

# THE ABORTIVE INCLOSURE OF NEEDWOOD

## FOREST IN THE 1650s

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As part of Parliament's dismemberment of the English monarchy an Act was passed in July 1649 to authorise the sale of Crown lands, including those of held in the right of the duchy of Lancaster.<sup>1</sup> In Staffordshire the lands included Needwood forest, which formed part of the duchy's honor of Tutbury in the east of the county. Forests were at first excluded from general sales, and it was not until 1654 that an order was made to inclose it and parcel the land out for sale: the process met with strong local resistance and had still not been completed at the Restoration. Vested inalienably in the Crown under an Act of 1696, the forest survived until 1801 when it was at last disafforested and inclosed.<sup>2</sup> The present writer has already provided some of the background documentation — parliamentary surveys of the forest and its constituent parks made in 1649 and 1650,<sup>3</sup> and a petition against inclosure presented to Oliver Cromwell in 1655<sup>4</sup> — and the purpose of this article is to discuss the abortive inclosure, concentrating on the reasons behind the resistance and the strategies applied by the opponents.

Covering some 9,400 a. (3,804 ha.) in the angle formed by the rivers Trent and Dove and occupying a plateau of high ground in parts over 400 ft. high, Needwood forest had belonged to the Ferrers family as lords of Tutbury in the post-Conquest period and came to the earls (later dukes) of Lancaster after Earl Robert de Ferrers was deprived of his title and estate in 1266. By that date Needwood had been divided

into five wards (Barton, Marchington, Tutbury, Uttoxeter, and Yoxall), each of which with its own officers charged with preserving deer and timber. Around the forest proper there were several parks, created by the Ferrers during the 13th century as confined hunting areas. Most lay on the east side of the forest close to Tutbury, but there were others to the south and on the west (Fig. 1). Rowley park was alienated by Henry VIII in the 1530s and two more parks, Barton and Rolleston, were sold by Charles I in 1628 when he was in need of money to pay for the war with Spain. Two years later in 1630 Stockley park was granted for a fee-farm rent, but it was still regarded as Crown land under the 1649 Act and so was included in the associated surveys. The whole of Uttoxeter ward, however, had been disafforested in 1637, causing local riots that presaged what happened when the rest of Needwood was being inclosed in the late 1650s.<sup>5</sup>

## COMMON RIGHTS

Although the forest was created to provide a secure habitat for deer, it was also a valuable resource for those who lived in the villages and hamlets that surrounded it, especially for the purpose of grazing animals and collecting wood (the latter right called 'estovers'). Access, however, was restricted by the Ferrers earls who from the early 13th century as lords of Tutbury issued charters to lords of subordinate manors and to freeholders, stipulating what rights they could enjoy.<sup>6</sup> A large number of these charters were inspected in 1287 when the new lord, Earl Edmund of Lancaster, ordered a *quo warranto* ('by what warrant') inquiry, of which a near contemporary enrolled transcript survives,<sup>7</sup> as well as a 15th-century cartulary copy.<sup>8</sup> A few of charters were presented to the parliamentary commissioners when the forest wards were surveyed in 1650, and others were unearthed from family archives as opposition

to inclosure began to mount. Indeed, the large number of such charters and the complication they presented for inclosure was one of the main objections made by opponents.

Copyholders and tenants-at-will, who emerged as new categories of landholders in the later middle ages, also had rights in the forest in respect of their holdings, as did cottagers (or squatters) by mid 17th century, although their claim was not grounded in law but allowed only by custom.<sup>9</sup>

### *Orders of 1611*

Some idea of the claims made on the forest by commoners and the concerns they raised can be gained from a series of orders promulgated by the duchy of Lancaster chancellor in February 1611,<sup>10</sup> following a report of 1609 that had stressed the importance of the castle at Tutbury because of its proximity to the king's chases and parks.<sup>11</sup> These orders sought to regulate the felling of timber in both Needwood forest and its parks and also access to pasture, chiefly in order to improve conditions for the king's deer. A complete ban on unlicensed felling extended even to crab, whitehorn, holly, and hazel, although an exception was made for 'stoolwood and hoarlint': the former being wood growing from a stump or lower part of a tree and the latter the inner bark of lime trees.<sup>12</sup> The main culprits seem to have been the keepers of the forest wards themselves, who had felled good timber trees without licence and sold them along with browse (twigs and shoots fed to the deer); they were to desist, and in particular not cut down for browse any wood or bough bigger than what a male deer 'is able to turn over with his head'. Moreover, any wood which they cut for their own

household use was to be limited to what they could carry away on their own sledge or cart.<sup>13</sup>

A more pressing problem of recent years had been the number of sheep kept in the forest by both keepers and commoners. These were now banned, although the former were compensated for the loss of their traditional right to pasture 30 sheep each: namely, a payment of 30s. and permission to inclose 2 a. adjoining their lodges.<sup>14</sup> The commoners were still allowed to send pigs into the forest but only at ‘pannage and tack time’ from 1 October to 20 December, and the number was limited to those needed for the provision of their own household.<sup>15</sup>

It was, however, the regulation of the commoners’ right to pasture cattle in the forest that required the most consideration. The duchy maintained that a commoner’s right of pasture was restricted to the number of cattle he could feed on his own tenement during the winter.<sup>16</sup> Moreover, commoners had not limited themselves to summer pasture only, but had sent in their cattle during the winter, so depriving the deer of necessary fodder; henceforth, no cattle were to be pastured from 30 November to 31 March.<sup>17</sup> Nor were commoners to pasture other people’s cattle in respect of their own tenements.<sup>18</sup> Similar restrictions were placed on cottagers, who were nonetheless allowed to pasture cattle in the summer, as long as those occupying established (or ‘ancient’) sites pastured only two beasts or the number they could over-winter on their own land; new cottagers (of whom there were many in recent years) were limited to one each.<sup>19</sup> In order to keep a record of the number and ownership of cattle (and horses) that were sent into the forest, each township — continuing a medieval practice<sup>20</sup> — was to have its own brand or mark (Plate 1) applied to the beasts by two officers (elected on 1 March), who were also to keep a book in which the details were to be written down. During the summer these officers were to inspect the cattle on at

least three occasions to check that there were no illegal beasts in the forest.<sup>21</sup>

