

## THE ROOTS OF THE ENGLISH ROYAL FOREST

Dolly Jørgensen

For it [the forest] has its own laws, which are said to be based on the will of princes, not on the law of the whole kingdom, so that what is done under forest law is called just according to forest law, rather than absolutely just. Moreover, in the forests are the kings' retreats and their greatest delights. For they go there to hunt, leaving their cares behind, to refresh themselves with a little rest. ... The king's forest is the preserve of wild animals, not just any kind, but woodland creatures, and not everywhere, but in certain places that are suitable for them. That is why it is called 'forest', the 'e' of 'feresta' – that is, a place for wild animals – being changed into an 'o'.

Richard Fitz Nigel<sup>1</sup>

Histories of the English forest inevitably use Fitz Nigel's definition of the forest from his *Dialogus de Scaccario* of Henry II's reign as their reference point.<sup>2</sup> In their supplement to Stubbs's *Constitutional History* on English forests, Ch. Petit-Dutaillis and Georges LeFebvre went so far as say that 'the nature of the Forest could not be more clearly stated',<sup>3</sup> and H. A. Cronne wrote that there is 'no more succinct definition of the Forest'.<sup>4</sup>

Fitz Nigel's definition stresses three things: legal structures, royal hunting, and royal prerogative. He believed that noble love of the hunt was the only reason for the forests' existence. Because scholars have tended to follow the lead of Fitz Nigel and similar legal texts, almost all histories of the English forest discuss it primarily as a royal hunting ground with its own legal system.<sup>5</sup>

While Fitz Nigel specifically mentioned beasts that live in woods as important to forests, we must remember from the outset that forest as a medieval term is not synonymous with the modern usage of the word to mean woodland; forest could include many kinds of land, including pasturage, heath, and even farmed land.<sup>6</sup> The

<sup>1</sup> *Dialogus de Scaccario*, 90–3.

<sup>2</sup> I would like to thank Prof. Sally Vaughn for her encouragement to write this paper.

<sup>3</sup> Ch. Petit-Dutaillis and Georges LeFebvre, *Studies and Notes Supplementary to Stubbs' Constitutional History*, trans. W. E. Rhodes, Manchester 1930, 149.

<sup>4</sup> H. A. Cronne, 'The Royal Forest in the Reign of Henry I', in *Essays in British and Irish History in Honour of James Eadie Todd*, ed. H. A. Cronne, T. W. Moody, and D. B. Quinn, London 1949, 1–23 at 2.

<sup>5</sup> These include William Stubbs, *The Constitutional History of England in its Origin and Development*, 5th edn, Oxford 1891, V, 434–8; J. Charles Cox, *The Royal Forests of England*, London 1905; Petit-Dutaillis and LeFebvre, *Studies and Notes*; Cronne, 'Royal Forest'; Charles R. Young, *The Royal Forests of Medieval England*, Philadelphia, PA, 1979; and Della Hooke, 'Medieval Forests and Parks in Southern and Central England', in *European Woods and Forests: Studies in Cultural History*, ed. Charles Watkins, New York 1998, 19–32. Oliver Rackham's work looks more broadly at wooded forests yet still characterizes forests as a legal entity centred on deer hunting: Oliver Rackham, *Trees and Woodland in the British Landscape: The Complete History of Britain's Trees, Woods and Hedgerows*, revised edn, London 1976; Oliver Rackham, *Ancient Woodland: Its History, Vegetation and Uses in England*, London 1980.

<sup>6</sup> See the discussion of what was included in medieval forests in Rackham, *Trees and Woodland*.

medieval forest in England did not imply continuous tree-cover, although many forests were well wooded. By the thirteenth century, designated forests in England encompassed wooded lands such as the forests of Dean and Hants, but Dartmoor and Exmoor, for example, were moorland, and still others, such as Sherwood, were heath.<sup>7</sup> The origin of the word forest is obscure. It may have come from the Latin *foris*, meaning ‘outdoors’ or ‘outside’ a jurisdiction, or it may have derived from a Germanic word, possibly *forst*. In any case, it probably did not derive from *feresta*, an abiding place for wild beasts (*feris*), as Richard Fitz Nigel claimed.<sup>8</sup> In medieval parlance, forest was an organizational term rather than a geographical one, as will become apparent through this paper.

Historians have acknowledged that William I imported the forest as an institution to England after the Conquest. In the standard interpretation, the forest of England was essentially a strictly enforced Continental model based on hunting. According to Charles Cox, ‘With William and his successors, the chase was a passion, and hence a code of singularly harsh and burdensome “forest” laws soon came into operation. ... The term “forest”, that had long been in like use on parts of the Continent, was then introduced into England.’<sup>9</sup> Ch. Petit-Dutaillis concurred: ‘William did not create the system: it was made in Normandy. If the “forest” in England was considered an intolerable evil, it was because the law was significantly stricter than the law of the Norman forest.’<sup>10</sup> Judith Green likewise observed that ‘In England the royal monopoly of forests and forest law was much more exclusive than the duke’s in Normandy where many of the great lords had private forests.’<sup>11</sup> The problem with such statements is that hereto we have not a good baseline analysis of the forest system in Normandy before and after the Conquest with which to compare the English system. Even Petit-Dutaillis’s article, which purportedly discusses the Franco-Norman roots of the English forest, offers only a brief discussion of the forest in Normandy. His focus is rather a comparison of the Carolingian forest of the ninth century with the English forest of the late twelfth and thirteen centuries, skipping the intervening years for the most part. Thus, we do not know if the ‘evil’ forest system of the twelfth century was a Norman import or a post-Conquest creation. Because the true nature of the forests of Normandy has not been investigated, the actual importation of the concept of forest, which had long-lasting consequences for the English landscape and administrative history, is unknown.

This paper will attempt to remedy this deficiency. It begins with a summary of current understanding of the early English forest. It then turns to the character of the Norman forest system that William imported. To do so, it uses charters from Normandy, both before and after the Conquest. Then it examines the ways in which

<sup>7</sup> Oliver Rackham, ‘The Growing and Transport of Timber and Underwood’, in *Woodworking Techniques before A.D. 1500*, ed. Sean McGrail, Oxford 1982, 199–217 at 205; Rackham, *Ancient Woodland*, 175–9.

<sup>8</sup> Jan Fredrik Niermeyer, *Mediae Latinitatis Lexicon Minus*, Leiden 1976, gives *foris* as the origin of *forestis*. For a thorough review of the word’s possible origins, see Rudolf Schützeichel, ‘Bezeichnungen für “Forst” und “Wald” in frühen Mittelalter’, *Zeitschrift für deutsches Altertum und deutsche Literatur* 87, 1956–7, 105–24; Ch. Petit-Dutaillis, ‘De la signification du mot “forêt” à l’époque franque: examen critique d’une position allemande sur la transition de la propriété collective à la propriété privée’, *Bibliothèque de l’École des Chartes* 76, 1915, 97–152 at 141–3. According to Schützeichel, the word *forst*, which is common in the Germanic languages, may be a native German word related to *föhre*, the word for pine or fir, rather than a Latinate import.

