

THE DUCHY OF CORNWALL ON DARTMOOR.

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IN the year 1887, when the Devonshire Association met at Plympton, I read a paper on "The Venville Rights on Dartmoor," and I now propose at Tavistock to pursue the same subject from the different point of view presented by the rights of the Duchy of Cornwall.

To make the matter clear, I must repeat what I before said—that Dartmoor was originally a forest; and that a forest is a tract of land, with or without trees, over which the king follows the chase, the chase in early days meaning nearly always the chase of the red deer, a very fine animal indigenous to Britain.

From the earliest days there is evidence that the primitive inhabitants of Britain, including the cave-men, hunted the red deer, and used his flesh for food, his horns and bones for instruments, and his skin for clothing, when they had any, long before the fiery Celt troubled the land.

To avoid details I need only remind you that in course of time the forest of Dartmoor was granted, with rights of chase, to subjects of the king, when it became, according to law, a chase, and not a forest. The forest laws were in force in a forest to protect the king's deer. On a forest becoming a chase by grant to a subject the forest laws ceased to operate, and the common laws of the land took their place.

In the time of Edward the Black Prince this forest was granted to him as Duke of Cornwall, by charter dated the 17th of March, 1336, creating the Duchy of Cornwall, 553 years ago, and has been held by the Dukes of Cornwall, Princes of Wales, ever since. As it is held by a subject—a very important fact—it is a chase; but we call it a forest

according to ancient custom, and there are forest rights attached to it.

I need not trouble you with any forest law, nor with any of the confused and complicated mass of the land laws, piled up one upon another by the astonishing ingenuity of man. We will try to get on with a little common-sense, if there is such a thing, which by-the-bye has been doubted.

The forest of Dartmoor consists of those parts of the Moor that lie within the boundaries set forth in the Perambulations, the earliest of which I believe was made about the 13th of June, 1240, just 650 years ago. In the reign of King John the whole of Devonshire was disafforested, the county having been before that subject to the forest laws; and there can hardly be a doubt that the Devonshire commons which now surround the forest were originally parts of the forest. When King John disafforested Devonshire, Dartmoor and Exmoor were specially reserved by him as forests. The Devonshire commons were then purlieus of the forest. The purlieus are lands contiguous to a forest, and the term has an exclusively forest meaning, on which the forest laws for the protection of the deer can be put in force, though in other respects they are outside the forest. The Devonshire commons being purlieus of the forest, the Duchy has a right to exercise, and always has exercised, certain forest rights over them. For the sake of brevity the word Duchy will be understood to stand for the rights of the Duchy of Cornwall on Dartmoor forest and its purlieus.

When the forest was granted to the Duke of Cornwall, and became a chase, it was granted as a chase, and not a manor. It was Dartmoor chase or forest, not Lydford manor; and by the charter granting the forest all the rights and privileges that had been enjoyed for centuries by the people living round the forest and its purlieus were specially reserved and confirmed to them. They have a right to take anything from the forest that may do them good, except green oak and venison, or more properly vert and venison, vert being a forest term for the trees and underwood on which the deer browsed. There cannot be a doubt that for a great number of years Dartmoor was held by the Duchy as a chase, with the rights on the side of the Duchy as the owner of a chase, but on the side of the people with the rights reserved to them. It can be readily supposed that questions might arise as to the number of beasts any one person had a right to turn out for agistment or pasturage, and it occurred to the officials—on no authority, I believe, of law, statutory or

otherwise—that no man could turn out more cattle than he could winter on his farm; and this doctrine received the Norman-French names *levant* and *couchant*, which in simple Dartmoor-English means rising up and lying down. The Norman-French tongue is not well understood on Dartmoor. The doctrine was borrowed from other commons in the country, but was not applicable to Dartmoor, because it was found by the statutes or charters afforesting and disafforesting the whole of Devonshire that the right to turn out beasts on Dartmoor was granted to all Devonshire men; therefore there could practically be no limit to the number of beasts *levant* and *couchant* in all the county. If that doctrine were valid now, no man could say how many beasts might be wintered on a farm by building cattle-houses and feeding on American maize or Russian oats.