Moreover, each year the officers were to assist the ward keepers in a general count of all the beasts at a 'driving' of the forest.<sup>22</sup>

It was acknowledged that the restrictions to be imposed on pasturing beasts would be unpopular, and the order which banned winter pasturing proposed that 'if the commoners in general shall dislike or be unwilling to perform [it]', then 300 a. should be inclosed in one or more places and be kept in severalty for 'the succour and better relief of the deer', thereby releasing the remainder of the forest for the commoners.<sup>23</sup> The proposed inclosure, however, was evidently intended only for winter use and the deer would have been let into the forest at large again during the summer, when the perceived problem of surcharging with beasts would have remained. Accordingly, the orders ended with the decision to appoint commissioners to determine a stint, not least to prevent some commoners 'through a covetous desire' wronging their fellows by sending in more beasts than they should.<sup>24</sup> Whether such a commission was established is uncertain, and the process may have got caught up in James I's large-scale policy of offering duchy copyhold tenants confirmation (at a price) of their customs and estates.<sup>25</sup> Indeed, the 18th-century transcript of the 1611 orders closes with a memorandum of 12 March 1610/11 instructing Thomas Fanshawe, Duchy auditor in the North, to make local inquiries about the intended composition.<sup>26</sup> He presented a £200 bill later in the year for doing just this, but was evidently as unsuccessful at Needwood as he was at Duffield Frith (Derbs.).<sup>27</sup>

In addition to what can be learnt from the 1611 orders, it should be noted that common rights also extended to social, rather than more purely economic, benefits: a mid 16th-century survey noted that tenants in adjoining manors claimed timber to make bonfires, notably at the wedding of an eldest son,<sup>28</sup> and trees were indeed still

being felled (albeit illegally) in the 1690s for bonfires lit on Thanksgiving Day (5 November).<sup>29</sup>

## MOVES TOWARDS INCLOSURE

The forest and its parks were surveyed not long after the 1649 Act was passed, and several of the latter were contracted for sale in 1650, the purchasers raising money by the acquisitions of debentures (promissory notes for arrears of army pay): some £17,500 was raised in this way, with a further £3,200 for Tutbury castle and then nearly £1,360 for Agardsley lodge in 1654.<sup>30</sup> The forest itself, however, was exempted from immediate sale, as were all the former royal forests (together with timber growing within 15 miles of a navigable river and suitable for use by the navy).<sup>31</sup> When in due course, in November 1653, a subsequent Act was passed to authorise disafforestation and sale of forest lands, Needwood was again exempted (along with six other forests) in order to provide security for unpaid army wages, but an Ordinance of August 1654 eventually added it to the general sale.<sup>32</sup>

### *Petition of 1655*

The decision to proceed with inclosure caused an immediate outcry and a petition was drawn up and signed (or marked) by both local gentleman and several hundred people who claimed common rights in the forest. It was presented to Oliver Cromwell in person in February 1655.<sup>33</sup> As deputy clerk to the county justices of the peace, the man responsible for drawing up the petition was Zachary Babington of Curborough, part of whose autograph account of the proceedings survives in the William Salt Library in Stafford;<sup>34</sup> there is also a full, 18th-century copy in the Bagot family papers

in the Staffordshire Record Office.<sup>35</sup> According to his account, Babington had entered into the business on 20 October 1654, and promptly set himself the task of researching the history of Needwood and how it came into the hands of the duchy of Lancaster, the purpose being to prove that Needwood was a chase (and not technically a forest because not owned by the Crown *per se*) and so could not be inclosed, on the analogy that a lord of the manor could not inclose manorial waste. Having consulted duchy records, including William Humberston's 1559 forest survey,<sup>36</sup> and also grants made by the Ferrers earls (evidently as manuscripts in local hands), he then consulted 'an incomparable man for learning in this case', a Mr Finch,<sup>37</sup> who advised him to pursue the chase argument: accordingly, he then set about further research in the Exchequer archives where he found evidence for a late 13th-century case brought against men for hunting deer in the 'chase of Needwood'. As a result, the wording of a petition that had already been partly drawn up (presumably at the Michaelmas quarter sessions) was altered so as to refer to Needwood as a chase and not a forest.

The main points advanced in the petition were the general poverty of the land even after improvement and the costs of compensating those who had common rights. The forest was said to extend to less than 5,600 a., each acre being worth no more than 5s. on the best improvement. The main worry was the loss of common rights by both the petitioners and by 'ancient' cottagers (those occupying long-established cottages), and it was requested that compensation be decided by Ordinance and not by the arbitrary decision of the commissioners. Cromwell was also reminded that Staffordshire (besides its regular contributions) had paid nearly £8,000 to the army when it disbanded, money which the State still owed the county.

A more detailed case against inclosure was also sent by the Staffordshire JPs in support of the petition. Presumably drawn up by Babington, it presented the argument under thirteen heads:<sup>38</sup>

- (1) the large number of medieval charters granting common rights in the forest
- (2) the costs of the army ought not to be met only by a few poor townships, with many great and rich townships [elsewhere] not sustaining 'a farthingloss'
- (3) it would be more just if all the former royal common lands should be improved and sold and not just [Needwood] forest
- (4) Staffordshire was a poor county and, having lain under many garrisons, had been exhausted by taxes; moreover, considerable costs will result from settling the differences and animosities that will be caused [by inclosure]
- (5) the cottagers and poor in the forest need particularly to be provided for out of the land belonging to the State, and not diminish the claims of other landholders
- (6) the four keepers [of the wards], who have been careful to preserve the wood and game, also have rights which need to be taken into consideration
- (7) Needwood is 'merely framed by nature' for pleasure, there being no comparable forest in England, and it now has a considerable herd of deer and could in a short time with good oversight become very well stocked
- (8) the [inclosure] commissioners are not to be arbitrary in deciding what proportion [of inclosed land] is to be allowed to each claimant, but shall ascertain the right due to a messuage and 100 a. and so allow acres in proportion, including an allowance for common of estovers
- (9) the rights of married women (*femme covert*), infants, persons beyond the seas, and lunatics (if any) are not to suffer



