguments, which are handled in order according to the matter & subject wherof it treateth: as it doth appeare in the generall table of chapters in the beginning of this Booke. The whole scope whereof doth perfectly declare thus much: First, the very true and proper nature of a forest, with the originals & beginning thereof: Secondly, wherein the same doth differ from a chase, a parke, or any other roial franchise of pleasure, with euery part & member of the same & whatsoeuer is or may be belonging to a forest, &also how a forest ought to be ordered and gouerned by the laws and officers of a forest, to preserve the same in a continual flourishing estate, & likewife, what abuses & mildemeanors do cause the decay and ruine of forests. And lastly, all forts of trespasses, trespasfors, offendors, and malefactors in forests, and their seuerall degrees, punishments, and remedies for the same. And as I began at my first entrance to step into a forest by the ij 🥳 meeres

To the Reader.

meeres & boundaries of the same, so having gone through every part of it, viewing and considering whatsoever is contained within the circumference thereof, I have made, as it were, a perfect survey of a forest, And do end within the pourallee, which, although it be altogether without the limits and bounds of the forest, yet for the better preservation of forests, the lawes do in some fort as carefully regard the pourallees, as if the same were forest still, as more at large shall appeare by reading of the Chapter of the pourallees.

And thus (gentle Reader) having brought my worke to an end, I leave the same to your view, the matter to the iudgement of the learned, and my selfe to your courtesses, desiring no greater gaine or reward at your hands for my trauell herein, than your friendly acceptation of this my poore labour: Which, if I find to be taken in good part, will encourage my going forward in a far greater: But, if otherwise, I shall not onely repent me of my trauell that I have taken in this, but also smoother that, which I have in

hand.

Your harrie welwiller Iohn Manwood.



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- 7 If he that hath a licence or authoritie to hunt within the forest, doe abuse the same in hunting, then he shall be a trespasser in all abinitio.

8 Of a license in law, and a licence in Fait, and their dif-

ference.

9 Of such as are trespassors and malefactors in huting in forests, and how they are to be punished and vsed for the same.

10 Of the signification of these two words; Hawking, and Hunting.

CHAP, XIX.

I That trespassers and offendors in forests onght to be attached by the ministers of the forest, they sinding them with the manner.

2. If that such ministers of the forest, of themselves, be not able to take such tress sorts, then they may make Huy and Cry after them, and so to cause the Country to rise and take them.

If that, after such huy and cry made, such trespassers and offendors doe still continue their endl doing, and will not yeeld them eldes to be taken, then, if the foresters, or they that doe come to aid them, doe chance to kill any such offendor in arresting or taking of him being within the limits and bounds of the forest, they shall not forfeit any goods, or any other thing, nor outher mise be arraigned for the same.

4 If

4 If that any such offendors will not yeeld themselves to be taken, but doe rather flie out of the sorest, to the end that they will not be knowne nor taken, then in some cases they are still to be followed and pursued with Huy and Cry, vntill that they be taken; and in some other cases, they are to be pursued with siesh suit within the view onely.

5 That all the commaunders, aiders, receivers, and assisters of trespassers and malefactors in the K forests, are all principall offendors, as well as they that did the offence: for, in trespasses of the forest, there are no accessaries, as there are in felonies.

6 How, and in what manner, Huy and Cry shall be made after an offendor of the forest.

7 By whom the same shall be made.

8 How, and in what maner, the same shalbe pursued and followed.

9 In what maner they are to be punished that doe refuse or neglect to follow the Huy and Cry, or 10 helpe to take offendors and trespassers of the forest.

10 In what cases, and for what offences, or trespasses of the forest, Huy and Cry is to be made.

11 Whereof called Huy and Cry.

CHAP XX.

- What Purlieu, or rather Pourallee, is.
 - 2 How the same did first begin.
 - 3 wherof it took the name of Purlieu, Pourluy, or Pourallee.
 - 4 That the Purlieu in some sort is forest still.
- That yet neverthelesse the Purlieu is free for some men in some sort to hunt there.
 - 6 Of the difference betweene the Forest and the Purlieu.
- 7 Of the difference betweene the Purlieu, and that which is no Purlieu, nor Forest, but is absolutely free.
- 8 VV ho may hunt in the Purlieu, and who shal be said to be a Parlieu man.

9 In what fort a Purlieu man may hunt in the Purlieu, 10 When, and how often, a Purlieu man may hunt there.

11 How farre a Purlieu man may purfue and follow after his Chafe.

32 VV hen, and in what cases, a Purlieu man may pursue and follow his chase into the forest, and there take and have the thing so chased and killed, and when not.

13 Of the Ordinances and laws of the Purlieus, and of their

first beginning.

I 4. How, where, and in what fort, the offences and trespasses that are done and committed in Purlieus, shall be tried and pu-

nished.

- 15 That because in some sort the Purlicuis forest still, therfore the king hath certaine officers there, that doe attend upon the same, and have charge of the Purlieus, which are called Raungers, being officers rather to the forest, than in the sorest.
- 16 How a Raunger is made, what his oath, authoritie, and office is, and wherein the same doth chiefely consist.

17 VV bereof called Raungers, or Raunger.

CHAP. XXI.

I Of the Courts of the forest in generall, and the officers thereto attendant.

2 What a Verderor is: how made: what his oath: what his office.

3 what a Regarder is: how made: what his oath: what

his office.

4 what a forester is: how made: what his oath: what his office: And of the Bedle of the forest.

CHAP.

CHAP. XXII.

when and how often the Court of Attachments shall be bolden.

2 The dutie of the Verderors at this Court, and of what matters the Attachments there ought to be made.

3 The dutie of the Foresters, Keepers, woodwards, and other ministers of the forest at this Court.

4 Of presentments in the Court of Attachments.

5 How many kinds of Attachments of the forest there be:

and of repleuying of persons attached.

6 How men attached, that are baileable, shall be bayled, and by whom.

CHAP. XXIII.

I Of the Court of Swanimote, and why so called.

2 That the Verderors are Indges of this Court; not the chiefe warden of the forest, nor his lieutenant.

- 3 How often in one yeare the Swanimote shall be holden: and what officers, freeholders, and others owe their attendance there
- 4 That upon default of appearance, the defaulters may be compelled to appeare by Distresse: and how those Distresses shall be taken.
- 5 About what matters the iurifdiction of the Swanimote is exercised.
- 6 Of Indictments or Presentmets in the Swanimote court: and what Indictments or Presentments of the forest are trauer-sable, and what not: and of Outlawry.

7 The Charge given in the Swanimote.

CHAP. XXIIII.

I That the Lawes of the forest differ from the common law of the recline: and of the dignitie and anthoritie of the Lord chiefe suffice of the forest.

2 Of the marrant of generall Summons of the Lord chiefe Instice of the forest to the sherife, to warn the Sessions: and of his warrant of generall Summons to the chiefe marden of the forest.

3 What persons ought to appeare at the Iustice seat before the lord Iustice of the forest by generall Summons, and what not

4. Of appearance in proper person, by Atturney, by Gardein, by Prochein amy: Of appearace of a person let to baile or main-

prise: Difference betweene baile and mainprise.

5 The manner of holding the high court of the lord chiefe Instice in Eyre of the forest, commonly called the Instice seas of the forest: and the charge given there to the Iurie.

CHAP. XXV.

x Certaine principall notes of the Affises and Iters of the forests of Pickering and Lancaster.

2 Indgements and Entries contained in the Assistes of the

forests of Pickering and Lancaster.

3 Certaine Indgements and principal notes, taken out of the Records of the forest, digested into Titles.

J. WESLEY MILLER

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