Then there is the pony, that hardy and lively little beast, on whose habits I laid so much stress when treating of the rights of the *venvil* tenants. He does not go home for the winter, but abides on the Moor in all seasons, and defies all calculations as to the number that can be kept on any particular farm. The pony was the companion of the red-deer for ages, and is mentioned in ancient documents as “horses.” He was probably the first horse known to our Devonshire ancestors.

The rule, therefore, of *levant* and *couchant*, and limited commons, may be all very well on ordinary parish commons, but is utterly out of place on Dartmoor, and can be set aside as imaginary law put forward to curtail the rights of the Devonshire men and *venvil* tenants. If for the sake of argument, but for no other sake whatever, this idea of limited common be taken as a good idea, which it is not, instead of a bad idea, as it certainly is, could there even then be any fair or rational excuse for taking away all the best of the land, and leaving the worst, with the bogs, stones, and quagmires for the ponies and cattle of the commoners? Yet it is on this precious principle, called *levant* and *couchant*, that all the inclosures on Dartmoor have been made, and the best land taken from the ponies, the bullocks, and the sheep. Thousands of ponies have perished, valuable little beasts, worth £5 to £10 each, because the best and most sheltered land has been enclosed against them, and their bones lie bleached on the bleakest and barest parts of the Moor, to the heavy loss of the *venvil* tenants and the Devonshire men.

Returning to the rights of the Duchy, granted by the

king. These rights consist of the right to chase and kill the wild beasts of the forest; the hart, hind, buck, hare, wild boar, and wolf being specified as forest beasts of chase; and this right cannot be questioned, so we can wish the Duchy joy of it heartily and respectfully.

The Duchy has the right to receive the rents. The rents of a chase or forest are paid by the head, of horses and bullocks, or by the score of sheep, and not by the acre of land. Payment of rent by the acre is a new invention, compared with payment of rent by the head of cattle, and if no part of Dartmoor had ever been enclosed, the rents being paid by the head instead of by the acre, the amount received by the Duchy at the present time would be, I venture to say, quite as much as it is, and more profitable, the expense of inclosing not having been incurred. The whole of Dartmoor would have been well stocked by the surrounding tenants in venvil and the Devonshire men, and the rents paid on so large a number would amount to a considerable sum. There are no more industrious men, or men who do more credit to the country, taking the average of the people, than the small farmers with extensive rights of common. From them come the hardy, strong, and healthy race that supply the sinews and the muscles of the nation in all walks of life.

The Duchy has the right to drive the forest and the purlieus, in order to levy the rents; and here we come to the Drifts.

The deer were strictly preserved for the chase, to be killed and eaten by the Duchy, and no man could kill or injure them on the forest without a warrant (hence the term "warrantable deer," now used on Exmoor), or on the purlieus if they were forest deer. The forest laws are very remarkable, and were very severe in the time of Canute, before the days of the Normans, but they can only be alluded to here as affecting the rights on Dartmoor. In Canute's time a man had to pay for a deer with his skin, which some students of law supposed to mean that he was to be flayed alive; but a deeper insight into the matter showed that it only meant a flogging. Vert and venison—that is, the deer and their food—not being interfered with, the venvil men and the men of Devonshire had the right by ancient custom to turn out their beasts on Dartmoor, and take what they required from off it. The distinction between a venvil man and any other Devonshire man was, and still is, that the venvil man paid a rent or a fine, *fines villarum*, a fine of the vils, in

Dartmoor-English venvil, for the parish, vil, or manor in which he lived. Many parishes are in venvil, such as Whitchurch, Sampford Spiney, Peter Tavy, &c.; and some manors, such as Cudliptown, in Tavistock. The men of Devonshire, on the other hand, paid rent by the head of horses and bullocks, and by the score of sheep. There are four sorts of men mentioned in old documents as having rights—the borough men, the men of Lydford borough; the forest men, men on the forest, under-foresters, or keepers perhaps, and this may account for the hut circles; venvil men; and Devonshire men, sometimes called strangers. It appears that Cornish men had the right also, probably because the Duchy was the Duchy of Cornwall. The limit of levant and couchant might have been applied to the venvil men, to check their taking in cattle from others, and in that way depriving the Duchy of the higher rents paid by strangers.