- (10) many townships bordering the forest consist principally of arable land, and so if the forest is inclosed there will be a decay in tillage because many will be unable to support their ploughs without it [i.e. arable will have to be converted to pasture in order to provide grazing for plough beasts which now use forest pasture]
- (11) if common of estovers for building is taken away, the claimants will not be able to support their buildings, have fuel for their fires, or 'provision' their fences
- (12) Needwood forest is in the deep and clay part of the country [i.e. county] and there are no gravel or stones in it for mending the highways, so that in a very short time there will be 'no passing' those new ways to or from markets or other necessary occasions
- (13) there are nearly 80 extant charters [granting rights] of common of pasture, estovers, and other privileges by the leading (*primeir*, i.e. premier) owners of the chase, some [made] to particular persons and some to whole townships, which renders it [i.e. the forest] more unfit and incapable of sale than any other forest in England.

### *The petitioners' concerns*

The extent to which the commoners were worried about the economic consequences of inclosure is difficult to gauge, although it was later claimed that the rights accounted for a third of the value of their holdings.<sup>39</sup> The threat of losing pasture was probably the most real, as townships such as Rolleston had indeed been active in converting pasture to arable in the 16th century. The inhabitants there had done this, precisely, it seems, because they had access to Rolleston park, but when the park lessee raised the rent for herbage, the lack of pasture in the township became acute. In the 1570s they were permitted to inclose a fifth of their open-field land to convert to pasture, and yet there was still insufficient pasture in 1614.<sup>40</sup> Common rights of pasture would therefore have been especially valued, although not particularly for

dairy cattle, as the grazing for milk cows would probably have been too far distant from homesteads. Right to estovers is also specifically mentioned in the JPs' detailed memorandum in support of the petition, but once again the economic consequences of inclosure might not in fact have been that serious as there is little evidence for commoners engaging in wood-based activities such as charcoal-making.<sup>41</sup> Even the need for wood as household fuel may have not been that acute, given coppices and hedgerows in the townships themselves, although a *perceived* shortage of wood was becoming a general worry at this time.<sup>42</sup>

Concern for cottagers and the poor is perhaps further shown by the petition's long lists of names of the *poor* of Marchington and Marchington Woodlands.<sup>43</sup> Besides those who occupied long-established or 'ancient' sites, these people evidently included 'new' cottagers, and perhaps even landless squatters, who were not strictly commoners but by custom had taken wood for fuel and had pastured their cows in the forest.<sup>44</sup> Although it has been argued that their presence amongst the petitioners indicates a strong sense of cohesion within the forest communities,<sup>45</sup> it is uncertain to what extent they came forward to add their names of their own volition or were coerced (or at least organised) into doing so. The manner in which the poor's names were written up on the membranes strongly suggests the latter,<sup>46</sup> and so may reflect the leading commoners' concern to persuade Cromwell that all elements of society were united in opposition to inclosure.

#### *Presentation of petition to Cromwell*

The petition, together with some 100 pages of associated 'Reasons' (presumably Babington's notes from his researches in the archives, but no longer extant), were

entrusted to one of the county's MPs, Sir Charles Wolseley, Bt, a Councillor of State, so that he could present it to Parliament whenever the Bill for the sale of the forests came up for debate. Parliament was dissolved, however, on 22 January 1655, and the army immediately set about implementing the August 1654 Ordinance and so forced Babington to make a direct appeal to Oliver Cromwell, which he did in February,<sup>47</sup> the delay presumably being a result of having to collect the signatures/marks appended to the petition. Having received the petition, Cromwell (according to Babington) read it himself and promised that no man's right in the forest should be prejudiced or taken away by the Ordinance, whose exact substance was 'not now fresh in his memory' but which he believed was agreeable to honour and justice. The Council of State, however, then meeting in a room adjoining the council chamber, pronounced that it was unable to repeal or alter the Ordinance, but would ensure that the commissioners appointed to undertake the sale would be gentlemen of the country near to the forest, and that once the commissioners had adjudicated on all the claims made by the interested parties, they would then decide what part should remain with the State in order to meet the costs of the arrears of army pay (so leaving the rest to be assigned to the claimants), and if (after this division) no spare land was found to remain in the forest, then none would indeed be sold.

Babington, therefore, came away from the meeting in the hope that, subject to the need to raise money for the army, no part of the forest would be sold for general profit but that all of what remained would be allocated to those whose claims had been recorded in the 1650 survey. He was concerned, however, that some people had not yet made a claim, and he intended to put in order and 'methodize' those charters that he had received and any others that might be brought to him. More than that he could not do, and so he proposed to submit his financial account as soon as possible and

discharge himself from further work in the matter. The final words in his surviving record of proceedings were reserved for the persons and townships who had refused to contribute to the costs of the defence of their claims, castigating them as the ‘most unChristian, uncharitable, unneighbourly, covetous, and unworthy sort of self-ended people that deserve not the least drop of their neighbours water to quench their own houses when they are on fire’.<sup>48</sup>

### INCLOSURE COMMISSION

Commissioners for the actual process of inclosing Needwood under the 1654 Ordinance were eventually appointed in March 1656 (over a year after the petition had been presented to Cromwell), and included an experienced surveyor, George Sergeant. Instructions on how to proceed were issued in June but the commissioners may not have started work until the spring of 1657: in May that year, having encountered so much opposition, the commissioners requested an armed escort to protect them, and the instructions were re-issued in June 1657.<sup>49</sup>

The fullest account of commissioners’ work is a certificate of 3 May 1658 sent to the Committee of Appeal.<sup>50</sup> Having noted that Needwood covered 9,395 a. and given a valuation (£310 15s. 6d., together with £12,000 worth of wood and timber), they referred to the surrounding inhabitants (about 300 people, including cottagers who had no right in law) who laid claim to common rights in the forest, either by charter (with various terminology) or prescription. It was noted that the latter paid for such privileges, either by a township paying an annual rent of 18s. or 20s. or by an individual paying 1d. for pasturing a horse or a cow, then they could not argue (as they did) that they had unlimited rights; indeed, only marked cattle were allowed into

the forest, and if there had not been such a stint, then the forest would not have been able to maintain as many deer (given, with much exaggeration, as 8,000) as it had done.