<sup>9</sup> Cox, *Royal Forests*, 5.

<sup>10</sup> Ch. Petit-Dutaillis, ‘Les Origines franco-normandes de la “forêt” anglaise’, in *Mélanges d’histoire offerts à M. Charles Bémont*, Paris 1913, 59–76 at 76.

<sup>11</sup> Judith Green, *Henry I: King of England and Duke of Normandy*, Cambridge 2006, 241.

William employed Norman notions of the forest in England in order to answer the question of whether the forest changed in England to something other than what it had been on the Continent. To investigate this last question, the paper uses charters and Domesday Book to discuss how the Norman idea of the forest was implemented under early Anglo-Norman rule in England.

*Traditional interpretations of the English forest*

Scholarship on the English forest has viewed administrative structures and royal hunting rights as its defining features. Cox offered a classic definition in *The Royal Forests of England* (1905):

a portion of territory consisting of extensive waste lands, and including a certain amount of both woodland and pasture, circumscribed by defined metes and bounds, within which the right of hunting was reserved exclusively to the king, and which was subject to a special code of laws administered by local as well as central ministers.

Cox noted that, although a lord could be seised of land in a forest, he was not allowed to hunt, chop wood, make enclosures, or hunt deer except with permission from the Crown. He also distinguished between a forest, which was held by the king for hunting, and a chase, which was held by a subject of the king.<sup>12</sup> Petit-Dutaillis and LeFebvre echoed this view. In their words, forests ‘belonged to the king’ specifically for hunting, while ‘barons and prelates had “chases”, “parks”, and “warrens” of their own. The chases of the lords were generally parts of the Forest which had been alienated by the king.’<sup>13</sup>

Looking at the narrative sources, it is easy to see why scholars have focused on the forest as an area for royal hunting. The Anglo-Saxon Chronicle’s characterization of William’s love of the hunt has long held the spotlight:

He set up great game-preserves, and he laid down laws for them,  
That whosoever killed hart or hind  
He was to be blinded.  
He forbade [hunting] the harts, so also the boars;  
He loved the stags so very much,  
As if he were their father;  
Also he decreed for the hares that they might go free.  
His powerful men lamented it, and the wretched men complained of it  
But he was so severe that he did not care about the enmity of all of them;  
But they must wholly follow the king’s will  
If they wanted to live or have land –  
Land or property or his good favour.<sup>14</sup>

Charles Young, for example, highlighted the importance of this passage. In his opinion, ‘The key to understanding this concept of royal forest in medieval England

<sup>12</sup> Cox, *Royal Forests*, 2–3. Cox was an activist supporter of agricultural labourers in the 1870s so his association of the forest with oppressive royal rights may have been influenced by his political views on the adversarial relationship between the government and the common people. See Bernard Nurse, ‘Cox, John Charles (1843–1919)’, *ODNB*, article 41055, accessed 1 Sept. 2009.

<sup>13</sup> Petit-Dutaillis and LeFebvre, *Studies and Notes*, 150, 154. See also Petit-Dutaillis, ‘De la signification du mot “Forêt”’, 143–4.

<sup>14</sup> *ASC*, trans. Swanton, 1086 [1087]. Swanton noted that the word he translated as game-preserves is *deorfrið*, literally ‘beast-woodlands’.

is to start just where the contemporary writers who discussed the institution started: the king's love of hunting.<sup>15</sup>

We should note, however, that the Anglo-Saxon Chronicler does not mention forests in this passage. The poem certainly talks about hunting and even game preserves, but the connection between hunting privilege and forests has been inferred by modern historians. The association relies on later legal texts like Fitz Nigel and the *Constitutiones de Foresta*, a law code purportedly issued by King Cnut in the eleventh century, which defines violations of the royal hunting prerogative. For example, clause 28 states that no one may touch the wood or underwood without permission of the minister of the forest, otherwise he is considered to have violated the laws of royal chase.<sup>16</sup> *Constitutiones de Foresta* was not, however, a genuine Anglo-Saxon text but one written by a Norman scribe reflecting Anglo-Norman practice of the late twelfth century rather than the forest under either Anglo-Saxon or even early Anglo-Norman rule.<sup>17</sup> By relying on a corpus of texts focused on hunting, scholars have tended to do the same, obscuring other possible functions of forest.

### *The Continental forest before 1066*

While scholars generally agree that the Normans inherited a Continental forest tradition, its implementation in Normandy has been difficult to interpret. The main problem revolves around language. Several words that appear in documents – *forestis*, *silva*, *bosco*, and *nemus* – have tended to be mixed together by editors and historians. Petit-Dutaillis claimed that the words are synonymous in authentic texts of Pepin, Charlemagne, and Louis the Pious and in eleventh-century Normandy, but his evidence for such a reading is questionable. He claims that phrases such as ‘*silva quae vocatur Forestis*’ and ‘*nemus quod foresta vocatur*’ show that the words mean the same thing, but I would argue that there would have been no need to specify that the *silva* or *nemus* was also a *foresta* or *forestis* unless they had different meanings.<sup>18</sup> *Silva*, *bosco*, and *nemus* carry the meaning of woodland, with *nemus* rarely used for royal property; *silva* is the most common word. A forest need not be wooded and, as indicated above, is related to a claim of property rather than geographical reality.<sup>19</sup> The other problem is that the words do not necessarily have a fixed meaning throughout time and space. We know that forest had a particular legal connotation in thirteenth-century England, but that need not be the case in other places and other

<sup>15</sup> Young, *Royal Forests*, 2.

<sup>16</sup> *Constitutiones de Foresta*, in *Ancient Laws and Institutes of England*, ed. Benjamin Thorpe, London 1840, c. 28, p. 184: ‘*Bosco nec subbosco nostro, sine licentia primariorum forestae, nemo manum apponat; quod si quis fecerit, reus sit fractionis regalis chaceae.*’

<sup>17</sup> Cox, *Royal Forests*, 5. Evidence from the law supports Cox's claim. First, the law survives only in Latin, unlike the other Anglo-Saxon codes. Secondly, the text makes a reference that would not have been present in Cnut's day: the list of protected beasts of the forest includes roebuck, hare, and rabbit (‘*capreoli, lepores et cuniculi*’). Rabbits were not introduced to England until after the Conquest: Mark Bailey, ‘The Rabbit and the Medieval East Anglian Economy’, *Agricultural History Review* 36, 1998, 1–20.

<sup>18</sup> Petit-Dutaillis, ‘De la signification du mot “Forêt”’, 126–7, 147–9.

<sup>19</sup> See the discussion of forest versus woodland in Rackham, *Trees and Woodland*, 165–8; Rudolf Kiess, ‘The Word “Forst/Forest” as an Indicator of Fiscal Property and Possible Consequences for the History of Western European Forests’, in *European Woods and Forests*, ed. Watkins, 11–18.

times.<sup>20</sup> Thus we must be careful when reading the documents to understand the forest system that William took with him to England.