The Drifts took place in order to levy the fines or rents, and were ordered on a sudden, no notice being given, that the beasts should not be taken off by their owners to avoid payment. The venvil tenants, holding their rights under the Duchy, were bound to join in the Drifts, being summoned early in the morning by the sounding of horns, &c. I described the Drifts in 1887, but I may repeat that Dartmoor was divided into four quarters—north, east, south, and west—and in each quarter there was a well-known place to which all the beasts were driven. There and then the Duchy official produced his authority, and levied the rents or fines by the head of cattle or ponies, which rents the Duchy had a perfect right to receive, and these rents included pasturage on the purlieus. The Duchy had also a right to receive night-rest, which was a fine for having cattle on the moor all night. In the days of the deer, men were not allowed on the Moor at night; but it came to pass that they could stay on the Moor all night by paying for that privilege. If a beast was not claimed at the Drift, and the rent not paid, he was driven to the Duchy pound at Dunnabridge, where he was kept for a certain time that the owner might claim him, and pay the rent, with a further fine for the pound; but if not claimed he was sold, and the proceeds went to the Duchy. It is clear that the value of the Duchy property on Dartmoor consisted in a great measure of the rents that could be got out of it. There were fines for horses, bullocks, sheep, pigs for pannage (a term meaning acorns), and more fines for taking coals, which we call turf, and for stone and sand. These fines were paid by the vils for the venvil men, and by the men them-

selves if they were strangers; and considering the extent of Dartmoor, they might amount to a large sum. There are many documents in existence to show that no beasts on the Moor were ever regarded as a case of trespass on the forest or the purlieus, and that all Devonshire men, or even Cornishmen also, had a right to turn out cattle on Dartmoor. It is evident that the principle of *levant and couchant* cannot apply to these rights of common; and in some documents the words "without stint," and "sans number" are used in regard to those rights of *venvil* men, Devonshire men, or countrymen, as they are sometimes called, or strangers.

This brings up the very knotty and very important question of the inclosures on Dartmoor, with the Duchy rights of inclosing.

Inclosures of the forest by the Duchy, or of the purlieus, must be quite inconsistent with the rights of *venvil* tenants and the Devonshire men for two good and sufficient reasons. First, because the inclosures deprive them of the right to turn out their cattle on the whole forest, which was especially reserved to them when the forest was granted to the Black Prince, any limited common to *levant and couchant* being impossible, as I have explained. Secondly, because inclosing the best land and leaving the worst for the commoners, cannot be otherwise than a great injury to their common rights. But even supposing, for the sake of argument, that the principle of limited common were applicable to the *venvil* tenants for the reasons I have given, has it ever been ascertained, or has there ever been any calculation made, as to the number of beasts that could be wintered on the vils in *venvil*, with a view of limiting the number? It never has been attempted, and the number remains an open question, leaving the ponies out of the account. I consider the ponies, however, the strongest element in the argument.

Notwithstanding these lawful and unanswerable objections to inclosure, the Duchy has inclosed thousands of acres of the best land on Dartmoor.

Whether inclosures, rightly or wrongly made, are good things in themselves is a matter well worth consideration. I need hardly say it is a question of political economy. In the early part of the century corn was so dear that hundreds and thousands of acres were inclosed to feed the people; but now that those hundreds of thousands of acres are inclosed the commons are by so much diminished, are worth more as commons than they would be if inclosed, and are of inestimable value to the small farmer and cottager, whose

interests have been usually ignored. By inclosing, according to the present law, land becomes the absolute property of one man, which was before practically the property of all the commoners. In the case of Dartmoor the Duchy has taken possession of a vast extent of the best land, which was before the property, for all practical grazing purposes, of the venvil men and the Devonshire men.

