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VILLAGE GREENS OF ENGLAND

A study in historical geography

Rob Shirley

GEOGRAPHY DEPARTMENT
DURHAM UNIVERSITY
1994

- 1 MAY 1995
VILLAGE GREENS OF ENGLAND

A Study in Historical Geography

ROBERT SHIRLEY

Thesis submitted for the degree of Doctor of Philosophy

DURHAM UNIVERSITY

GEOGRAPHY DEPARTMENT

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ABSTRACT

The thesis involves a study of the English village green from the viewpoint of historical geography on aspects of greens as rural settlement. The presence of village greens in the landscape poses three categories of questions; concerning their origins, their present status and their future. With these categories of questions in mind, the research focuses principally on three main areas;

• law and regulation - including common rights and registration, inclosure and disputes. These subjects are covered under the themes of nation and local (manorial) law with a historic aspect throughout the study.

• types of village green - an examination of the wide variety of physical forms and origins covers greens which have been planned; partially planned or formed from the residuum of some other landscape feature.

• distribution - a national database of village greens has made possible the production of national maps of these different types of greens together with surviving common rights and greens sorted on ownership types.

The principal original contributions take the form of a collation of the law concerning village greens from diverse sources, a classification of their various types and numerous national and regional distribution maps of the location and types of greens and common rights and classes of owners of the greens resulting from the compilation of a national database of registered greens.
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The chapter forms an introduction to the thesis, encompassing its aims and methodology and sets the context from a historical viewpoint. A literature review and an introduction to the diverse nature of village greens complete the chapter.
INTRODUCTION

An introduction to village greens at the most general level links them as objects of familiar universal experience to key components in understanding rural settlement.

The village green forms a fundamental element of much rural settlement. It is a distinctive feature of the English landscape and in many cases forms a valuable and underused resource. Greens are still at the heart of thousands of villages throughout England and affect the daily lives of many people, as they have done for hundreds of years. Despite their widespread distribution and great antiquity, what is known about them is relatively small. Very little work has been done on the subject and as Muir (1988) says 'most of it is nonsense'.

Why study village greens at all? Well, for the reasons mentioned above and for the reason that an understanding of greens is helpful, and most probably essential, in understanding the great variety of English rural settlement. The general aim, therefore, is an investigation into all aspects of village greens as rural settlement. The presence of village greens in the landscape poses three categories of questions:

(i) Concerning their origins
(ii) Concerning their present status
(iii) Concerning their future

With these three categories of question in mind, the research focuses principally on three main areas:

(i) Law and regulation - including common rights and registration, inclosure and disputes. These subjects are covered under the themes of national and local (manorial) law with an historical aspect throughout the study.

(ii) Types of village green - an examination of the wide variety of physical forms and origins covers greens which have been planned, partially planned or formed from the residuum of some other landscape feature.

(iii) Distribution - A national database of village greens has made possible the production of national maps of these different types of greens together with surviving common rights and with greens sorted on ownership types.

RESEARCH AIMS

This defines the purpose of the thesis and the intentions of the research, the questions it attempted to answer and the ones it has produced.

Village greens have a unique status in that as common land they are both privately owned and used by many people together and are also often in the village centre or partly surrounded by houses and have, at least until recently, been subject to intensive use. For this reason, regulation has been important in the form of national and local (manorial) law. This leads to the first aim of the thesis, the

Clarification of the legal status of greens. There is a whole category of law about common rights applying to common land (which includes village greens). The law of village greens is rather unclear and has not been collated within a single easily accessible source. Furthermore, it is highly complex. Turning from this to the second aim which is a
INTRODUCTION

Classification of village greens. Greens are not, however, a single type of settlement feature. As there are types of village which have formed in different ways, so there are landscape features which are considered to be village greens which have very different origins and settlement histories. A second aim is an investigation of these different types leading to questions concerning what types of greens there are and how they were formed? From this classification of greens it became apparent that questions needed to be answered concerning how many greens there are and where they are located. Similarly, what is the extent of common rights over greens and who owns the rights and the greens themselves? How many greens were there at different times in the past and where have they been lost and why? This leads ultimately to the second aim - an understanding of the national distribution of greens seen through a national map.

National distribution map of greens. It has already been noted that village greens are a widespread and frequent feature of rural settlement, but just how widespread are they, and are there more in some parts of England than others? The last national survey of village greens was in the 1950s for the Royal Commission of Common Land (RCCL 1955-58). From this data, Stamp and Hoskins (1963) produced our one and only national distribution map to date. This was certainly a step in the right direction but this thesis shows it to be hopelessly incomplete. For example, it shows only five village greens in the whole county of Dorset (there are at least 28) and is also regionally very inaccurate and misleading. A new national survey of greens, although very time consuming to complete, has paid back great dividends in terms of understanding greens and settlement. The aims of the research may thus be summarised as a study in historical geography on aspects of greens as rural settlement.