The forest as an entity first appears under Merovingian rulers. The earliest confirmed appearance of the word forest is in a diploma from Sigebert III to the dual abbey of Stavelot-Malmédy in 648. In that document the word applies to the region of the Ardennes, which is characterized as a vast solitude, home to wild animals: 'in foreste nostra nuncupata Arduenna, in locis vaste solitudinis, in quibus cetera bestiarum germinat'.<sup>21</sup> In another document of Sigebert III, which was issued some time between 633 and 657, the forest is mentioned in connection with pig foraging, clearly indicating that the area was wooded.<sup>22</sup>

Interestingly, the Merovingian documents never mention hunting, even though that became synonymous with later forests. The Ardennes is described as a place of wild beasts in the text of 648, but that characterization may have more to do with its remoteness.<sup>23</sup> Petit-Dutaillis nevertheless claimed that the word forest still invoked hunting in the Merovingian documents because 'forestarii nostri' defended the forest, and what would they have defended except game?<sup>24</sup> Chris Wickham has likewise boldly stated that 'The history of the term [forest] is, in fact, nothing other than the history of the development of exclusive hunting reserves for kings and, later, nobles.'<sup>25</sup> This focus on hunting – even though it is absent from the documents – clearly indicates the power that Fitz Nigel's definition has had on scholars: because later definitions of forest include hunting, it has been assumed that the same must have been the case from the beginning. The early evidence does not, however, say anything about hunting and I would argue that we should evaluate the early forest from the evidence at hand rather than from characteristics of the forest dating from six centuries later.

It appears that those who established forests in the earliest periods, rather than having a preoccupation with hunting, wanted to secure property against other claimants.<sup>26</sup> There is a strong association between forests and the royal fisc and productivity in several Merovingian and Carolingian documents. For example, in 802 the

<sup>20</sup> For example, Ellen Arnold has argued that the meaning of the word forest was flexible in the Merovingian period in documents of the dual abbey of Stavelot-Malmédy since it is not consistently used for all references, which she believes may be a function of the newness of the term and the lack of a precise legal definition. She also criticizes scholars for reflecting the post-Conquest Norman English forest system on to the Merovingian and Carolingian setting: Ellen Arnold, 'Environment and the Shaping of Monastic Identity: Stavelot-Malmédy and the Medieval Ardennes', Ph.D. dissertation, University of Minnesota, 2006, 195–221. Although I agree with Arnold's contention that the word forest may not have had a fixed meaning early on, the fact that a given area is called multiple words – in the case of the Ardennes *silva*, *saltus*, *pagus*, *fundus*, *comitatus*, and *fiscus*, as well as *forest* – does not mean that the words do not have specific meanings or that they are synonymous. An area as large as the Ardennes could certainly have been all these things in different places and times.

<sup>21</sup> *Diplomata Regum Francorum e Stirpe Merovingica*, 2 vols, MGH, 2001 [hereafter *Diplomata Merovingica*], I, no. 81.

<sup>22</sup> *Ibid.*, no. 46.

<sup>23</sup> See Arnold, 'Environment', 212–13 for a discussion of how the Ardennes was characterized as a wilderness for religious reasons.

<sup>24</sup> Petit-Dutaillis, 'De la signification du mot "Forêt"', 117–24. Petit-Dutaillis's statement is problematic because in the one Merovingian document (*Diplomata Merovingica*, I, no. 150) that says 'foresteriae nostri defensarunt', it is not forest that the foresters were defending, but rather woodland ('*silva nostra qui vogatur Coruilelus*'). There is mention of a forester named Lobycinus associated with the forest of Rouvray, but nothing else is said about him: *ibid.*, no. 173.

<sup>25</sup> Chris Wickham, 'European Forests in the Early Middle Ages: Landscape and Land Clearance', in *Land and Power: Studies in Italian and European Social History, 400–1200*, London 1994, 155–99 at 159.

<sup>26</sup> See Kiess, 'The Word "Forst/Forest"'.

church of Trier asked Charlemagne to give them two forests instead of keeping them in the royal fisc, so that the land would not be waste.<sup>27</sup> Individuals claimed forest as a personal and productive possession, with no evidence that such a right had been granted by the king, in several of the eighth- and ninth-century documents. For example, a donation by Bertrade and his son Charibert to the monastery of Prüm in 720 includes ‘de foresta nostra’ as one of the gifts. Count Wigbert likewise gave *forestis* to the monastery of Lorsch in 770. Forests were thus productive spaces that generated revenue and products worth donating to a church. In the ninth century abbeys are known to have had their own foresters: at Prüm, a forester ‘served the forest’ and the monks of Saint-Germain-des-Prés had a forester who guarded the woods and vines.<sup>28</sup> In these examples we see that the earliest forest was not limited to royal prerogative. By the reign of Louis the Pious, however, forests had come under stricter control of the monarch and he ordered forests set up by magnates without permission to be disafforested.<sup>29</sup>

The right to hunt, as part of royal forest privileges, finally enters Carolingian documents in the ninth century. Charlemagne’s *Capitulare de Villis* included the statement that the wild animals within the forests should be protected, and his general capitulary from 802 banned hunting in the forest.<sup>30</sup> In two of Charlemagne’s diplomas, the text says that hunting in the forest was usually reserved for the king, although in one case he gave that right away to the church.<sup>31</sup> In another, Charlemagne allowed the monks of Saint-Bertin to hunt game in their woodland so as to be able to make leather for books, but they were required to keep the forest itself unharmed.<sup>32</sup> While hunting is associated with forests in these few texts, there is nothing to indicate that hunting privilege was the sole reason for the forests’ existence. When Pippin gave the cloister of Saint-Denis the forest of Iveline in 768, the list of things contained within the forest included pasture, woods, vines, water, and various wild animals (*diversa feraminum genera*).<sup>33</sup> This list stresses the productive nature of the forest rather than portraying it as a noble hunting ground, even though game was one of the forest’s outputs.

During the later ninth, tenth, and eleventh centuries, as the power of the Carolingian and then the Ottonian rulers waned over the eastern parts of the kingdom, primary forest rights moved from kings to dukes.<sup>34</sup> In Normandy, then, we must look at the ducal acts to see what the forest had become prior to Duke William’s conquest of England. In eleventh-century Norman acts, foresters abound but forests are scarce. Witnesses with the title forester (*forestarii*, *forestarius*, and *forest*) appear in several documents, yet none of the documents witnessed by a forester includes a forest as part of the gift.<sup>35</sup> Rather, they often deal with *silva*, implying that foresters did not necessarily work in forests. For example, the foundation charter of the monastery

<sup>27</sup> *Diplomatum Karolinorum*, MGH, 1906, I, no. 268. *Diplomata Merovingica*, I, nos. 150 and 173 also say that the forest under discussion is in the royal fisc.

<sup>28</sup> Texts cited in Petit-Dutaillis, ‘De la signification du mot “Forêt”’, 123, 133 note 2, 138.

<sup>29</sup> *Capitularia Regum Francorum*, MGH, 1883, I, no. 140, *Capitula per se Scribenda*, §7: ‘De forestibus noviter institutis. Ut quicumque illas habet dimittat, nisi forte indicio veraci ostendere posit, quod per iussionem sive permissionem domni Karoli genitoris nostri eas instituisset: praeter illas quae ad nostrum opus pertinent, unde nos decernere volumus quicquid nobis placuerit’.