The commissioners stated that they had received the claims within the time limit and had then assigned to three or four men in every parish or hamlet the task of assessing the quantity and value of land held by each claimant in his respective parish or township. The total amount of land thus assessed amounted to some 4,500 a.,<sup>51</sup> which was considered too great a figure to be compensated for in forest land (as the State would as a consequence not derive any benefit). The task of investigating all the claims and disallowing those which were excessive was considered to be too time-consuming, and the commissioners hoped, therefore, to reach an agreement with the claimants. They duly spent several days in trying to do this, using as precedents the (allegedly) amicable inclosure of Bernwood forest (Bucks.) in 1632,<sup>52</sup> and nearer to home that of Uttoxeter ward in Needwood forest in 1637.<sup>53</sup> The Needwood 'gentlemen', however, would not yield their claims, and so the commissioners were forced to make an offer of 3,750 a. (over half that available), to be provided in land around the edges of the forest adjacent to the claimants' land, none of it the worst land but the 'read[i]est for improvement, having little wood or bushes upon it'. Its value was considered to be 6 a. for every £20-worth of landholding.

The claimants took their time to consider the offer, being hampered by floods which made it difficult to consult with the 'most considerable persons', but in due course they made a response by letter, indicating that they were agreeable to half of the forest, together with some allowance for the poor and with liberty to buy the wood and timber growing on their allotments and to purchase (additional) land at a

reasonable rate. At this point in the proceedings, however, a set of objections was entered by a dissenting group of claimants.

## RESPONSE TO PROPOSED INCLOSURE

The objectors acknowledged that the commissioners had done a fair job in surveying the extent of the claimants' landholdings and of Needwood and its timber, but by combining the forest's acreage (which the objectors gave as 9,229 a.) with the claimants' own lands they reached a total of 18,730 a. valued at £11,780 13s. 3d. a year. The objectors confirmed that they had been offered 4,000 a. by the commissioners, leaving the State with 4,729 a. and all of the timber worth £12,000. The offer had been presented to the county but the present objectors rejected it on the following grounds: <sup>54</sup>

- (1) there were still some 28 charters to be considered, most of them referring to rights of estovers for which the commissioners have made no allowance, nor are willing to make any allowance
- (2) the allotments offered are limited to 6 a. for every £20-worth of land held, and even in the best part of Needwood that will provide summer pasture for only 4 beasts (and in parts where there are fences and gorse not more than one beast), whereas for £20-worth of land [in their own parish or township] they can pasture at least 14 beasts
- (3) it has been generally estimated that commons and estovers in Needwood amount in value to about a third of their livings
- (4) no provision has been made for the newly-erected cottages in Needwood (which is full of poor), nor for the poor cottagers in the townships who sustain themselves by getting fuel for their fires and keeping cows in Needwood (even though they have no

right there), and so as a consequence they will become a heavy charge on their respective parishes

- (5) much land will be wasted in making highways and ditches around the many small inclosures, for which much timber will be needed for fencing and gates
- (6) many of the inclosures will lack water and so be useless for keeping cows and cattle on, especially for the poorer sort
- (7) some allotments will be full of gorse and furze and not be worth the cost of preparing it for stock, and so the poorer sort (if it falls to them) will not benefit
- (8) all the claimants undoubtedly have right of common in the new park inclosed by the late king [i.e. New park]; this was done with their consent so that they might be less oppressed by deer [feeding] in the common lands, and on the understanding that fewer deer would be kept in the chase; the State has recently sold the park but given no compensation to the commoners
- (9) when Uttoxeter ward was inclosed by the late king, [it was not done by agreement and] the commoners were forced, 'as many persons of quality now living can testify', to accept a moiety by 'terror of prerogative ... and threats of imprisonment'; moreover, there were not many people amongst whom the land was to be divided, and [indeed] it has not been quietly enjoyed to this day
- (10) many townships consist only of arable, and [if compensated so poorly in Needwood] they will be straitened in keeping their teams to till and plough their lands and may be forced to lay down their tillage [to pasture] and so be unable to pay taxes and support their families
- (11) it is believed that there is no forest or chase in England that has such ancient grants of commons and privileges, by which they have enjoyed not only their liberties but also their houses, lands, and inheritances under the laws of this nation for 400 years, and they doubt not that they would still enjoy them, except in the case of a just

compensation agreeable to law and equity as provided for in the instructions to the commissioners. Woodhouse Green etc. Estovers to the 4th rector etc.<sup>55</sup>

- (12) a rent and service is paid and expected [for the common rights in the forest] to this day

In addition to these specific objections, there survives a separate account of ‘Answers’ to the commissioners’ reasons for disallowing certain charters, either in whole or in part.<sup>56</sup> This response, which was presumably sent to the Committee of Appeal, along with the objections detailed above, during the winter or early spring of 1658, refers to some 30 charters which the commissioners had disallowed. Fewer than half of them had been viewed when the forest was surveyed in 1650, the new ones evidently being presented after the commission to disafforest Needwood had been set up. Indeed, claimants were still coming forward: a charter belonging to Charles Agard as heir to the recently-deceased Walter Agard was ‘now in our [the objectors’] Hands and ready to be produced’.<sup>57</sup> A few of the disallowed charters related to Uttoxeter ward and the commoners agreed that they were not valid,<sup>58</sup> but strong arguments were made in favour of the others, often by citation of legal precedents.<sup>59</sup> Moreover, some charters had been confirmed by the court of the duchy of Lancaster and ‘we dare not presume to be wiser than those grave and learned Judges of the Court that have allowed them in the strictest time of prerogative’.<sup>60</sup>

No associated correspondence concerning the objectors’ appeal appears to have survived, and for an account of what happened next it is necessary to rely on the commissioners’ response of May 1658 to the Committee of Appeal.<sup>61</sup> Commenting that they detected ‘a spirit of perverseness’ in the objections, the commissioners nevertheless wished to reach an agreement by consent and so increased their offer of



forest land by 250 a., making a total offer of 4,000 a. (and to include the 30-a. Woodhouse Green in Yoxall, which some had argued was not in fact part of the forest). Moreover, it was proposed that although the commoners were to construct the fences which were to divide their part of the forest from the State's, the fences were to be maintained by the future owners and occupiers of the allotted land. These new proposals were 'cheerfully imbraced [*sic*] by the most sober and ingenious' of the claimants, but were opposed by 'some peevish discontented persons', many of them being the chief offenders of forest regulations in the past. The latter's opposition gave the county gentlemen justification to maintain their own 'high demands' and 'manifest an utter indisposition and unwillingness' to accept the commissioners' offer of a moiety.