METHODOLOGY

The philosophy behind the research and the precise ways in which it has been carried out or can be repeated are discussed, covering a review of the sources used, the location of the data and its methods of collection.

At first sight, a village green is a simple matter of an open space in the centre of a settlement, but in reality the long phases of formation have generated bewildering and subtle complexities of definition. Careful attention must be paid to defining terms which at one level apply to the circumstances of evolving common law and at the other the practicalities of actual features found on the ground. The methodology of study derives from the nature of the three aims and involves data collection, the law of greens, a national database and the samples which could be used. Most village greens were formed long ago - many hundreds of years ago, so an examination of almost any aspect of them needs an historical element in the study. Many of the present laws concerning village greens are of great antiquity and a look back into legal history is necessary to understand how the present law has developed.

DATA COLLECTION
The collection of data was a lengthy and time-consuming process involving visits to 39 county councils in England (38 of them twice), 36 metropolitan borough councils and 32 London borough councils. In addition there were numerous trips to 9 county record offices (CROs).1

1 Berkshire, Buckinghamshire, Hertfordshire, Norfolk, West Suffolk, Durham, Surrey, Bedfordshire, Northamptonshire.
3 private archives and visits to very many greens in 8 counties. Information was collected from over a hundred registers of common land and a similar number of village green registers and from a manual search through the 250,000 place-names in the OS Gazetteer of Britain. Many other sources of data were used, including information from over a hundred original law reports (many more were consulted) spanning over 700 years of legal history, 60 decisions of the Commons Commissioners, original and transcribed manorial documents, 19th century OS 6" and 25" maps of Hertfordshire, Durham and Norfolk and parts of Bedfordshire and Middlesex, and many private historical maps dating back to the 16th century. The contents and effects of 37 statutes dating from 1236 to 1989 were examined together with the relevant statutory instruments. The inherent problem of selection must be noted; the national scale of enquiry has created a valuable data set at the expense of detailed study of many smaller places.

The clarification of the legal status of greens includes the subjects of common rights, commons registration and the legal side of inclosure, ownership and various disputes. This forms chapters 2.1, 2.2 and 2.3. Chapter 2.2 concentrates on commons registration - its procedure and its effects on the countryside. A detailed examination of what types of land have been registered is given priority as the data from common registration forms the bulk of chapter 4. Even a brief study of village greens poses questions concerning their origins and physical form. It soon became apparent that a classification of greens was required to help explain their varying origins and histories in different parts of England. Chapter 3 explains and illustrates the origins of the various settlement features known as village greens where theoretical models of formation and development are backed up with examples from around the country. The national distribution of the types of green identified in this chapter are examined in chapter 4 and reinforced with studies at more local scales. Most useful for illustrating the classifications with examples were local maps from CROs, libraries and private archives. Here are then, the aims of the research and the essential part of what has been done. The study now turns to see how it has been done with an examination of the sources and a discussion of the methodology adopted.

**LAW**

A reasonable amount has already been written on the legal side of common rights, inclosure and ownership of common land. Most of this applies also to village greens and so the research on these subjects has generally concentrated on their application to village greens and is backed up with examples. A single accessible source of the law relating to village greens is not available and it is in this study that the law relating to them past and present is integrated from diverse sources to a level and detail of explanation previously unknown. The

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2 Archives of Coke, Earl of Leicester at Holkham Hall, Norfolk, department of Palaeography and Diplomatic at Durham University and the Prior's Kitchen at Durham Cathedral.
3 Durham, Yorkshire, Cumberland, Westmorland, Northumberland, Hertfordshire, Middlesex and Norfolk.
4 This lists the place-names and national grid references of all the names appearing on the national set of 1:50 000 OS maps.
5 Lawyers appointed to deal with disputes concerning the registration of common and village greens (see chapter 2.2).
6 For example, maps in the public library in Twickenham, Middlesex gave a time series of maps of Twickenham Green from 1603 to the 20th century showing its development from common through to green (see chapter 4).
7 The cartographic records of the Earl of Leicester at Holkham Hall, Norfolk were used in chapter 3.
methodology used has been to go back to the original sources - the statutes (Acts of Parliament) and the many law reports of individual cases. The law has for many centuries been written down and recorded, and in the case of statutes, necessarily without error. The statutes, which give the essentials of the law are open to interpretation in a variety of different circumstances but only by judges whose interpretations are then recorded and become the common law. Similarly, the method used for the section on registration (chapter 2.2) was to go back to the original sources. This relied heavily on the twenty or so statutory instruments relating to the Commons Registration Act 1965 (CRA) and the decisions of the Common Commissioners. Parish council records of real cases were used to illustrate the practicalities of the principles of the law.