<sup>30</sup> *Ibid.*, *Capitulare de Villis*, no. 32, §36; *Capitulare Missorum Generale*, no. 33, §39.

<sup>31</sup> *Diplomatum Karolinorum*, nos. 268, 273.

<sup>32</sup> *Ibid.*, no. 191.

<sup>33</sup> *Ibid.*, no. 28.

<sup>34</sup> Wickham, ‘European Forests’, 160–1.

<sup>35</sup> *RADN*, nos. 35, 101, 119, 123, 135, 158, 163, 206.

of Bernay included a gift of ‘silvas ex integro sicut Haymericus’, implying that the three foresters who witnessed the charter had responsibility for the woods and the hay (*haia*), a term meaning an enclosure for the retention and taking of deer.<sup>36</sup>

In several of these cases, the foresters clearly served local lords, not the duke. For example, the record of a grant by Hugh the forester of 6 acres of land to La Trinité-du-Mont says clearly that Robert Bertran was Hugh’s lord.<sup>37</sup> Witness lists thus provide potential insight into foresters’ relationship with lords. Emily Tabuteau discovered a group of professional witnesses for Norman abbeys who were agents or servants of the recipient church, with cooks and seneschals as common occupations.<sup>38</sup> It appears in two cases that foresters could perform a similar role. First, Bernard the forester witnessed six documents related to the abbey of La Trinité-du-Mont of Rouen, including three pre-Conquest documents witnessed by Duke William, one post-Conquest charter, a private transaction in which the abbot bought vines from a woman named Helen, and a gift from Bernard himself to the abbey.<sup>39</sup> None of these transactions involved forest, but this collection of sources indicates that Bernard worked for the abbey and was serving in the role of professional witness identified by Tabuteau. Secondly, the forester Warner appeared as witness for three charters of Ralph of Varenne but not in any other documents, probably because he was Ralph’s forester.<sup>40</sup> This indicates that Norman landholders relied on the services of foresters to guard their woodlands, just as Carolingian abbeys did.

Forests rarely appear in pre-Conquest Norman documents. When they do, the forests are held by both the duke and lesser lords. Duke Richard I gave the customs of the forest (‘consuetudinibus in foresta’) of Escalvelles to Saint-Wandrille of Fontaine-en-Bray, showing that the Norman duke even in the early eleventh century held jurisdictional areas labelled as forests. In a similar vein, Duke William’s donation of Saint-Aubin to the monastery of Saint-Désir included ‘silvis, forestis’, among other things.<sup>41</sup> Finally, there is the foundation charter of the abbey of Saint-Sauveur of Evreux by Richard, count of Evreux, in which the count gave all the tithe of the forest from four forests (‘forestae de Ebroyis ... forestarum de Tractu et de Gravencon et Caudebec’) to the abbey. The last of these documents gives some details about what forests produced: game, honey, grain, and wood.<sup>42</sup>

Hunting is associated with both forests and woodlands. It was a product of the forest on which tithes were due; for example, the foundation charter of Saint-Sauveur of Evreux listed hunting among the forest tithes.<sup>43</sup> Hunting and tithes from hunting were not, however, restricted to forests. The abbey of Montivilliers held the tithe of wild animals in two woodlands – Lillebonne by a gift of Duke Richard II and Lyons-la-Forêt by a gift of Duke William.<sup>44</sup> Hugh de Montfort also granted the priory of Saint-Hymer-en-Auge the tithes of his woods (*silvis*), including wild

<sup>36</sup> Ibid., no. 35. See Hooke, ‘Medieval Forests and Parks’ for a discussion of *haia* and *haga* in Anglo-Saxon England.

<sup>37</sup> *Cartulaire de l’abbaye de la Trinité du Mont de Rouen*, ed. A. Deville, in *Collection de Cartulaires de France*, III, Paris 1840, no. 79.

<sup>38</sup> Emily Zack Tabuteau, *Transfers of Property in Eleventh-Century Norman Law*, Chapel Hill, NC, 1988, 155–6.

<sup>39</sup> *Cartulaire de la Trinité du Mont*, nos. 19, 47, 49, 51, 64; *Regesta: William I*, no. 231.

<sup>40</sup> *Cartulaire de la Trinité du Mont*, nos. 27, 28, 41.

<sup>41</sup> *RADN*, nos. 30, 140. The latter is another instance where *silvis* and *forestis* must mean two distinct things.

<sup>42</sup> Ibid., no. 208.

<sup>43</sup> Ibid.

<sup>44</sup> *Regesta: William I*, no. 212. William I confirmed a list of earlier grants made to the abbey. The gifts are ‘decimam bestiarum silve Julie bono’ and ‘decimam silvesticarum bestiarum silve Leonum’. We

animals (*feris*).<sup>45</sup> Duke Richard II had at least one hunting enclosure in woodland.<sup>46</sup> These examples show that noble hunting took place in woodlands as well as in forests, and that forests were not always explicitly associated with hunting.

From this limited evidence we can identify some characteristics of Norman forests before 1066. The duke, counts, and lesser lords could all hold forest and could alienate it as a gift; hunting took place in forests, although it also took place in *silvae*; and foresters worked in both *forestae* and *silvae*, serving under a variety of local lords. Most significantly, these characteristics indicate that holding forest and having foresters was not only, or even primarily, a ducal privilege. Hunting does not emerge as the sole, or even primary, reason for the forest's existence; forest tithes included many products (honey, wood, etc.) as well as hunting. It appears that in pre-Conquest Normandy it was more frequent to have foresters as land managers than to have forests as designated property. This indicates that 'forester' as a term for a resource manager was more important than whatever administrative name the property had been given. Perhaps the forester came before the forest.

### *The post-Conquest Norman forest*

If we expand our study to the post-Conquest forest in Normandy, we have the benefit of many more relevant surviving documents with which we can test the above characteristics. In the time of William I the duke, counts, and lesser landholders all donated gifts of their forest, including the tithe of forest products and grazing rights, indicating that they held these rights themselves and were able to give them away. A few examples illustrate this tenure. First, in an unfinished confirmation to La Trinité of Caen, the duke intended to grant the tithe of the forest of Avranches ('decimam etiam de la Forest de Avrencedin') to the abbey.<sup>47</sup> Secondly, Robert, count of Mortain, granted the abbey of Marmoutier the right to feed its pigs wherever the count's pigs went in the forest without paying pannage: 'et ubi porci comitis ibunt in forestam, ibunt similiter porci monachorum sine pasnagio'. The count reserved the right to collect forfeitures from the forest.<sup>48</sup> Finally, Nigel, vicomte of Cotentin, and Richard alias Thurstan Haldup both gave tithes and pannage in their forests to abbeys.<sup>49</sup> Thus even after 1066 individuals at various levels in the hierarchy held forests in Normandy.

