

here.  
and  
rallès  
2nd  
ental  
n on  
and  
istria  
ointi,  
d the  
man  
and  
ctive.  
mun,  
1870  
n - a  
al of  
w of  
2000)  
ucing  
print  
use?  
on of  
m/ef-

‘Without Which The Forests Cannot Be Preserved’: *Magna Carta*,  
Ecclesiastics, and Forest Sustainability

Dolores Wilson

University of Virginia, Charlottesville, Virginia, USA

A group of ecclesiastics, headed by the archbishops of Canterbury and Dublin, sent a letter of protest to King John in response to the uncontrolled deforestation of northern England after the issuance of *Magna Carta*. The letter declared that the intent of including the forest provisions in *Magna Carta* was not to abolish *all* customs of the forest, but only to rid the country of gross injustices. Although the injustices were not enumerated, excessive fines, the trial of non-forest offences in forest courts, and denial of previously granted privileges likely topped the list. In their words, the land must retain customs ‘without which the forest cannot be preserved’ (*sine quibus foreste servari non possint*) (EEA 26, 2003, no. 133). In response, the forest provisions were extracted from Henry III’s *Magna Carta* and became their own document, *Forest Charter of 1217*, which more clearly enumerated the customs of the forest that would remain in force. In modern scholarship of English forest history, the forest has been understood primarily as a royal political control mechanism, which created restrictive hunting grounds and provided money to the royal treasury through forest trespass fines (see Young, 1979 and works by Oliver Rackham). If the forest had been indeed a system that benefited only the king, why would the ecclesiastics have filed a letter supporting the maintenance of such a maligned system? To address this question, we must first understand the context of the forest in *Magna Carta*, then we turn to the ways in which religious houses had indebted themselves to the forest system and why the response letter was quite appropriate given the relationship between church and forest.

The forest was one of the most contentious aspects of thirteenth century English law. It was a legal entity imported to England by William the Conqueror and subsequently expanded. The forest developed its own complex fine and court system over the course of 150 years from its beginnings to 1215, making the forest system almost ubiquitously hated. As early as 1087, the Anglo-Saxon Peterborough chronicler lamented the oppressive nature of

William's forest: 'He made great protection for the game And imposed laws for the same ... Powerful men complained of it and poor men lamented it, But so fierce was he that he cared not for the rancour of them all ...' (Whitelock, Douglas and Tucker, 1961). Henry of Huntingdon admonished King Stephen who 'vowed not to keep in his own hand the woodlands of any clerk or layman, as King Henry had done, who year after year had prosecuted them if they took game in their own woodlands or uprooted or diminished them for their own requirements,' but then quickly broke his word through the imposition of a forest court in 1136 to prosecute forest offenders (Greenway, 1996). The forest was a long-standing bone of contention that made its way into the greatest English legal document, *Magna Carta*.

King John's *Magna Carta* of 15 June 1215 contained four provisions related to Forest Law. One of the key capitularies, number 48, contained a specific call to investigate and revamp forest administration:

'All the bad customs concerning forests and warrens and concerning foresters and warreners, sheriffs and their servants, river banks and their guardians shall be inquired into immediately in each country by twelve sworn knights of the same country, who shall be elected by the honest men of the same country, and within forty days after the inquisition has been made, they [the evil customs] shall be entirely destroyed by them, never to be restored...' (Adams and Stephens, 1929).

Only four days after approving *Magna Carta*, the king sent letters patent to his sheriffs and foresters informing them of the agreement with the nobles. Some of the northern, more rebellious magnates quickly took advantage of the sweeping language of *Magna Carta* to deforest swathes of land and slaughter game (Young, 1979). This harrying of the north prompted the ecclesiastical letter of concern.

The motivations behind the letter may lie in ecclesiastical notions of woodland sustainability as supported by English forest law. The church had always been active in acquiring rights and privileges within the king's forests. By working within the legal system, the church had acquired the resources they needed from woodlands that were regulated and monitored by royal authority, areas in which deforestation was minimized to some extent.