Some of the inclosures are very old; but most of them have been made in the present century—the large inclosures made by the convicts even within the last few years. The Duchy may say, and no doubt will say, that the inclosures are justified by custom, and that it always has been the custom of the Duchy to inclose. That is true; and twelve or twenty years of exclusive possession gives the land to the Duchy, according to law. But if a man picks my pocket in Tavistock for twelve or twenty years, the law does not give him the right to go on picking my pocket. He may be brought before the justices, and his nefarious practices stopped. I will say nothing that is disrespectful to the Duchy. I do not doubt that the Duchy has acted on a supposed right; but in thus acting the Duchy has deprived a great number of men of their ancient lawful rights, and has caused the death of thousands of ponies of considerable value to other people, by taking away from them the best and most sheltered pastures. Ponies are much dearer, much more valuable now than they were in 1806, when the French prisons, as the war prisons were called, were built at Princetown, and the first inclosures there were made. Now, when ponies are of so much more value, convicts have been inclosing the land over which the commoners have unquestionable rights; and the Duchy is paid rent by us poor taxpayers for taking away our property from us. But the evil does not stop there; for we are also heavy losers as taxpayers by the experiments in farming on our rights on a hopeless soil in a hostile climate. It is a fine moral idea to set convicts, imprisoned for theft, to take land from other people.

It is sometimes contended that inclosures afford employment, and therefore they are good things. But how can it be a good thing to oust, say, 100 men from land, in order to give employment to half a dozen? A great cry of depression in agriculture has been heard; in other words, prices are said to be too low, the people have their food too cheap. I do not contest that doctrine at this time and place; but if farmers are losing, as we are told, by cultivating land already

inclosed, it is quite impossible that they can want more land to inclose, and to lose more money thereby. As I have already said, and I say it on the best authority, the commons are of the utmost value and importance to small farmers and cottagers. I wish every schoolboy were taught that ever-truthful verse, which I again quote with solemn emphasis :

“The law condemns both man and woman,
Who takes the goose from off the common ;
But lets the greater felon loose,
Who takes the common from the goose.”

In political economy every farthing that is lost to an individual is lost to the nation, because the national wealth is made up of the wealth of the whole people taken together. It would be interesting to know how much money has been lost on Dartmoor, how much has been literally thrown away on it. Nobody that I ever heard of has ever made a shilling on Dartmoor. Can anyone report to this Association a single enterprise of the many attempted on Dartmoor that has ever paid a profit? I can name a few failures on a large scale.

The war prisons, including all the money laid out from the time they were built to the end of the war, with a tram-road from Plymouth to Princetown—this was part of the costs of war; a dead waste, with no return.

Many years after the war prisons were closed some speculators tried naphtha works there, and failed most completely to get naphtha out of the bogs at anything but a ruinous cost.

There was Mr. Fowler, of Liverpool, who farmed highly at Prince Hall, and left a fortune on the Moor.

There was Mr. Lynton, who enclosed Muddy Lake at great expense. He lost his money, and abandoned his inclosure to the Duchy.

There were the peat works at Rattlebrook, with a costly railway meandering over our commons, which, with other peat works at Walkham Head, ended in ruinous losses.

There were and are numerous mines on Dartmoor. Has any mine on Dartmoor ever paid a dividend to the shareholders? Many enterprising persons believe in tin on Dartmoor—a superstition from which I am myself exempt.

There are these convict inclosures. They must be of great cost to the taxpayer; and what he gets in return, in the shape of the moral improvement of the convicts, set to work to take away our rights of common, is a complicated thesis in ethics, but no relief of taxation.

There is the Princetown railway, about as fine a specimen of reckless enterprise as was ever heard of, which is saying a great deal. I hope I have some sympathy and pity in my composition, but I really cannot pity people who throw away their money in spoiling Dartmoor. They lose their money for certain, and it serves them right.

