

## **New Forest Notes – November 1997**

### **Verderers Election**

THIS month (28th) sees the triennial Verderers election and before going any further I should declare an interest as one of the two retiring Verderers (the other being Dionis Macnair) who will be offering themselves for re-election. This time there will be three vacancies. My colleague Richard Stride who has given a number of years valuable service to the Court will not be standing again. During his period as a Verderer he has been able to improve the Courts day to day working with the Forestry Commission out of all recognition - especially in such fields as Open Forest management. The Court will be lucky to replace him with someone of equal worth.

Nominations are not due to be published for another two weeks, but if rumours are to be believed, Miss Macnair and I will not be short of company. At the latest count either seven or eight candidates are likely to be contesting the vacant places - some perhaps confident of being able to right all the forests wrongs within weeks.

One of the great strengths of the Verderer's Court is that it has never been contaminated by party politics. With the sole exception of the County Council Verderer who is appointed by the ruling party in that council, I have never had the slightest idea how any of my colleagues would vote in a general election. From peers of the realm to small farmers they have always put (or claimed to put) the interests of the Forest first, irrespective of party allegiance. The only disadvantage of this lack of factions is that on occasions the Verderers may promote ten slightly different approaches to the same problem making the chairman's job an unenviable one. Lack of party structure means that in an election all candidates claim that they will protect the Forest and its farming, that they will fight development, work to cut down road accidents and so on. This makes choice for the electorate quite difficult. Often it boils down to which candidate is likely to be most effective in resisting, for example, campsite expansion, road construction or radio masts. Fifty years ago it was all much more simple. Potential Verderers then needed only a good knowledge of the Forests geography, common rights and half a dozen or so local Acts of Parliament. Today things are very different. Verderers must now grapple with an ever growing body of local, national and even European legislation. They must be prepared to argue the Forests case in all sorts of arenas from planning enquiries to select committees. Not least, they have to put up with a great deal of ill informed and (recently) deliberately destructive criticism, much of it directed at undermining the Court, with or without some sort of council dominated national park system of management as the ultimate objective. That, perhaps, represents the only major area of policy disagreement which is likely among candidates at this election.

There are again rumours that a further attempt at "national parking" the New Forest is about to be made, with the New Forest Committee again in the role of the Trojan Horse. Indeed, plans for the committee's future are to be presented to the Verderers in December- immediately after the election. The significance of that timing is, presumably, that discussion of the plans during the election should be avoided. Of course until we have the details of who will be standing, it is impossible to say whether such a scheme will receive any support, but I doubt if it is a line likely to be followed by many candidates. Present indications are that one pro-national park candidate, antagonistic to the Forestry Commission as manager of the Forest, will stand. In the old days it was acceptable for candidates to attack the Forestry Commission for the sake of doing so, but that attitude has rather gone out of fashion. Some of the Commissions policies on commercial forestry and recreation are certainly objectionable and deserve to be resisted, but the Commission as a management agency, combined with the control exerted by the Verderers Court, gives the Forest a far greater degree of protection than that enjoyed by any council run national park. The establishment of such an authority here would probably spell the end for both the Verderers and the Forestry Commission in the New Forest. It is that above all else which the successful candidates will have to resist.

The New Forest Association and New Forest Commoners' Defence Association will be organising a meeting later in the month at which candidates will have an opportunity of explaining their policies to those on the electoral register. Details will be advertised in the Lymington Times in due course.

### **Colin Tubbs**

On October 16th the Forest lost one of its most knowledgeable and vigorous supporters with the death of Colin Tubbs. As senior local officer of the Nature Conservancy, the Nature Conservancy Council and finally English Nature, Colin's policies were not always popular among the commoners with whom he had to deal. His dogged defence of the Forests ecology often conflicted with the demands of agriculture. However, unpopularity was no more than a measure of his professional success and, despite these conflicts, Colin was an almost impossible person to dislike. He always inspired respect in his more thinking opponents.

To those whose interests extended beyond the agricultural productivity of the Forest, Colin Tubbs's contribution to our understanding of the district was immense. His first major Forest book, published in 1968, broke new ground in the study of the areas history and ecology. While his second, eighteen years later, is undeniably a classic which ranks along side John Wises famous history of a century earlier. He was an ornithologist, authority on the Forests woodlands, a local pioneer of field archaeology, an expert in planning matters and a very active member (with his wife Jennifer) of the New Forest Associations' Council. At the time of his death he was chairman of the Association's newly established sub-committee on planing matters and he had recently completed an invaluable report on the threats to certain of the timber Inclosures.

Each generation seems to produce one or two outstanding figures in either the academic study of the Forest or in active campaigning for its protection. Colin Tubbs was a rare individual who combined both with success and I do not expect to see his equal again.

### **Maladministration at Balmer Lawn**

Last month the Ombudsman made a finding of maladministration against the Forestry Commission which is likely to have significant effects upon the Future management of the New Forest. Mr. and Mrs. Collins who keep a shop in Brockenhurst, complained that in 1994 and 1995 the Forestry Commission authorised an ice cream van to trade from Balmer Lawn car park, without the consent of the Verderers, to the detriment of sales in their own shop. As a result, compensation is likely to be payable by the Commission. In 1996 the Commission asked for, and the Verderers refused, consent for the Balmer Lawn van. The result of the complaint is excellent news for the aggrieved traders who had campaigned long and hard to protect their business.

The reasoning behind the ombudsman's decision is not immediately clear. Presumably the mere fact that the Commission acted illegally was sufficient to trigger the payment of compensation - not that the right Mr. and Mrs. Collins to be heard in support of their trade had been infringed. Indeed, there is no statutory obligation on the Forestry Commission to seek the Verderers' consent for ice cream sales by public presentment, although in this case the Verderers asked that it should do so. When consent was rejected, it was not trade considerations which determined the Verderers decision. That was based on public safety as it was clear ice cream sales, small children purchasers and ponies intent on robbing those children was a dangerous mixture in a park where there had been a long history of such problems.

The Acts of Parliament which govern relations between the Forestry Commission and the Verderers clearly envisage different levels of control. In some cases the Commission merely has to inform the Verderers' of its intentions to do something such as reinclosing one of the statutory Inclosures. Neither the Verderers' nor the public has any say in the matter. Next the Commission must consult the Verderers over certain things such as the management of the Ancient and Ornamental Woods. The Commission is not obliged to take the Courts advice and the public again has no formal right to intervene. In fact, very wide public consultation does take place and the Commission is very unlikely to disregard the Court. At the next level, the Commission must obtain the consent of the Verderers for such things as the erection of a telegraph pole or litter bin, or the stationing of an ice cream van. This is quite distinct from the final category where the Verderers consent is required "on a presentment". On such major matters, Parliament evidently envisaged the need for public participation. They include the taking of land for timber plantations. In the case of ice cream vans, no public participation is required by the Acts, although it was requested by the Court. The Act which controls ice cream sales was passed in 1970 and licenses had been issued long before that and

continued to be issued afterwards. The Commission might have argued that since the Verderers were aware of this, the consent of the court was at least implied.

Where does this leave the Commission in future? Clearly it will be a lot more careful in ensuring that relevant matters are submitted to the Court for approval. It is also likely that the Verderers will ask (they cannot apparently demand) that presentments are made in cases which are likely to prove controversial. Already for many years past they have asked that presentments be made in respect of all significant appropriations of Forest land and the Commission has usually agreed to this. On the other hand, it would be ludicrous if every manhole cover or signpost had to be the subject of a presentment and a sensible balance will have to be struck.