In the commissioners' opinion rights of common might have been acceptable in an earlier period when the forest was full of wood and its edges were thinly populated, but the same liberties should not be allowed now as the wood was so thin and the country round about so populous. So much wood had been cut down in the past 20 years, and what remained was so 'lopt and topt', that it was unreasonable to compensate the commoners in that regard. Indeed, by their depredations it could be argued that they had exhausted their claims, the ameracements levied by forest courts being merely a fifth of the value of the wood that had been lost. It also seems likely that much poaching had been going on, as when the deer were surveyed in 1659 there were only 250 fallow, most of them hinds.<sup>62</sup> Moreover, the allegation that the moiety of forest land being offered to the commoners would be insufficient to provide pasture for their beasts was untrue, as when in past years the forest was full of game there was sufficient summer pasture for only some 300 cattle at the most and so the value of a beast-gate was 5s., far below the value of each acre being offered. There would,

therefore, be plentiful land for all the interested parties, together with some spare land for the poor, if the commoners chose to allow them to have a share. All told, the commissioners' offer was more than fair, the middling sort of claimants getting their full right, the meaner sort more than their right, and the greatest (being people who made little use of the forest for profit but only now and then for pleasure) more than they at present enjoyed.

The commissioners also commented that in denying that Needwood was a forest (rather than a chase) the commoners were being illogical, as when the sale of former royal lands was authorised for sale in 1649 Needwood was reserved precisely because it was considered to be a forest, and in conclusion reminded the Committee of Appeal of the trouble and expense which they [the commissioners] would have been spared if the commoners had not been so unreasonable. The Committee duly ordered the division and inclosure of Needwood, for which George Sergeant in October 1658 prepared a detailed account of how the land was to be allotted to the State and the commoners.<sup>63</sup> His task also involved re-surveying parts of the forest, and returns made in December 1658 survive for Brakenhurst, a wooded area of 184 a. straddling the boundary of Marchington, Tubury, and Yoxall wards,<sup>64</sup> and two ward lodges: Barton and Byrkley.<sup>65</sup> The three commissioners also in April 1659 submitted a survey of 'rents and royalties' and of 'rent hens' that were customarily paid by the commoners.<sup>66</sup> The rents and royalties were small annual payments by a few men perhaps for particular parcels of land, but also of between 1s. and 2s. by the inhabitants of some of the townships surrounding the forest (Dunstall, Hampstall Ridware, Marchington, Stubby Lane, Tatenhill, and Yoxall), presumably for collective rights in the forest.<sup>67</sup> The hen rents were for 'woodhens' (female woodcocks), paid by 340 copyholders in several townships or hamlets: Barton-under-

Needwood (59); Draycott (10), with Coton (6) and Stubby Lane (8); Dunstall (24); Fauld (5); Hanbury 27); Rolleston (32), with Anslow (26); Scropton (28); Tatenhill (22); and Yoxall (64), along with Morrey Woodhouses (10) and Yoxall Woodhouses (19).<sup>68</sup> Each copyholder owed one ‘woodhen’ (valued by the commissioners at 4*d.*) as an ‘ancient custom’ for interest in the forest, a kind of payment perhaps originating as a symbolic gesture.

### OPPOSITION TO INCLOSURE PROCESS

As already noted, when the inclosure commissioners first came to Needwood early in 1657 they met with local opposition, and in May they requested the assistance of ‘a dozen or fourteen horses [i.e. mounted soldiers], without the protection of whom they could not carry out their survey’.<sup>69</sup> George Sargeant had reported ‘continual depredations’, no doubt in the form of harassment and obstruction as had happened when Duffield Frith (Derbs.) was inclosed in the 1630s, many of the activists there being women.<sup>70</sup> This low-level resistance probably became more heightened once the laying of stakes and fences for actual inclosure was under way by the autumn of 1658,<sup>71</sup> and some detail regarding the form of resistance survives in the records of the Quarter Sessions: namely, depositions made before three JPs (Richard Floyer, Henry Stone, and Zachary Babington) sitting at Alrewas (a village a couple of miles south of Needwood towards Lichfield) on 17 and 18 March 1659<sup>72</sup> and again on 21 and 22 March,<sup>73</sup> and individual examinations of particular witnesses made shortly after Easter on 5 and 6 April, also at Alrewas.<sup>74</sup> These depositions, however, are those made by witnesses called by the JPs rather than the accused themselves, which if made no longer survive.