NATIONAL DATABASE AND CLASSIFICATION

Chapter 4 is the result of the compilation and analysis of a national database of greens. All greens registered under the CRA have been entered into a database with information on their size, ownership and details of any common rights. This has allowed the greens to be sorted on many variables and the resultant distributions mapped. The remaining database can be used to form an almost infinite number of reports or distributions and can easily be developed further.  

A national survey, database and distribution map has been undertaken rather than local or regional ones for a number of reasons. The study provides a largely preliminary enquiry into the subject rather than developing strong foundations laid by previous work, with a national scale of analysis providing a good starting point. It is also concerned with the village greens of England, a national study thus being an important or essential component. Furthermore, national distributions are inevitably more revealing of generalities, and existing national distributions of possible explanatory factors exist, such as inclosures, deserted villages, existing settlements, field systems, farming regions, Domesday landscapes &c. which can provide comparisons and lead to explanation. National maps of this sort, including the distribution of greens, create certain tensions with more detailed local studies and places them into their broader context and may direct avenues of enquiry which would otherwise have been missed.

The ultimate and primary aim of the database was, therefore, to produce a national distribution map of village greens. Many greens have been lost to inclosure or encroachment, so a distribution of present greens would not give the full picture. What was needed was a distribution as complete as possible of greens in the past as well as the present and then the areas of lost greens would become apparent. From such regional contrasts it could be hoped to learn something about the nature and survival of green settlement. What was needed were sources for greens around in the past (greens past) and greens still in existence (greens present) to then allow greens future to be appreciated.

'Greens Present'

It is fortunate that a publicly accessible record of registered common land and village greens has been compiled by the procedure of commons registration of the 1960s (see chapter 2.2), under the CRA and forms the data source used for greens present. As may be expected, such a data source has limitations. Firstly, greens were only registered if they came within the

9 To give an example, it would be possible, if needed, to list and map the village greens of Northamptonshire that are less than 0.8 Ha in area and in private ownership that also have common rights of pasture for cows but not sheep. Similarly, it could compile a list of greens owned by South Cotswold District Council in ascending order of area with details of any common rights.
definitions provided by the Act (see chapter 2.2). Secondly, for this reason, and for the limitations imposed by the procedure of registration, there are some greens which, for whatever reason, escaped registration and some land which is registered as village green but has not historically been used as such and which to all purposes (except for the legal protection afforded under the Act) is not village green. This is dealt with more fully in chapter 2.2. It was considered important in the methodology to have some idea of the accuracy of using registered greens as a source of greens present. This was tested regionally and locally by using a variety of map evidence and field visits. It was found that while relatively few greens were excluded from registration (although a significant amount were) much land was registered that was not true green. This is explained in chapter 4. An alternative source for greens present would be to use the national set of OS 6" maps and search through them manually, trying to identify the greens from the map (this method would also give evidence of lost greens), and may be more accurate and thorough than using registered greens but would have taken so long as to be impractical.

'Greens Past'

When studying greens past, it was not possible to study them nationally in as much detail as with greens present due to a lack of suitable sources. First edition 6" and 25" maps give a national picture in the mid nineteenth century but this is after most parliamentary inclosures had taken place (see p.93) and there has been relatively little rural change since then. The best compromise of accuracy and resources was to use the OS Gazetteer of Britain. This lists in alphabetic order the 250,000+ place-names which appear on current OS 1:50,000 maps. Place-name evidence was used as an indicator of certain types of green in the past. Places with 'green' as a secondary and separate element in the name (for example, Pinner Green) are known to be associated with settlement around what are termed 'residual' greens in chapter 3. Such 'green names' were taken from the gazetteer and mapped. While the gazetteer is in alphabetic order, this was not much help with green names, so a manual search through the whole book was undertaken. One major problem of using this as a national source of greens past is that this type of green only occurs in certain parts of the country so some regions are greatly underrepresented (see chapter 4). It has, however, been very useful in revealing the national distribution of residual greens (and indeed long vanished former greens) which has helped our understanding of them and highlighted some regional contrasts.

Here there are, then, some of the shortcomings of the data sources used for a national distribution of greens past. When studying greens past in a more manageable area (regionally), however, there are many clues available about lost greens. Nineteenth century OS maps often give more green names than appear in the gazetteer, especially in certain parts of the country. Physical evidence of greens may be determinable from the maps - sometimes these can be quite distinctive. See, for example, Figure 28 which shows a series of newly inclosed greens in Bedfordshire. Alternatively, various pre-inclosure maps may be locally available such as estate maps which are of variable quality and usefulness. Another useful source is old county maps which often show the presence and extent of former greens and commons such as Faden's map of Norfolk of 1797 and Roque's county maps of the 1760s. In addition, very local field evidence and even street names may be used.