Hunting took place in both forests and woods. When Count Robert founded a new church dedicated to St Evroult, he donated the tithe of the forests of Equilly and Lande-Pourrie, except the tithes of pleas and hunting, showing that hunting took place in the forest.<sup>50</sup> But hunting appears to have been more common in *silvae*. A charter from the first half of William's reign indicates that the duke had the right to hunt game in woods: the king granted the abbey of Saint-Etienne of Caen four woods (*silvam*) on condition that he retained red deer, roe deer, and wild boar under

should note that, although the second woodland is now known as Lyons-la-Forêt, the word forest was not attached to it in the time of William.

<sup>45</sup> *Ibid.*, no. 258. This particular attestation as preserved is a forgery, but the listed gifts of Norman properties may reflect an actual pre-Conquest grant. See Bates's discussion of the document.

<sup>46</sup> *RADN*, no. 35.

<sup>47</sup> *Regesta: William I*, no. 62.

<sup>48</sup> *Ibid.*, no. 205.

<sup>49</sup> *Ibid.*, nos. 175, 260.

<sup>50</sup> *Ibid.*, no. 215.

his lordship.<sup>51</sup> We also see evidence of hunting in non-forest through tithing practices. For example, William, count of Arques, donated the tithe of red deer and wild boar hunted in his woodland to Saint-Wandrille.<sup>52</sup>

Lords also had hunting enclosures (*haiae*) within their own forests. When Nigel the vicomte placed the church of Saint-Sauveur-le-Vicomte under monastic rule he gave it the tithe of pannage and hunting and the right to graze pigs without payment of pannage in his forest and enclosure of Salsoif ('foreste mee et haie de Selesuef'). The monks' pigs were permitted to wander wherever Nigel's pigs went. He gave them similar rights in the forest of La Colombe, as well as granting the monks outright a third of the forest.<sup>53</sup> When Richard alias Thurstan Haldup, his wife Anna, and their son Eudo founded the abbey of Lessay, their gifts included all churches in the forest of Baupte ('foresta de Baltis') and the tithe inside and outside the park in the forest ('intra parcum et extra illius foreste'), the right to graze livestock inside and outside the park, and wood for building and for firewood in the forest. The abbey was given similar rights in another park in the forest of Cavilly.<sup>54</sup> It appears that hunting was often practised in enclosures and parks within forest, thus explaining why landholders were concerned to restrict access to the enclosures by competing livestock.

These grants attempted to balance the exploitation of forest between multiple uses: grazing, hunting, and wood collection. This makes it obvious that forest activities were not restricted to hunting. In Richard alias Thurstan Haldup's grant, we have a list of the tithes from profitable activities inside and outside the forest park: pannage, movement of waggons, hunting, mills, fisheries, and crops.<sup>55</sup> In another case, Robert, count of Mortain, granted the abbey of Marmoutier the right to take wood and send pigs for pannage wherever the count did the same in his forest.<sup>56</sup> Balancing between pannage, wood collection, and other uses appears often in the sources.

Several of William I's documents indicate that foresters worked in the woods belonging to landholders. Three documents in particular refer to foresters in charge of identifying proper areas to cut wood on behalf of the local lord. First, the pancarte of the abbey of Saint-Etienne of Caen records that Eudo gave pasture for the monks' animals and wood for their fires and building-work in his woodland ('de silva vero que in meo remanet dominio') on condition that if they wished to cut green wood, they must ask permission from his foresters, who would show them where best to cut ('petant licentiam a forestariis quantinus ipsi eant et ubi competenter [inci]di possent ostendant').<sup>57</sup> Secondly, a similar requirement was included in an agreement between Gulbert d'Auffay and the abbey of La Trinité at Fécamp. The abbey gave Gulbert the right to take wood for his fire but only if the abbey's forester measured the amount so that the abbey's woodland would not be too greatly damaged ('presente et tradente forestario abbatie mensurate ligna accipet ubi silva sancte Trinitatis non nimis peioraretur').<sup>58</sup> Thirdly, an agreement between Count William of

<sup>51</sup> *Ibid.*, no. 54: 'retentis in meo dominio cervis, capreolis et apris silvestribus'.

<sup>52</sup> *RADN*, no. 234: 'omnem decimam que de silva ejusdem nominis videtur exire scilicet de cervis et apris et de omni venatione'.

<sup>53</sup> *Regesta: William I*, no. 260.

<sup>54</sup> *Ibid.*, no. 175.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, no. 205.

<sup>57</sup> *Ibid.*, no. 49.

<sup>58</sup> *Ibid.*, no. 145. Note that Bates's English summary of the document refers to the abbey's 'forests', whereas the text uses *silva*. This is a common problem. In no. 149, for example, the English summary

Evreux and the abbey of Saint-Wandrille included the provision that the monks had to ask the count's foresters for wood from the count's two forests for heating and building-work, but if the foresters refused to co-operate, the monks could take what they needed in spite of them.<sup>59</sup> These documents show that counts and monasteries had foresters who worked to ensure proper use of woodland and forest resources, particularly monitoring the felling of trees and ensuring that pig herds fed in a controlled manner. In the first two examples, foresters worked in *silvae*, not just in forests, as in the pre-Conquest charters.

The characteristics identified for forests in pre-Conquest Normandy appear to have continued after the Conquest. Holding forest was not a privilege reserved for the king – various nobles had their own forests and granted rights to forest products.<sup>60</sup> Hunting was not just a pastime practised in forests – it took place in *silvae* and in designated hunting enclosures within forests. Foresters managed resources, including wood, grazing rights, and hunting, in both woodland and forest.

We can now look back at Fitz Nigel's definition of the English forest that stands at the core of all previous forest histories. First, Fitz Nigel stressed that the forest had its own law. While Carolingian rulers had regulated the forest by ban, there is nothing to indicate this in the Norman evidence. Foresters appear to have been local resource managers, and thus needed to be consulted prior to resource use in the forests, but no separately distinguishable forest law is apparent. Secondly, Fitz Nigel said that the forest served as 'the kings' retreats' that existed for the sake of hunting. Although hunting was practised in forests, it was not the sole reason for forests, and rights to take part in the activity were certainly not restricted to the king. If the English forest was indeed imported from Normandy, as previous scholars have suggested, then we have to look beyond royal hunting as its primary attribute. We should instead be looking for the existence of forests as areas of wide-ranging resource management under the authority of various nobles and often controlled by foresters.

### *The post-Conquest English forest*

So what happened after the Conquest in England? How did William the Conqueror's forests function there? The prevailing thought has been that there was a forest law administered in a court (possibly the shire court) and that the king commonly used writs to regulate hunting privileges in England.<sup>61</sup> While this may be true from the reign of Henry I on, little can be said definitively for his father's reign. Any interpretation that claims that William's writs and charters doled out hunting privileges

says that Ralph Taisson gave 'his part of the forest of Cinglais' to the abbey, but the Latin reads 'in parte sua Cingalensis silve'.

<sup>59</sup> *Ibid.*, no. 262. When William confirmed a donation of wood usage rights by Count William's father Richard to Saint-Wandrille, it was spelled out that the monks had to ask permission to gather wood: 'Si autem longe fuerit, forestarios et custodes silve rogabimus quod si annuerunt et nobis dederint accipiemus': *RADN*, no. 234. Although the pancarte confirmation is dated 1082 × 1087, the grant originated before the Conquest since Richard died in 1067. The new agreement which was made in 1074 between the monks and Count William seems to have modified Richard's donation by allowing the monks to take wood themselves if the foresters were unco-operative.