The March depositions refer to either 40 or 50 persons or as many as 100 or 200 having gathered in the forest,<sup>75</sup> many armed with cudgels, staffs, and pitchforks and the leaders with carbines, guns, and pistols, intent on destroying stakes which had been erected on the orders of a Captain Backhouse (or 'Bacchus').<sup>76</sup> The fencing was evidently underway at the time, as some workmen were physically beaten, including George Harding who was left for dead having been attacked with a pitchfork until the forks 'flew out': an example of personal violence that is fairly unusual for inclosure riots of this period.<sup>77</sup> Two workmen were intimidated by gangs to reveal where they had been at work, and threats were made to pull down their houses if they did not cooperate. Of the named leaders, a few came from Barton-under-Needwood but most from Yoxall and Hoar Cross, notably Abraham Abberley and George Ilsley: the former was identified as having been a drummer in Queen Henrietta Maria's army when it attacked the parliamentary garrison at Burton-upon-Trent in July 1643,<sup>78</sup> whilst the latter may have been related to the owner of the small freehold High-Hall-Hill estate in Yoxall.<sup>79</sup> Both Abberley and Ilsley were part of a 30-strong gang which one deponent, Edward Burne of Wychnor, said had met at Widow Hill's at Hoar Cross: this was almost certainly an alehouse, and highlights how such places were used for meetings of this kind.<sup>80</sup> Burne had heard that the men had been into the forest 'to seek their rights' and that Abberley said that he would speak to 'some of the heads of the Country' in order to gather 'a purse of money' to pay for Ilsley to go to Sherwood forest to find out what had happened there;<sup>81</sup> Ilsley was willing to go and, if paid, would find a horse. After the encounter Burne spent the night in the forest (possibly at the alehouse) and next day he saw Abberley and another man walking there, each with a gun.<sup>82</sup>

The later examinations of individual witnesses after Easter produced more detailed information. A gentleman named Henry Byard reported that on Maundy Thursday a Barton-under-Needwood butcher, Samuel Chandler, had told him that ‘Lichfield’ would send 140 armed men to assist the Needwood commoners ‘at 2 hours warning if they had need’,<sup>83</sup> and a Barton gentlemen, William Holland the younger, disclosed that he had heard William Harding of Barton say that a company of Moorlanders (from the north of the county) would send help if ‘the soldiers’ opposed the commoners.<sup>84</sup> Another witness, Thomas Birde of Dunstall, stated that about a fortnight ago he had met George Ilsley at an alehouse in Dunstall hamlet and that Ilsley had told him that there had been a skirmish that very day. Birde’s response was that Ilsley need not be so ‘hot’ [*whotte*; i.e. so agitated about inclosure] because he had ‘not so much common in Needwood as will keep a goose’. Ilsley exploded: ‘Thou art a Rogue in heart (*harte*), And if my Lord Protector seek my ruination (*ruinat[i]on*) I will seek his Ruination (*Ruynac[i]on*)’.<sup>85</sup> Another drinking establishment, the Falcon inn in Yoxall village, had been the venue of a discussion on 19 March between Walter Feris of Yoxall<sup>86</sup> and Thomas Foden (or Fooden) of Tipton. Feris had asked where ‘the Captains’ were, meaning Backhouse and his colleagues, and was told that they were at Lichfield and that the workmen had gone home.<sup>87</sup>

Finally, a husbandman named Thomas Biddull who was from Curborough near Lichfield and was Zachary Babington’s servant,<sup>88</sup> reported that on Lady Day (25 March) he had met one of the ring-leaders, Abraham Abberley, at Burton-upon-Trent fair, once more in an alehouse. Abberley confirmed that he was amongst those who had recently thrown down inclosures in Needwood and that ‘as long as he had life [he] would be there in defence of his commons’ and would ‘knock down the first man of his party that should run away’. He reminded Biddull that both Babington and

another JP, Daniel Watson, the Burton lawyer, had been given a great deal of money by the Country and directed him (Biddull) to acquaint Babington of this fact; if he and Watson did not give an account of the money, then 'we will come to their houses and pull them out by their ears'.<sup>89</sup>

The activists named in the Quarter Sessions documents came mainly from Barton and Yoxall, but there may have been other depositions and witness statements (now lost) that would have indicated more widespread opposition. The named ring-leaders were the kind of small landholders who had much to lose, although perhaps less so the mass of cottagers, whose large number is indicated by the long list of Marchington and Marchington Woodlands in the 1655 petition. Their appeal to customary rights was a means of articulating a vision of the proper ordering of society, which in the case of Ilsley's retort regarding the Lord Protector strayed into an engagement with national politics.<sup>90</sup> It was the likes of Zachary Babington, however, and his fellow gentry who were the 'brains' behind the defence of local custom.

## AFTERMATH

Quite how long resistance was maintained, and how far Captain Backhouse and his colleagues were able to continue their work is unknown. The whole enterprise may have ground to a halt during the summer of 1659 as the authority of the Commonwealth government began to loosen, and with the Restoration of the monarchy in 1660 the forest once more became duchy property. In 1685 Charles II agreed to sell it to Col. Edward Vernon, but the sale was stopped chiefly on financial grounds and by an Act of 1696 the forest was declared to be inalienable from the

Crown: that status was preserved until inclosure eventually took place under an Act of 1801.

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<sup>1</sup> S. J. Madge, *Domesday of Crown Lands* (1938), 77–91; I. Gentles, ‘The sales of Crown lands during the English Revolution’, *Economic History Review*, 2nd ser. 26/4 (1973), 614–35 (but not treating forest land because of its special status: comment at p. 617). Dr Heather Falvey and Dr Andrew Hopper are thanked for their helpful comments, especially in setting the Needwood evidence in a wider context.

<sup>2</sup> For a general history of the forest see the article by Ann Kettle in *Victoria County History of Staffordshire [VCH Staffs.]*, II (1967), 349–58. A revised and much enlarged article by the present writer can be found in *VCH Staffs. X: Tutbury and Needwood Forest* (2007), 32–76.

<sup>3</sup> ‘Needwood forest surveys of 1649–50 and attempted inclosure’, in *Transactions of the Staffordshire Archaeological and Historical Society*, XLIV (2010), 28–70.

<sup>4</sup> ‘The 1655 petition against Needwood forest inclosure’ in *ibid.* XLVI (2013), 72–96.

<sup>5</sup> *VCH Staffs.* II, 352.

<sup>6</sup> For a general account of these common rights see *VCH Staffs. X*, 38–9.

<sup>7</sup> Staffordshire Record Office [SRO], D. 1124/1/1.

<sup>8</sup> British Library [BL], Stowe MS 879.

<sup>9</sup> J. M. Neeson, *Commoners: common rights, enclosure and social change in England, 1700–1820* (1993), 61–4.