In chapter 4, the national study has been enhanced by a more detailed regional study of the distribution of greens. While there is some comparison work between greens of different areas, (including Hertfordshire, Middlesex and County Durham), Norfolk has been used for a

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10 See, for example, Warner (1987), Van der Wicke (1983).
INTRODUCTION

detailed region analysis. Ideally, it would be beneficial to complete detailed studies of as many regions as can be identified in England, as all are different in cultural and landscape characteristic, each revealing evidence of local sub-regions or 'pays' as a background to the presence of village greens but sampling and selection is inevitable. Norfolk has been chosen as a sample region for both its landscape characteristics and the sources available. The great champion / woodland divide runs through the county and shows strong contrasts in many of its socio-economic, cultural and landscape characteristics. Furthermore, Norfolk is fortunate in having a surviving accurate county map of sufficient scale to show greens and commons dating from a time shortly before many of them were lost to inclosure. While being a single county, Norfolk therefore contains more than one region allowing contrasting landscape to be studied within a single data source. Accurate comparisons of historical aspects of other regions are not possible elsewhere.

SOURCES

The quality and availability of source material is of great importance in assessing the usefulness of the research and the extent to which the interpretations and conclusions can be relied upon. This section deals with a description and discussion of the sources used. Sources are often divided into those which are original and in an unanalysed state - primary sources ( for example, commons registers ) and those which are the result of analysis of primary sources - secondary sources ( such as published books ). Primary sources used in this study are of four main types and are dealt with in turn.

Primary Sources

Legal Sources

The types and meanings of the different sources of the law concerning greens and commons are explained in chapter 2.1; this section is concerned with their evaluation for research. Unlike some of the other sources used ( such as historical maps ) most law sources are readily available and accessible with numerous copies in existence. Legal sources cover the following areas;

(i) Statutes

All public statutes ( or Acts of Parliament ), both those in force and those which have been repealed are available in larger public libraries in the volumes of "Statutes at Large" and for the more recent statutes, "Public and General Acts and Measures". Statutes form the definitive documents of the law as passed by parliament, clearly stating the content of the law but giving no explanation or reason. They are, by definition, legally correct and accurate and are therefore sources of the highest quality. The most important statute concerning village greens in recent times has been the Commons Registration Act 1965 ( see chapter 2.2 ).

(ii) Statutory Instruments

A form of delegated legislation ( see chapter 2.1 ), statutory instruments relate to individual statutes and normally give detailed regulations or specifications which can be updated or amended without the need to pass a new act of parliament. They are sources of the same high quality as the statutes. They are described in more detail in chapter 2.1, but for example, the

See, for example, Everitt (1986).
See chapter 4.
Faden's map of Norfolk, 1797.
Some public libraries have good law sections ( such as Bishopsgate and Clerkenwell, London ), university libraries with law departments and specialist law libraries ( such as the Law Society library at Chancery Lane, London, the library of the Royal Courts of Justice and the Bar library which is open to barristers only).

Measures are Acts of Parliament relating to the Church of England.
Commons Registration (Time Limits) (Amendment) Order 1970 (SI 1970/383) allowed the time limits of commons registration, which had been declared in a previous statutory instrument relating to the Common Registration Act 1965, to be altered.

(iii) Case Law
When legal cases go to court today and are judged, the verdicts of all cases of importance are recorded and generally followed in future cases. The case law, which consists of judges' interpretations of the statutes forms an important part of the law called the common law. Yearbooks Reports of the earliest cases are found in the Yearbooks. Padfield (1970) describes these as consisting of fragmentary reports of civil cases from the period 1289-1535. The yearbooks were written in Anglo-Norman but fortunately, translations of selected yearbooks have been published by the Selden Society. The originals are rare but were located in the Bar library. Access to them, however, is restricted to barristers. A further problem with using the yearbooks as a data source is that the reports are often procedural in content rather than giving a true report of the legal principles involved. In the 16th and 17th centuries the yearbooks were replaced by the Abridgements which are similar to shortened versions of the yearbooks.

Private Publications Private reports of case law began in the 16th century with Plowden's Reports covering the period 1550-80 and Cooke's Reports (1572-1616). The more recent reports such as the Weekly Law Reports (since 1953) and Current Law Yearbook are fully indexed by subject. Some indexes have been compiled for the unindexed reports of the past (for example, the All England Law Reports, and The Digest which gives an index to the English Reports).

Decisions of the Commons Commissioners These are a specific category of case law comprising the results of disputed registrations of greens and commons. They are generally not published in the same way as other law reports (except for the most important cases) although a few of the early decisions have been published in a compilation by Campbell (1971). Reports of the more important decisions can be found in the Current Law Yearbooks and other similar reports. The full decisions of the common commissioners for all disputed registrations and disputed or unclaimed ownership are held at the offices of the Commons Commissioners in Duncannon street, London.