The English Church of the twelfth and early thirteenth centuries had grown heavily indebted to the Royal Forest system for daily provisions. They had obtained numerous concessions in almost every forest for necessary firewood, timber, and grazing. Table 1 lists those religious houses granted usufruct rights by Henry I (1100-1135). The list is extensive, and yet it contains only those grants that have survived to the present day. There were likely many more. Church activities to acquire forest privileges under later kings, from Stephen (1135-1154) to John (1199-1216), did not lessen. For example, under King Stephen, Eynsham Abbey acquired a grant of seven acres in the forest of Bloxham (Oxon.), St. Peter's Hospital of York obtained rights

to cut wood and pasture animals in Yorkshire forests, and Kirkham Priory received rights to collect dead wood in the forests of Yorkshire (Johnson and Cronne, 1968, nos. 294, 992, 423). One might wonder, then, if the church was so interested in forest concessions, would they not have welcomed an opportunity to abolish the system and obtain full rights to woodland areas?

The answer lies in the conservative character of the forest. Designating a wooded land as forest resulted in woodland conservation. In addition to reserving hunting rights, forest law often made the areas unavailable for colonization or agricultural clearance, causing them to remain wooded like the New Forest and Epping Forest (Simmons, 2001). Most of the larger tracts of surviving ancient woodland in modern Britain were originally medieval royal forests. For example, Rockingham Forest includes the densest woodland in Northamptonshire and Windsor Forest contains over 2,965 acres of woodland (Marren, 1992). Forest law was the driver of woodland maintenance.

The legal text *Leges Henrici Primi* of c.1115 summarized the items handled within the forest courts and financial accounting:

'It is concerned with the clearing of land; cutting wood; burning; hunting; the carrying of bow and spears in the forest; the wretched practice of hambling dogs; anyone who does not come to aid in the deer hunt; anyone who lets loose the livestock which he has kept confined; buildings in the forest; failure to obey summonses; the encountering of anyone in the forest with does; the finding of hide or flesh' (Downer, 1972, cap.17.2).

Through this jurisdiction, the king maintained control over woodland clearance as well as hunting. Henry II greatly expanded upon written forest law with his *Forest Assize* of 1184. Among other things, the *Forest Assize* specifically forbade the wasting of woods in the forest demesne and permitting only the taking of limited usufruct privileges for wood collection. Foresters were to monitor and restrict forest activities. No one, not even churchmen, was exempted from the assize requirements (Stubbs, 1867).

Asserting the environmental effect of the forest system is not to downplay its political and financial implications. The earliest surviving example of the Exchequer's annual fiscal records, the Pipe Roll of 1130, recorded the income from fines, fees, and taxes associated with forest law enforcement. But the pipe rolls much more frequently mention protection of the *vert*, forest vegetation than protection of venison. For example, the accounts of a number of Hampshire and Wiltshire foresters referred to the taking of timber from the Royal Forest (Cronne, 1949). Within a year of his coronation, Henry II ordered a forest regard, an investigation of forest boundaries and assarts. The sum collected by the regard in 15 counties totalled almost 12 percent of the royal revenue for 1155 (Amt, 1990). The scale of these collections indicates that the 1155 regard provided much needed revenue for the new king, in light of the recent civil war, and asserted the king's dominion over the forest. Forest law was enforced at regularly held forest courts, called eyres, which appeared

beginning in 1166. Through the enforcement of these regulations, significant income was possible. A forest eyre brought in £2,000 on average (Warren, 1987). The income from forest fines contributed a significant amount to the bottom line, so enforcement was profitable. Along with strict enforcement came an element of conservation.

For the church leaders, the presence of the forest law directly affected their ability to manage their environment and extract its resources. The English forest law was more than an administrative system built to levy fines and taxes. For the ecclesiastics, the forest system acted as a set of environmental laws that sustained resources for the long term. Within the forest law, the church had acquired usufruct privileges throughout the realm and others had been excluded from such use. By advocating the continuation of the law, the writers of the protest letter recognized the sustainable nature of the forest resource through English forest law.