<sup>60</sup> See Jean Birrell, 'The Medieval English Forest', *Journal of Forest History* 24, 1980, 78–85 for a general discussion of the various products of forests.

<sup>61</sup> *Regesta I*, pp. xxxi; Young, *Royal Forests*, 10; Cronne, 'Royal Forest'.

in forests rests on faulty evidence because there are, in fact, few surviving authentic William I documents dealing with forest rights in England.

Nearly all the writs and charters that previous authors have relied upon to claim that forests under William centred on hunting and legal structures are late-twelfth-century fabrications. The forest inquiries of the 1160s under Henry II prompted several monasteries to forge charters claiming hunting and wood-collection rights and ordering royal foresters not to interfere with monastic woodland.<sup>62</sup> These documents make it seem that foresters and forest administration were commonplace in the Conqueror's England, but there is little authentic evidence for this claim. The word forest does not even appear in authentic William I writs for English property.

Authentic William I documents deal with hunting rights in *silvae* or other areas. Hunting rights in their woods are given to the abbeys of Battle and Westminster; the bishop of Winchester is permitted to hunt small game on all his land;<sup>63</sup> the king instructed the citizens of London not to take stags, hinds, or roe deer in the lands of Archbishop Lanfranc which belonged to the manor of Harrow;<sup>64</sup> Chertsey abbey was allowed to take wood from its woodland without disturbance and have dogs to catch hares and foxes.<sup>65</sup> All these property grants talk about woodland rather than forest.

At the time, deer hunting appears often to have been practised using enclosures in woodlands into which the deer were driven, called *haiae* in Latin. Della Hooke has convincingly argued that this term, as well as the Anglo-Saxon *haga*, does not denote merely a hedge, but rather a hunting enclosure, specifically for deer.<sup>66</sup> Seven entries in Domesday Book state this function overtly, such as 'haia in qua capiebant ferae' and 'haia capreolis capiendis'.<sup>67</sup> Such enclosures were often constructed within a wooded area, as in 'silva in qua est una haia' and 'silva c porcis incrassandis et ibi iii haiae'.<sup>68</sup>

Translators, particularly of Domesday Book, have done a great disservice to scholars by translating several different Latin words as 'enclosure', including *sepes*,

<sup>62</sup> *Regesta: William I*, nos. 20 (Battle abbey), 76 and 79 (Canterbury cathedral), 99 (Chertsey abbey), 155 (Gloucester abbey), 305 (Westminster abbey).

<sup>63</sup> *Ibid.*, nos. 18, 307, 343.

<sup>64</sup> *Ibid.*, no. 78. According to Bates, this charter was probably the source of the other Canterbury charters which made claims to hunting rights throughout Lanfranc's lands rather than just the manor of Harrow.

<sup>65</sup> *Ibid.*, no. 99. The document as it survives is a forgery but it may have been based on an authentic William I writ since an authentic William II writ on the subject exists and states that the monks may take wood from their woodland without disturbance and may have dogs to catch hares and foxes as they had in the time of his father. Significantly, the authentic writ has no mention of the 'royal foresters' who are on centre stage in the forged writ.

<sup>66</sup> Hooke, 'Medieval Forests and Parks'; Della Hooke, 'Pre-Conquest Woodland: Its Distribution and Usage', *Agricultural History Review* 37, 1989, 113–29.

<sup>67</sup> GDB 165b1 (Glos. 10/11), 176b1 (Worcs. 18/4), 187a2 (Herefs. 29/16), 256b1 (Salop. 4.8/10), 260a2 (Salop. 6/14), 263b1 (Ches. 1/1), 267b2 (Ches. 26/6). As with any Domesday information, we must keep in mind the limitations of the data. The Domesday inquest was not interested in recording every geographical feature – it was primarily an audit of the royal fisc – and Great Domesday Book was compiled by abbreviating the data collected: David Roffe, *Domesday: The Inquest and the Book*, Oxford 2000; idem, 'Domesday Now,' *ANS* 28, 2005, 168–87. That being said, both specific details of how a word is used and the general trends in its usage can give us insights into common woodland, hunting, and forest practices in the immediate post-Conquest period.

<sup>68</sup> GDB 257b2, 259b1 (Salop. 4.18/3; 4.27/11). I counted 161 *haiae* in woodlands in GDB. There are another 45 not associated with woodland in their GDB entries. This does not mean, however, that they were not enclosures for catching deer because deer also live in open wood-pasture and heaths, as seen in many later deer parks. Deer may also have been driven into the non-woodland enclosures from a nearby woodland area. See the discussion of park landscapes for deer hunting in later medieval England in Oliver Creighton, *Designs upon the Land: Elite Landscapes of the Middle Ages*, Woodbridge 2009, 122–66.

*heda*, *in defenso* (or *defensa* or *defensu*) *regis*, and *haia*. The first two mean a hedged enclosure, as might be around a field. *In defenso regis* could mean ‘in the king’s fenced-in space’ but also ‘in the non-accessible area belonging to the king’.<sup>69</sup> It appears that *in defenso regis* was not equivalent to *haia* because in the Herefordshire folios of Domesday Book, the entry for Ross, which says that ‘*silva est in defensu regis*’, follows directly after an entry for Walford with ‘*iii haiae*’.<sup>70</sup> The phrase is also not equivalent to forest, as in several cases the entries with *in defenso regis* are close to entries naming forest. *In defenso regis* is, however, always used when talking about woodland, so it is likely that it means a restricted woodland space. Further confusion is added when *haia* is translated as ‘park’.<sup>71</sup>

Domesday *haiae* were never located in forests, though they were often associated with woodland (*silva*).<sup>72</sup> They are found in Cheshire (98), Gloucestershire (6), Herefordshire (14), Shropshire (86), Warwickshire (1), and Worcestershire (2). As these numbers show clearly, *haiae* are a distinctive feature of the counties near the Welsh border. Sometimes the entry noted that the enclosure belonged to the king, but most of the time it was listed along with other resources belonging to the holder of the manor. There are some instances where the non-royal owner is specified: Hugh Lasne, a large landholder in western England, had an enclosure in which he might keep what he could catch; St Peter’s abbey, Gloucester, had three enclosures in Westbury hundred for its own hunting both before and after the Conquest; and Earl Hugh of Chester is named as the owner of thirteen enclosures.<sup>73</sup> These landholders thus had hunting enclosures in regular woodland, not forest.

In addition to *haiae*, game parks (*parcus*) appear sporadically in nearly every county in Great Domesday Book. Many are called ‘*parcus bestiarum silvaticarum*’, which perhaps means that, although deer were the most commonly hunted game, other large mammals such as boar were also common quarry there.<sup>74</sup> Two cases specify that woodland (*silva*) had been placed in the park.<sup>75</sup> Some of these parks were held by the king, others by earls, counts, bishops, and the like.<sup>76</sup> When the Anglo-Saxon Chronicler lamented the game reserves in post-Conquest England, he may have been thinking about these much more common enclosures and parks rather than true forest.