Commons Registers
In contrast to the widespread availability of much of the legal data sources, the common registers are unique documents generally existing only as originals with no copies available. While public access to them is available at all reasonable times they are held separately in each county (or metropolitan county borough or London borough) to which they refer. Due to protection of the law (Commons Registration Act 1965 s. 2).

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16 The Bar library is in the Royal Courts of Justice and is open only to barristers.
17 Padfield (1970) describes how the reports varied from brief summaries to lengthy discussions of evidence, opinions, and judgements with the quality of reporting variable. The first regular reports were the Term Reports (1785-1800). In 1863 the Council of Law Reporting was set up as a quasi-official body publishing the Law Reports. In the late 19th century important cases from many different law reports covering the preceding centuries were published in over a hundred great volumes as the English Reports. This has been a valuable source of data in this study.
18 Current Law Yearbook covers the period 1947 to the present. It was known as Scottish Current Law Yearbook until 1991.
19 Despite measures by some registration authorities to safeguard these valuable registers against loss (North Yorkshire county council and many others keep them locked away in a safe when not in immediate use), some authorities have been careless and reported to have lost them (see below). A centrally held copy of all the registers relating to England and Wales (for example at the offices of the commons commissioners) would have guarded against such loss and seems a major oversight on behalf of the authorities.
20 Under protection of the law (Commons Registration Act 1965 s. 2).
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to the nature in which information has been recorded in the registers, obtaining the data required for this research involved a personal visit to each council - over a hundred separate locations throughout England. Despite a statutory public right of access 'at all reasonable times', some authorities were unwilling (and sometimes unable) to produce the registers on request. This was mostly due to ignorance on behalf of those trusted with looking after the registers. The accuracy of the data is of similar quality to the statutes. The registers form the definitive documents as to the existence of common land and village greens and any common rights over them. Bearing in mind that the registers were mostly compiled by the county councils they may not be as accurate as the statutes in terms of intention but the data as recorded is nevertheless definitive.

The registers also contain information on ownership. While this information is not legally definitive, every effort was made at registration to find and register the correct owner. The registered owner may, however, have changed since registration and the new owner not have been amended in the register. This is not always the fault of the registration authority who may not have been notified of the change in ownership. They should, therefore, be regarded as historical documents concerning the state of greens in the late 1960s, although changes to the land and rights section are likely to be minimal and should, in theory, have been updated.

Maps
All OS maps are generally regarded to be the result of cartography of the highest quality, the first edition 6" maps being particularly finely drawn. Most edition for the local area are usually available in main public libraries (e.g. county libraries). Private and older maps are of variable quality but usually of lower accuracy than OS maps. This has not been much of a problem as great accuracy of maps has not been crucial to this study. Tithe maps and inclosure plans were of some use but local estate plans were usually more helpful. Most maps were available from CROs. Some CROs had good map indexes with descriptions of their historical maps which saved much time in avoiding requesting unsuitable maps. It was not

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21 Each piece of registered land is entered under a separate register unit which contains information on at least three pages of large (16"x 14") paper. With over 4000 registered greens in England, this would mean well in excess of 12,000 copies (some entries run to 30 or more pages). Furthermore, many thousands more common land entries needed to be searched to find greens which had been entered as common land rather than town or village greens. With some councils charging 50p or more per copy (e.g. Cornwall) the cost of obtaining the data in this way would run into thousands of pounds. It is likely that some registration authorities would be unwilling to photocopy large tracts of the registers in which case official copies could be requested, often upon payment of a fee of several pounds per entry.

22 Some registration authorities failed in their statutory requirement to maintain the registers and allow the public access to them in two main ways. Firstly, there were those registration authorities that could not produce the registers because they had lost them (e.g. London borough of Enfield) and those that did not know of their existence and relied on the accompanying maps for their land searches (e.g. metropolitan borough of North Tyneside). Secondly there were those authorities which had the registers well maintained but were unwilling to allow the public access to them. In general it was found that the councils of London boroughs and metropolitan boroughs were less willing to share them with the public and in some cases even tried to make a charge (e.g. London Borough of Bexley). In most cases, a copy of the legislation was enough to gain access without further problems. In two cases (Worcestershire and Warwickshire) the registers could still not be seen despite great argument and force.


24 Bedfordshire CRO was particularly helpful in having many historical maps photographed at full size and mounted onto card ready for public access.
possible, however, to do more than sample the large number of tithe, inclosure and estate maps but where this was done, useful data was normally obtained.  