### *References*

- Adams, G.B. and Stephens, H.M. (1929) *Select Documents of English Constitutional History*. Macmillan Co., New York.
- Amt, E.M. (1990) The Forest Regard of 1155. *Haskins Society Journal* 2, 189-195.
- Cronne, H.A. (1949) The Royal Forest in the Reign of Henry I. In: Cronne, H.A. (ed.) *Essays in British and Irish History in Honour of James Eadie Todd*. Frederick Muller Ltd, London, 1-23.
- Downer, L.J. (1972) *Leges Henrici Primi*. Oxford University Press, Oxford (UK) & New York.
- Greenway, D. (1996) *Historia Anglorum*. Clarendon Press, Oxford UK.
- Johnson, C. And Cronne, H.A. (1956) *Regesta Regum Anglo-Normannorum: 1066-1154*, vol. 2. Oxford University Press, Oxford (UK) & New York.
- Johnson, C. And Cronne, H.A. (1968) *Regesta Regum Anglo-Normannorum: 1066-1154*, vol. 3. Oxford University Press, Oxford (UK) & New York.
- Marren, P. (1992) *The Wild Woods*. David & Charles, Newton Abbot (UK).
- Simmons, I.G. (2001) *An Environmental History of Great Britain: From 10,000 Years Ago to the Present*. Edinburgh University Press, Edinburgh (UK).
- Stubbs, William (1867) *The Chronicle of the Reigns of Henry II and Richard I*, vol. 2. Longmans, Green, Reader, and Dyer, London (UK).
- Warren, W.L. (1987) *The Governance of Norman and Angevin England, 1086-1272*. Stanford University Press, Stanford.
- Whitelock, D., Douglas, D. and Tucker, S. (1961) *The Anglo-Saxon Chronicle: A Revised Translation*. Eyre and Spottiswoode, London.

Young, C. (1979) *The Royal Forests of Medieval England*. University of Pennsylvania Press, Philadelphia.

Table 1. Religious Houses Granted Forest Concessions in England under Henry I

House	Forest	Concession			N.
		Wood	Pasturage	Hunting	
Abingdon	Land of the abbot in forest	I	I		391
Abingdon	Near Welford	I	I		615
Abingdon	Windsor			T	696
Canons of St. George	Hernicote	X	X		1469
Canons of St. Mary	Bounds of forest as king gave them	X	X		1617
Chertsey	All their land in king's forest	X		X	1818
Cluny	Bestwood	X			1282
Colcester	Forest in Essex	X		X	577
In Lincoln Bishopric	Peak	I	I		723
Ramsey	Any land w/in	X		Excepted	583
Shrewsbury	Forest in Shropshire	X	X		698
St. Martin of Battle	Bocfalde & Betlesparrioc	X	X		1238
St. Martin of Battle	Rape of Hastings			X	859
St. Mary's Salisbury	Near Calne	I	I		1164
St. Mary's Salisbury	New Forest	X		T	1972
St. Mary's Salisbury	New Forest	X		T	1162
St. Mary's York	All their land in king's forest	I	I		836
St. Mary's York	Dean	I	I	Preserve for king	838
St. Mary's York	Forest in Yorkshire			T	935
St. Paul's London	Forest in Essex			T	1047
St. Peter's Gloucester	Dean			T	594
St. Peter's Hospital York	Forest in Yorkshire	X	X		1328
Tewkesbury	Malvern	I	I		1413
Thurstan Abp. Of York	All Abp's wood in king's forest	X			1989
Whitby	All their land in king's forest	X	X	Given to king	995
Whitby	All their land in king's forest		X		1335

X = explicitly stated in the text; I = implied by the text; T = tithe (a ten percent portion of the catch taken by others) given to the house  
 Compiled from Johnson and Cronne (1956).