The lack of charter evidence for forests and the fact that hunting commonly took place in enclosures and parks does not mean that William did not establish forests in England. As is well known, he created the New Forest in Hampshire, which even received its own folio in Domesday Book.<sup>77</sup> Domesday mentions two other forests

<sup>69</sup> J. F. Niermeyer, *Mediae Latinitatis Lexicon Minus*, definition of *defensum*, 313. The Alecto Historical Editions version has translated ‘*in defenso regis*’ as ‘in the king’s preserve’: e.g. GDB 56b2 (Berks. 1/1), 154b1 (Oxon. 1/4), 181b1 (Herefs. 2/2).

<sup>70</sup> GDB 182a1 (Herefs. 2/23–4).

<sup>71</sup> See the Phillimore translation of GDB 267b2 (Ches. 26/6): ‘*iiii haiae capreolis*’ is ‘4 deer parks’.

<sup>72</sup> Some examples of *haiae* in *silvae*: 163b1 (Glos. 1/34), 185b1 (Herefs. 14/7), 255b2 (Salop. 4.4/20), 264a1 (Ches. 1/26).

<sup>73</sup> GDB 165b1 (Glos. 10/11), 187a2 (Herefs. 29/16), 263b1, 264a1 (Ches. 1/1, 8, 26–7).

<sup>74</sup> GDB 8a1 (Kent 5/72); 135b1, 138b1, 141a1 (Herts. 10/5; 26/1; 36/7), 147a1 (Bucks. 14/5), 195b2, 202a2 (Cams. 14/78; 41/1). In one case it is a ‘*parcus ferarum silvaticarum*’: GDB 129b2 (Mdx 10/1); in three others it is simply ‘*parcus bestiarum*’ or ‘*parcus ferarum*’: GDB 40a2 (Hants 2/9), 101b1 (Devon 1/64), 180b1 (Herefs. 1/41).

<sup>75</sup> GDB 30a2 (Surr. 1/3), 149a2 (Bucks. 19/3).

<sup>76</sup> The king is named as holding six of the thirty-one parks I identified in GDB: 30a2 (Surr. 1/3), 52b2 (Hants IoW5/1), 101b1 (Devon 1/64), 149a2 (Bucks. 19/3), 163b2 (Glos. 1/48), 180b1 (Herefs. 1/41).

<sup>77</sup> GDB 51a1–b2, continued on 50b2. In addition, numerous entries in Hampshire list land as ‘in the King’s forest’.

by name, Windsor and Wimborne,<sup>78</sup> and it refers sporadically to the king's forest (*foresta regis*) in other counties, including Oxfordshire, Surrey, Wiltshire, Buckinghamshire, Gloucestershire, Worcestershire, Herefordshire, Northamptonshire, and Staffordshire.<sup>79</sup> Entries often state that land had not previously been in the forest, and that King William had recently placed it there.<sup>80</sup> In the case of Windsor, we have a document which records an exchange of property between the king and Westminster abbey: the king wanted the manor of Windsor because it 'had a wood suitable for hunting' (*silvam venatibus aptam*).<sup>81</sup> Presumably this is how Windsor forest was established, and hunting was the primary reason. Several chroniclers claimed that William I had destroyed many houses and churches in order to extend the New Forest because of his love for the hunt.<sup>82</sup> We can thus be assured that William did create forests as a category of property and that hunting did take place there.<sup>83</sup>

Domesday appears to have been quite deliberate in recording when land was in the forest, in contrast with simply being woodland (*silva*). Numerous entries indicate that 'the woodland is in the forest' (*silva est in foresta*), stressing the distinction between the two terms, so we can be fairly sure that if something was considered a forest at the time, the entry uses that word.<sup>84</sup> Scribes would have been careful to note forest because land designated as such apparently had a different tax treatment, evident in many Domesday entries where the value of a holding had fallen because some land had been appropriated as forest.<sup>85</sup> Considering that the Domesday inquest

<sup>78</sup> GDB 56b2 (Berks. 1/3), 78b1 (Dors. 14/1). In Wiltshire there is one place called Melchet Forest in the English translation, but the Latin is actually 'Silva Melchet': GDB 68a1, 68a2 (Wilts. 13/10, 18).

<sup>79</sup> For example, GDB 32a2 (Surr. 6/5), 65b1, 68a2 (Wilts. 2/1; 13/20), 143b1 (Bucks. 1/6), 154b2 (Oxon. 1/10), 166b2, 167a1 (Glos. 31/4; 32/12), 172a2 (Worcs. 1/1c, 2), 179b2 (Herefs. 1/7), 219b2 (Northants 1/16), 247b2 (Staffs. 7/6). This list is not all-inclusive. It is worth noting that forests appear in most of these counties only a few times; the exception is Worcestershire, with seventeen GDB entries noting forest.

<sup>80</sup> For example, GDB 167a1 (Glos. 32/12), 172a2, 177b1 (Worcs. 1/2; 26/5); 179b2, 186a2 (Herefs. 1/7; 21/6).

<sup>81</sup> *Regesta: William I*, no. 290.

<sup>82</sup> Henry of Huntington borrowed the language of the Anglo-Saxon Chronicle entry for 1086 but added that 'in the woodlands reserved for hunting, which are called the New Forest, he had villages rooted out and people removed, and made it a habitation for wild beasts': Huntingdon, vi.39. William of Jumièges blamed the deaths of William II and his brother Richard while hunting in the New Forest on God's judgement for William I's expansion of the forest: Jumièges, II, viii.9. William of Malmesbury agreed with the wrath of God interpretation and stated, 'This was a region which his father William, with villages abandoned, had reduced for thirty miles and more to woodland glades and lairs for the wild beasts': Malmesbury, *Gesta Regum*, I, iii.275.

<sup>83</sup> There are indications, however, that some kind of forest jurisdiction existed under King Edward. Two entries record that King Edward had made land exempt from taxes in exchange for keeping the forest ('forestam custodiendam'): GDB 61b1 (Berks. 31/4), 167b1 (Glos. 37/3). A statement in GDB 61b1 (Berks. 31/1) also implies that a hide of land had been in the forest in King Edward's time and therefore never paid tax. GDB 269b1, 270a1 (Ches. R1/1; R5/1) appear to indicate that King Edward held forest and hawks' eyries there as well. An unnamed forester held land in Surrey and three foresters held land in Somerset in King Edward's time: GDB 30a1 (Surr. 1/2), 98b1 (Som. 46/3). It is possible that the terms *foresta* and *forestarii* were used anachronistically by the scribes to describe entities that had been known under other names prior to the Conquest but had some similar functions.

<sup>84</sup> For example, GDB 173b1 (Worcs. 2/52, 59).