Other Sources  

(i) Parish Council Records  
Searching through the parish council records of parishes containing greens often produced useful information and examples of local disputes, schemes and maintenance procedures. These are often available in CROs and may date back to the late 19th century. Sometimes they are indexed or have separate files relating to greens, otherwise searching through them can be rather time-consuming and may not produce any useful results. Access to data in CROs is normally slow due to their storage and retrieval procedures, and CROs can be overcrowded with limited space.

(ii) Manorial Records  
Some CROs have transcribed manorial documents which saved time in searching the records but the amount of this was relatively small. Manorial records are in some ways similar in content to parish council records but normally go back further into the past. Manorial documents more than a few hundred years old can often be difficult to read and interpret and are often written in Anglo Norman or medieval Latin. The department of Palaeography and Diplomatic at Durham University operates a records office which keeps the records of Halmote Court, the customary manorial court of the Bishop of Durham. This contains similar information to that of the parish council records in CROs (see above) but was an interesting alternative for two reasons. Firstly it gives a record of information from a manorial viewpoint (in this case a great Lord who had palatinate powers and extensive consolidated estates) rather than from a parish council or local government viewpoint, and secondly it generally extends back further into the past. Records as far back as the 17th century were easily legible and understandable.

(iii) Hertfordshire Survey of 1937  
A long lost survey of village greens of Hertfordshire was rediscovered while searching through records in Hertfordshire CRO. This forms a unique and very useful source on the condition and use of village greens predating commons registration by 30 years. This was analysed and used in chapter 3. Little is known about the preconditions to the survey and how it was carried out except that it was undertaken by the county council using returns from individual parish councils.

Turning from the aims of the thesis and an evaluation of the sources used, this chapter is also concerned with providing a background and context to the main part of the study. This involves the historical background, a survey of previous work, provides some definitions of the subject matter and introduces a classification system which forms the basis of chapter 3.

25 For the use of maps as historical sources, see Hindle (1988), Smith (1988) and Booth (1979).
27 For a study of manorial records as research sources see Stuart (1992).
28 References to it were found in parish council records and a long search by the archivists found the original returns from 1937.
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HISTORICAL BACKGROUND TO VILLAGE GREENS

This section explains the various opinions of the antiquity of village greens and reviews theories of their purposes and functions.

A historical context to the study of village greens in England produces three general sets of questions:-

**When** were greens formed?

**Why** and how did they originate and what were their purposes and functions?

**Where** are they distributed and are there regional differences in their date of origin and functions?

The third of these questions is dealt with in chapter 4 which discusses their national distributions. This question of their distribution, however, can be studied on a number of different scales - from national distributions to their position within the parish. Dealing with the first of these questions, there has been a relatively large volume of writing about the date which greens first became part of rural settlement. Bearing in mind the criticism of Muir (1988) when commenting on what had been written about village greens there would seem to be some debate as to the date of their origins. It was once thought that village greens had their origins in the Saxon period, some as early as the 5th century, but more recent opinion dates them largely to the Middle Ages. While there may well have been some greenside settlement in very early times, there is also evidence that their genesis continued at least into the last century. Taylor (1983) has demonstrated the possible range of the dates of origins of greens by giving examples of Roman and 19th century greens. Between these two extremes, it is now considered that the medieval period was the time when most greens originated. The diverse settlement features known collectively as village greens cover a wide range of landscape features, formed in different, often contrasting ways. Indeed Rowley (1978) excels when concluding there is no single explanation for village greens.

The following section deals with the second question concerning the historical background to village greens - why and how they originated. This explanation implicitly proclaims the division of greens discussed in chapter 3 into planned greens and those which originated by natural organic growth. The creation of planned village greens has been recognised as an economic exercise and display of power by seigniorial authority but a contrasting type of green (termed residual greens in chapter 3) has also been noted where settlement drift to the edge of commons (possibly partly due to a shortage of pasture) has unintentionally formed village greens.

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31 On Merdon Down, Dorset near the village of Winterbourne Houghton is the site of a Roman village where 26 sites of huts once lay inside a large rectangular area enclosed by a bank. This 'green' was a deliberate creation and must have been planned before the surrounding fields were established, although it differed from a normal village green in that it surrounded the village and was not enclosed by houses.

32 Somerleyton, Suffolk described later in the main text.


34 Wade-Martins (1980).
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Village greens may have been planned for a variety of reasons apart from the simple economic exercise of establishing a regulated village. They may have been a feature incorporated into a planned or regulated village in order to protect livestock against dangerous wild animals such as wolves, or human raiders, especially at night\(^{35}\) or even to include protection of children and the aged or infirm.\(^{36}\) There is evidence that some greens were created in the Middle Ages for markets or fairs. For example, at South Zeal in Devon, houses were demolished in 1299 to create a green for a market,\(^{37}\) and at Whittlesford, Cambridgeshire the green was once known as the 'Market Green' and created on an existing settlement in 1206 when the market received its grant. Some greens had a lesser degree of planning in their formation but were not entirely accidental. Taylor (1983) has shown how Great Shelford, Cambridgeshire has grown from two small and discrete settlement separated by an area of meadow. As these villages expanded and became one settlement, the meadow became a green at the village centre, lined by rows of houses. This green may have occurred partially accidentally but was obviously a useful feature worth keeping.