<sup>10</sup> Wrongly dated ‘1610’ in *VCH Staffs. X*, 45, which made use of an abbreviated version in BL, Add. MS 34668, f. 47. A fuller version (used here) survives in an 18th-century copy in SRO, D. (W.) 1721/3/256, pp. 209–20 [hereafter referred to as ‘Orders’], giving date as ‘12 Feb. 8 James I’, i.e. February 1610/11.

<sup>11</sup> H. M. Colvin, D. R. Ransome, and J. Summerson (eds), *History of the King’s Works*, III (1) (1975), 405.

<sup>12</sup> Orders, nos 1–5. For ‘hoarlint’ see R. Hardy, *A History of the Parish of Tatenhill in the County of Stafford*, II (1907), 160.

<sup>13</sup> Orders, no. 21.

<sup>14</sup> Orders, no. 6.

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<sup>15</sup> Orders, no. 18. Swine were also to be marked in the same way as were cattle (as is described below).

<sup>16</sup> Orders, no. 13: ‘No person ... shall at any time of the year put any more cattle to depasture in the forest than he or they shall get fother upon their tenements to which their common is belonging to keep the same cattle all the winter season’.

<sup>17</sup> Orders, no. 12.

<sup>18</sup> Orders, no. 15.

<sup>19</sup> Orders, no. 16.

<sup>20</sup> *VCH Staffs.* X, 39.

<sup>21</sup> Orders, no. 17. The brands were drawn by the antiquary William Burton (d. 1645) in his manuscript history of Fauld, in Hanbury parish, written when he was living there in the earlier 17th century: BL, Add. MS 31917, at back of volume (copied in Hardy, *History of the Parish of Tatenhill*, I (1907), 161, but omitting those for Marchington Woodlands and Moreton); *VCH Staffs.* X, 129.

<sup>22</sup> Orders, no. 29.

<sup>23</sup> Orders, no. 12.

<sup>24</sup> Orders, no. 30.

<sup>25</sup> R. Somerville, *History of the Duchy of Lancaster*, II (privately printed for the Chancellor and Council of the Duchy of Lancaster, 1970), 16–17. For the enfranchisement of copyholders generally see R. W. Hoyle, “‘Vain Projects’: The Crown and its Copyholders in the Reign of James I”, in John Chartres and David Hey (eds), *English Rural Society, 1500–1800: Essays in Honour of Joan Thirsk* (Cambridge, 1990), 73–104; and R. W. Hoyle, “‘Shearing the hog’: the reform of the estates, c.1598–1640”, in R. W. Hoyle (ed.), *The Estates of the English Crown 1558–1640* (Cambridge, 1992), 204–62.

<sup>26</sup> SRO, D. (W.) 1721/3/256, p. 221.

<sup>27</sup> The National Archives [TNA], DL 28/33/14A, p. [1] (ref. kindly supplied by Dr H. Falvey). Also see H. Falvey, ‘Custom, resistance and politics: local experiences of improvement in early modern England’ (unpublished PhD thesis, University of Warwick, 2007), pp. 160–164.

<sup>28</sup> TNA, DL 3/65, f. 85.

<sup>29</sup> SRO, D. 1129/6/1/11, woodmoot court, 20 Sept. 1698.

<sup>30</sup> TNA, E 121/4/6 (surviving certificates for Agardsley, Castlehay, Castle (or Little) park, Hanbury, Highlands, Ruff hay, and Tutbury castle).



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<sup>31</sup> Madge, *Domesday of Crown Lands*, 107–8. The condition relating to timber, of course, did not apply to Needwood as it was over the 15-mile limit, as was stated in the survey.

<sup>32</sup> Madge, *Domesday of Crown Lands*, 111–20; *Calendar of State Papers, Domestic, 1654*, 341–2.

<sup>33</sup> TNA, SP 18/94, ff. 126–37; calendared in *Calendar of State Papers, Domestic, 1655*, 31 (no. 56), but otherwise printed. For an edition and discussion see Tringham, ‘The 1655 petition against Needwood forest inclosure’.

<sup>34</sup> William Salt Library, Stafford [WSL], S. MS 243/iii/4 (and another copy in S. MS 243/iii/6/ii).

<sup>35</sup> SRO, D. (W.) 1721/3/256, pp. 92–104 (even-numbered pages only). Babington begins his report by stating the hope that having received it each township would make a copy before passing it on to the next.

<sup>36</sup> TNA, DL 42/109, ff. 1–23.

<sup>37</sup> Possibly Heneage Finch (d. 1682), a post-Restoration lord chancellor, who had been called to the bar in 1645: *Oxford Dictionary of National Biography*. The 18th-century copy of Babington’s handwritten account gives a ‘Mr Smith’.

<sup>38</sup> WSL, S. MS 243/iii/4; SRO, D. (W.) 1721/3/256, p. 104; *Cal. State Papers, Domestic, 1655*, 31–2 (no. 57).

<sup>39</sup> Below, p. XX, item 3. **NB add page number in proof stage**

<sup>40</sup> *VCH Staffs.* X, 199–200.

<sup>41</sup> Nor is there much evidence for the duchy selling timber for use by iron works in the Midlands, possibly because it was not of sufficiently good quality: inf. from Dr Peter King.

<sup>42</sup> P. Warde, ‘Fear of wood shortage and the reality of woodland in Europe, c. 1450–1850’, *History Workshop Journal*, 62 (Autumn, 2006), 29–57.

<sup>43</sup> Tringham, ‘1655 petition’, 84–6. There may also have been lists, subsequently lost, for other townships.

<sup>44</sup> Below, p. -----, item 4. **NB add page number at proof stage**

<sup>45</sup> J. Thirsk, ‘Horn and thorn in Staffordshire: the economy of a pastoral county’, *North Staffordshire Journal of Field Studies*, 9 (1969), 4.

<sup>46</sup> For this conclusion see Tringham, ‘1655 petition’, 72, 75–6, 80.

<sup>47</sup> For Babington’s activities at this point, see Tringham ‘1655 petition’, 75.

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<sup>48</sup> Ibid. (from Babington's handwritten account: WSL, S. MS 243/iii/4).