<sup>85</sup> For example, Stanswood used to answer 'for 1 hide; now for nothing, because it is in the Forest': GDB 38b2 (Hants 1/26); in Ashley hundred within the New Forest, the value of the holdings of the sons of Godric Malf was 20s. before 1066, but now it is 15s. because 'the king holds the woodland of this manor at 8 pigs in his forest; value 5s.': GDB 51b2 (Hants NF9/36); Wyegate was 'by the king's order, in his forest. There were 6 hides; they paid tax. The value was 60s.; now there is only a fishery at 10s.': GDB 166b2 (Glos. 31/4); in Bucklebury hundred, 1 hide 'lies in the forest and never paid tax': GDB 61b1 (Berks. 31/3).

focused on taxation and service,<sup>86</sup> this should not come as a surprise. So while evidence about the forest as a legal and administrative entity in William's reign is sparse, we can say that it had a geld status separate from regular holdings. In addition, we know that foresters, as agents of the king, took over some revenues that had previously gone to others.<sup>87</sup> In this evidence, forest is a productive space that has a value and produces certain goods such as woodland for pigs.

The king was not alone in designating forest. Earl Hugh of Chester established a significant amount of forest in Cheshire: he put 3 hides of Weaverham, woodlands in Kingsley and Bistre, and all of 'Conersley', 'Aldredelie', and 'Done' in his forest (*in foresta comitis*).<sup>88</sup> The earl's Welsh properties also included woodland that he had placed in the forest.<sup>89</sup> While some of what Hugh put in the forest was woodland, ploughed agricultural land made up a large portion of it. In addition, William fitz Norman held forests in Herefordshire, Robert of Rhuddlan held some forests in Cheshire, and the count of Eu held a ½ hide of forest in Sussex.<sup>90</sup> As discussed above, the Welsh border counties also contained a large number of hunting enclosures. It appears, then, that King William had no problem allowing the earls on the Welsh March to have their own forests and hunting enclosures.<sup>91</sup> The forest, while sometimes associated with hunting, seems to have been deployed as a means of controlling property, since ploughed land was often included in it.

Since the forest was a productive geographical space, local lords and abbeys retained foresters to manage their own holdings. For example, Domesday Book records that Edward of Salisbury held a 40-acre meadow, woodland at 50 pigs, and a forester valued at 10s. in Elmbridge hundred,<sup>92</sup> and William fitz Osbern, earl of Hereford, 'put two foresters, one from Hanley [Castle], the other from Bushley, outside his manors to guard the woodlands'.<sup>93</sup> A forester, probably one working for Earl Hugh, held a ½ virgate of land in Gloucestershire.<sup>94</sup> As we would expect, the king had foresters as well. Three foresters are named in connection with the New Forest: Leofwine, Herbert, and Peret.<sup>95</sup> In the New Forest, the foresters collected revenue from honey, pasturage, and wood for building houses.<sup>96</sup> Game never appears as a forest product in Domesday Book; when hunting is mentioned, it is always in reference to woodlands (*silvae*).<sup>97</sup> While this certainly does not imply that hunting did not take place in forests, it means that the forest was not restricted to hunting.

<sup>86</sup> Roffe, 'Domesday Now'.

<sup>87</sup> At Wallop, the foresters had the honey, pasture, and wood revenues, instead of the reeve who used to have them: GDB 38b2 (Hants 1/23).

<sup>88</sup> GDB 263b1, 263b2, 267b2, 269a2 (Ches. 1/1–2, 10–11; 26/2; FT3/6).

<sup>89</sup> GDB 268b2 (Ches. FD9/1).

<sup>90</sup> GDB 181a2 (Herefs. 1/63), 269a1 (Ches. FT2/1), 18b2 (Suss. 9/32).

<sup>91</sup> For a more thorough discussion of the Marches of Wales and hunting areas there, see H. C. Darby, 'The Marches of Wales in 1086', *Transactions of the Institute of British Geographers* new series 11, 1986, 259–78. For example, the king must have made hunting trips to Shrewsbury, because GDB records that the better burgesses who had horses guarded him when he was hunting there and that thirty-six men helped with the hunt both in the city and in nearby Marsley park: GDB 252a1 (Salop. C3).

<sup>92</sup> GDB 36a2 (Surr. 27/1).

<sup>93</sup> GDB 180b2 (Herefs. 1/44).

<sup>94</sup> GDB 180b2 (Herefs. 1/42).

<sup>95</sup> GDB 38a1, 39a1, 51b2 (Hants 1/2, 31; NF9/24).

<sup>96</sup> GDB 38b2 (Hants 1/23).

<sup>97</sup> GDB 165b1 (Glos. 10/11), 172b2, 173a1, 173a2 (Worcs. 2/15, 22, 31), 179a1, 179b1 (Herefs. C3; 1/3; 24/5; 25/9), 228a2 (Northants 56/7), 273a1 (Derb. 1/30). The bishop used to have honey, hunting, and other woodland products from Malvern, but since it became forest, he now has pasture dues, firewood, and timber for repairing houses: GDB 173a2 (Worcs. 2/31). There is also explicit reference to the king hunting in a woodland which had been stocked with game: GDB 228a2 (Northants 56/7).

So what does this tell us about the forest in William the Conqueror's England? By using only legitimate eleventh-century sources, the forest appears less of a royal monopoly for hunting in this period than scholars have led us to believe. We know that the king had royal forest (*foresta regis*) in several counties, but others on the Welsh Marches also held forest. While hunting took place in some forests, it appears that enclosures and parks outside forests were more important for hunting. Forests were in fact multi-use areas encompassing a significant amount of tilled and pasture land, rather than woodland alone. They were a productive space, so that both the king and other nobles employed foresters to watch over their forests and woodlands, ensuring proper resource use and tithes collection. These features appear quite consistent with the Norman forests both pre- and post-Conquest.

### *The making of the English royal forest*

The analysis above has shown that the immediately post-Conquest English forest was similar in structure and content to its counterpart in Normandy. William imported the forest system he knew: a system in which nobles could have forest, foresters served nobles in both forest and woodland, and hunting rights were not as important as proper management to ensure productivity.

Scholars of the English forest have failed to see the forest through the trees, so to speak. They have focused so much on the forest as a legal unit and royal hunting ground that its productive role has been pushed aside. Both the Norman and English forests, whether comprising woodland or not, produced many different resources, and landholders charged foresters with their proper management. In Normandy, forest creation was not a royal privilege; it extended down through even the lesser nobility. In England after the Conquest William appears to have been more restrictive about who could set up forest, but certainly in the Welsh border counties great landholders set up forests. Although game may have been hunted in forests, enclosures and parks dominated the hunting landscape of the immediate post-Conquest period.

We also know that the forest had changed by the late twelfth century, and had become the institution described by Fitz Nigel and the charter forgeries – a legal entity centred on royal hunting rights. This transition must have taken place after William I's reign and was clearly complete when Richard Fitz Nigel wrote under Henry II. Some of the developments under Henry I have already been exposed by H. A. Cronne,<sup>98</sup> but more work needs to be done to understand how and why the forest system changed from a Norman import to a truly English system.

<sup>98</sup> Cronne, 'Royal Forest'.

# ANGLO-NORMAN STUDIES

## XXXII

PROCEEDINGS OF THE BATTLE CONFERENCE

2009

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