Greens may also have originated from powerful Lords re-establishing settlements on new sites for various reasons. For example, at East Witton, around 1300, the Abbot of Jervaulx had the existing settlement removed and a new one built further away from the abbey in order to isolate the monks from outside temptations. This new settlement was created around a green which was used as a cattle fair.\(^{38}\) In another example, Combe near Woodstock in Oxfordshire was abandoned around 1350 and re-established in 1395 around a planned green.\(^{39}\) There are several examples of greens being created as a result of landscaping efforts. For instance, the village of Shipton in Shropshire was demolished in 1587 to improve the view from Shipton Hall and a new village built around the edge of the resultant open space.\(^{40}\) Similarly, at Milton Abbas in Dorset, the village was removed to a new site by Lord Dorchester around 1750 when it encroached on the plans for his mansion.\(^{41}\) Such planning efforts to build landscaped villages continued into the last century. For example, at Somerleyton in Suffolk, a new landscaped village with traditionally styled buildings was laid out around a central green in the 1840s.\(^{42}\)

\(^{36}\) Oliver (1980).
\(^{37}\) Muir (1988).
\(^{38}\) Beresford and Hurst (1971).
\(^{39}\) Taylor (1983).
\(^{40}\) Muir (1988).
\(^{41}\) Batsford and Fry (1938) p 106.
\(^{42}\) Taylor (1983).
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DEFINITIONS

The ways in which greens and commons may be defined from both a legal and landscape viewpoint are discussed, showing that the two sets of definitions can be contradictory.

Village greens cover a wide variety of landscape features and may take on many different morphological forms. Figure 1 shows some of the variety possible. They may be long thin pieces of common land along a road as at Cheverells Green in Hertfordshire with a loose collection of cottages around it or larger pieces of common which have attracted some settlement, for example Kinsbourne Green also in Hertfordshire. There may indeed be several related small greens as at Sandon, connected by green lanes. Alternatively, greens may surrounded by dense clusters of housing, sometimes laid out formally around the green, for example Hett and Staindrop in county Durham. Clearly, greens may take on many shapes and sizes and may show differing degrees of formality in their origins.

For a successful study of village greens it is essential to define what constitutes a green. Definitions concerning this study cover two main areas: there is the legal definition of a green with implications for its use, management and protection and also the definition from a landscape viewpoint of what defines a green on the ground - more useful for studying rural settlement. The legal definitions are covered by common land and village green registration which took place in the late 1960s under the Commons Registration Act 1965 (CRA) ( and is explained in more detail in chapter 2.2 ). Determining whether a piece of land is a common or a village green or neither may be both simple and difficult. In legal terms it is straightforward ( a matter of searching the appropriate register ) but determining what is a village green or common on the ground can be difficult. Such difficulties come from two directions; firstly the matter of determining commons and greens from other land and also the problems of differentiating between greens and commons. Beginning with the legal side, the current legal definition is that a piece of land is a village green or common only if it appears in one of the registers of commons or town and village greens held by the local registration authority. If it fails to appear in the register then it is legally not a village green even if it looks just like one and has all the normal functions of such a green. The definitions allowing registration, however, must also be noted. The CRA defines common land as

(a) Land subject to rights of common whether those rights are exercisable at all times or only during limited periods;
(b) Waste land of a manor not subject to rights of common.

This shows that land need not have any common rights to be legally registered as common land. The term 'waste land of a manor' has been defined as 'the open, uncultivated and unoccupied lands parcel of the manor or open lands parcel of the manor other than the demesne land of the manor'. This means that the absence of common rights does not necessarily prevent land from being registered as common land. Village greens, however, are rather different. The legal definition of a green at the time of registration determined the greens which have legal status today ( this is dealt with fully in chapter 2.2 ). There was a

43 Registration authorities maintain separate registers of Common Land and Town or Village Greens.
44 Usually the county council. Registers compiled under the Commons Registration Act 1965. There are two sets of registers - one for town or village greens and one for common land.
45 s. 22.
46 Attorney General v Hanmer (1858).
Figure 1. DIVERSE NATURE OF GREENS
strong emphasis on the recreational use of greens by the villagers which may be a relatively recent function with little to do with their original use for grazing. Prior to the CRA there was no statutory or judicial definition of a village green. But the CRA now defines a village green as

\[\text{land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes or on which the inhabitants of any locality have indulged in any sports and pastimes as of right for not less than twenty years.}\]

From this definition it is clear that many recreation grounds will appear in the village green registers, most of which will not contain 'green space'.