<sup>49</sup> Tringham, 'Needwood forest surveys', 32. For similar threats made to a surveyor at Duffield (Derbs.) in the 1630s see H. Falvey, 'Marking the boundaries: William Jordan's 1633 pre-enclosure survey of Duffield Frith (Derbyshire)', *Agricultural History Review*, 61/1 (2013), 1–18 (at 9–13).

<sup>50</sup> The text survives in an 18th-century copy in SRO, D. (W.) 1721/3/256, pp. 127–41 (odd-numbered pages only). The commissioners named in the certificate were Richard Franke, John Kinsley, and George Sergeant.

<sup>51</sup> Tringham, 'Needwood forest surveys', 35 (Table 5).

<sup>52</sup> For protracted resistance to the Bernwood inclosure see J. Broad and R. Hoyle (eds), *Bernwood: the Life and Afterlife of a Forest* (Harris Paper Two, University of Central Lancashire, 1997), 61–3, 70–2. At Bernwood the claimants received allotments of 10 a. for every 100 a. of their own land, with each cottager getting 3 a. and 230 a. being assigned to the poor (totalling 577 a.); the king got the rest (1,394 a.), amounting to about two-thirds of the whole.

<sup>53</sup> At Uttoxeter the king got 196 a. and the commoners 129 a. Detailed calculations for the division of Needwood along the lines of Bernwood and Uttoxeter ward are given in SRO, D. (W.) 1721/3/256, pp. 141–3 (odd-numbered pages only).

<sup>54</sup> For a copy of the text (not giving the names of the objectors) see SRO, D. (W.) 1721/3/256, pp. 145–9 (odd-numbered pages only).

<sup>55</sup> These final phrases indicate that the copy is not a full transcript of the original objections.

<sup>56</sup> SRO, D. (W.) 1721/3/256, pp. 101–25 (odd-numbered pages only).

<sup>57</sup> Ibid. p. 119.

<sup>58</sup> Ibid. p. 109.

<sup>59</sup> Ibid. pp. 107, 111, 119.

<sup>60</sup> Ibid. p. 105.

<sup>61</sup> Ibid. pp. 133–41 (odd-numbered pages only).

<sup>62</sup> TNA, E 317/Staffs/34.

<sup>63</sup> For details see Tringham, 'Needwood forest surveys'.

<sup>64</sup> TNA, E 317/Staffs/14.

<sup>65</sup> Ibid. E 317/Staffs/25–6.

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- <sup>66</sup> This survives in an 18th-century copy: BL, Add. MS 34688, ff. 64–80.
- <sup>67</sup> The commissioners themselves did not know on what account the rents were paid, and the absence of other forest townships may be the result of lack of information.
- <sup>68</sup> Other places did not supply figures.
- <sup>69</sup> TNA, SP 18/155, no. 18 (cited in S. Bendall, ‘Mapping the English forests: Needwood, 1598–1834’, in E. Baigent and R. J. Mayhew (eds), *English geographies, 1600–1950: historical essays on English customs, cultures and communities in honour of Jack Langton* (2009), 23–38).
- <sup>70</sup> Falvey, ‘Marking the boundaries’, *Agricultural History Review*, 61/1 (2013), 10–15.
- <sup>71</sup> *Cal. SP Domestic 1658–69*, 152, 312.
- <sup>72</sup> SRO, Q/SR/306/43.
- <sup>73</sup> *Ibid.* Q/SR/306/44 and 46.
- <sup>74</sup> *Ibid.* Q/SR/306/45, 47–8, 50–2.
- <sup>75</sup> One deponent (Q/SR/306/44) gave 400 or 500 persons.
- <sup>76</sup> Possibly Peter Backhouse of Doxey (near Stafford), who in the 1640s had been in charge of a small parliamentary garrison at Wrottesley in south-west Staffordshire: I. Carr and I. Atherton (eds), *The Civil War in Staffordshire in the Spring of 1646: Sir William Brereton’s Letter Book, April–May 1646* (Staffordshire Record Society, 4th series, XXI, 2007), 189 note 1.
- <sup>77</sup> A. Wood, *Riot, Rebellion and Popoular Politics in Early Modern England* (2002), 91.
- <sup>78</sup> SRO, Q/SR/306/52; *VCH Staffs.* IX, 11. Abberley’s name appears as third on the Hoar Cross list of petitioners in 1655.
- <sup>79</sup> *VCH Staffs.* X, 288.
- <sup>80</sup> For other examples of alehouse meetings see below, next paragraph.
- <sup>81</sup> Raising a ‘common purse’ was something that authorities had tried to prove in cases regarding riots heard in Star Chamber. (Dr Falvey is thanked for this comment.)
- <sup>82</sup> SRO, Q/SR/306/46.
- <sup>83</sup> *Ibid.* Q/SR/306/45.
- <sup>84</sup> *Ibid.* Q/SR/306/45 and 51. Some years earlier in 1643 a gang of Moorlanders – a ‘great rabble’ of clubmen – had descended on Stafford to confront the arch-Royalist

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Sir Francis Wortley: A. Hopper, 'The Wortley Park poachers and the outbreak of the English Civil War', *Northern History*, XLIV/2 (2007), 108, 100.

<sup>85</sup> SRO, Q/SR/306/48.

<sup>86</sup> Named as Walter Ferrers in the 1655 petition [p. 130].

<sup>87</sup> The term 'captain' was also used, ironically, for riot leaders, as 'Captain Pouch': S. Hindle, 'Imagining Insurrection in Seventeenth-Century England: Representations of the Midland Rising of 1607', *History Workshop Journal*, 66 (2008), 21–61.

<sup>88</sup> The Babington family had been settled at what is now Curborough Hall Farm since the early 17th century: *VCH Staffs. XIV: Lichfield* (1990), 233.

<sup>89</sup> SRO, Q/SR/306/52.

<sup>90</sup> The 'vocabulary of national politics' as used in local disputes (albeit by supporters of the republic) is the theme of I. Peck, 'Collaborators not Cavaliers: popular politics in the northern counties of England, 1647–59', *Northern History*, L/1 (2013), 39–53.