The Duchy is responsible for vast inclosures, made by other people on lease, thus taking away our pasturage at enormous losses to those who have made the inclosures. If the Duchy profit by them, it is at the expense of the lessees; and in course of time the leases run out, when the inclosed land is Duchy property, with the rights of common extinguished.

Continuing the subject of the Duchy Rights, the Duchy has a right to the minerals, whatever they may be. I have already expressed heretical doubts about tin, and I know miners have left many a "wrack" behind—monuments of their faith in their idol. The Duchy has a right to levy dues or fines on mining operations.

The Duchy has also a right to levy fines on digging coals, which we now call turf. But in the case of the venvil tenant the fine of the vil covers this as well as other fines.

In treating of the Duchy Rights I have been forced to allude to the commoners' wrongs, because the rights and wrongs have become in course of time so much confused that there seems to be a difficulty somewhere in distinguishing one from the other.

Many of the inclosures on Dartmoor must be considered past praying for. But seeing that the rights of the commoners are of great value, it will be well for them, with the venvil tenants at their head, to combine together and approach the Duchy with all proper respect, to ask the Duchy to agree to a scheme for the management of Dartmoor and the Devonshire commons, with due regard to the rights of the Duchy, and those ancient rights of the commoners which are now, and always have been, their own. I believe it will be much to the advantage of the Duchy on the one side, and to the commoners on the other, that the Duchy should firmly maintain the real and true rights—the rights of drift on the forest and on the Devonshire commons; that is, the right of levying rents by the head of horses and cattle over the whole; the right of preventing inclosures on the commons of Devonshire; the right of holding their courts, and hearing presentments of encroachments and damage; the right of appointing officers, moor-

men, &c., for the care of the forest and all its rights; and the right to all the red-deer, with which I should like to see Dartmoor again adorned. On the other hand, the commoners should be ready to give up to the Duchy certain of the inclosures, which might be agreed on between the two parties. Considering the feeling of injustice that prevails everywhere with regard to the proceedings of the Duchy, it would be no small advantage to the heir to the Crown—not His Royal Highness, the present heir, in particular, but to any heir—that his rights were not disputed, and the management of the Duchy property were no longer looked upon as a hostile proceeding to the neighbouring population of farmers and cottagers. The Duchy officers and moormen would have care of the beasts; and in the important case of the ponies, regulations might be made by the Duchy for the purpose of improving that very valuable breed of hardy and useful little animals. If the forest and the Devonshire commons were properly cared for, and the pasture preserved for the beasts, the commoners would readily consent to a rent by the head, which would be more to the advantage of the Duchy than all the inclosures.

Schemes have been established for the management for the public advantage of several royal forests—the New Forest, Epping Forest, Dean Forest, and others—to preserve these ancient, beautiful, and most interesting tracts of land for national pleasure-grounds, where the people of a closely-populated country may see trees, flowers, birds, and animals in their wild and native beauty. These forests are in nearly every respect similar in their character to Dartmoor, and such a scheme might be established for Dartmoor, by friendly agreement with the Duchy, which would be satisfactory to the public, who delight in Dartmoor; satisfactory to the commoners, whose ponies would increase and multiply exceedingly; satisfactory to the Duchy, whose conscience would be relieved of a heavy burden, and whose property would be secured on a solid and equitable basis; and satisfactory to the Devonshire Association, who would no more be worried by papers like this, and would have the stone circles, stone avenues, and the rest of it, for their members to indulge their speculative fancies.

Dartmoor being a chase held by a subject, and not a royal forest, there is that very notable distinction between it and the royal forests of the New Forest, Epping Forest, and others; but when it is considered who that subject is—a royal personage as he is, also that the Crown takes charge

of the Duchy when there is no Prince of Wales, as recently in the reigns of George IV. and William IV.—it is not too much to ask that it may be treated, as the royal forests have been treated, for the good of the public as well as for the good of the Duchy. Let us hope that the Duchy will follow the example set by the Crown, agree to a scheme for the management of Dartmoor, and in a friendly spirit meet the views of the venvil tenants, the Devonshire men and the public.