A search through a typical common land register confirms the matter is further complicated by revealing that some of what would practically be defined as village greens have legally been defined as commons and appear in the common land registers and not in the register of town or village greens. Figure 10 shows a sample of the variety of registered land. All these pieces of land have been registered as village greens. Sedgefield village green and Fir Tree village green both appear in the registers as 'village greens'. Clearly Sedgefield is a historic integral village green whereas Fir Tree village green is a piece of land of no historical significance which has been registered, probably due to its recreational use. Removal of such land as that at Merry Oaks, Quebec and Cotsford Park has been an important part in the treatment of the distributions of greens in chapter 4. Similarly, with the legal definition emphasising recreational use, a number of 'commons' appear as village greens. This is rather unfortunate for a study in rural settlement as this seems an artificial definition, ignoring their ancient functions and origins. Furthermore, land may be registered as green or common but may not be so on the ground (for example a recreation ground) and many greens and common have for various reasons escaped registration altogether (see end chapter 2.3). The legal definitions, therefore, while important for some matters, do not always match with landscape definitions of what can be seen on the ground.

Moving from legal definitions to what constitutes a common or village green on the ground is a bit more difficult with definitions often contradictory in some way. Starting with common land, which may simply be defined as land over which there are common rights. This is not totally satisfactory, however, as there may be certain anomalies to this. For example, commons over which common rights have been extinguished but not inclosed or ploughed still have the appearance, if not the exact functions of a common but would fall outside this definition. A more suitable definition of common land would therefore be 'uninclosed land over which common rights are exercisable or have been exercisable in the past'.

Concerning village greens, however, there are a number of practical definitions already in existence, most of which, like the legal definition, emphasise their recreational functions. For example, The Royal Commission on Common Land (1955-58, Para.403) defines a village green as 'Any place which has been allotted for the exercise or recreation of the inhabitants of a parish or defined locally under the terms of any local Act or inclosure award, any place which such inhabitants have a customary right to indulge in lawful sports and pastimes and

\[s. 22(1).\]

\[\text{See Halsbury vol. 6 para 525.}\]

\[\text{‘Green space’ is the term given to land which has historically been part of a green or common or land which has never been ploughed or cultivated.}\]

\[\text{For example by failing to register them under the CRA. See chapter 2.3.}\]
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in a rural parish any uninclosed open space which is wholly or mainly surrounded by houses and their curtilges and which has been continuously and openly used by the inhabitants for all or any such purposes during a period of at least twenty years without protest or permission from the owner of the fee simple of the Lord of the Manor'. This definition sensibly includes its relation to surrounding settlement but is rather unsatisfactory as it does not take account of many of their ancient functions of pasturing livestock.

Taking a more general and lenient view, Denman et al (1967) liken them to Metropolitan Commons where the dominant landuse is public games and take the opinion that village greens have certain features which set them apart as a class from other commons. Taking into consideration their morphology, functions and origins, a sensible working definition of a green is 'A piece of common land or similar uninclosed land used in common with its owner, situated within a settlement'. However, while few greens today have rights of common over them (the legal definition of common land does not require any common rights) it is likely that in the past they did have common grazing as their most likely main function, while also possibly being used for recreational or other communal purposes.

It has been seen that determining whether land is common or village green is straightforward from a legal viewpoint, in many cases differentiating between them from a landscape viewpoint can be difficult for the difference between them may not be obvious and can in many cases be arbitrary. Indeed, greens may evolve out of former commons and commons and may themselves become greens. Commons and greens, it has been noted, are not the only types of waste found within manors. In some parts of the country extensive heaths are present, often forming ancient boundaries between territories (see chapter 3 on Norfolk).

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51 Those identified were...
- Features of historic interest and scenic importance - the historical centre of a village.
- Traditional caretakers - many village greens are cared for by traditional and established habits and unwritten conventions rather than carefully planned management schemes.
- Powers of the parish council - usually takes an active interest in the village green and can obtain statutory powers over it, e.g. Local Government Acts, Open Spaces Act 1906 and the Commons Act 1899. Under the Local Government Act 1894, the parish council can close the green to the public on certain specified days.
- Roads and access paths - sometimes entirely ringed by public roads, often crossed by paths. Ancient rights of pedestrian way are used illegally for trackways to garages.
- Dumping - litter often a nuisance but dumping less of a problem than on wider commons.
- Car-parking - do not generally suffer much unless part of a wider common heavily used by car owners. More of a problem where there is an outstandingly attractive feature.
- Rights of commoners - normally restricted to one or two animals, often tethered.
- Influence of the neighbourhood - trespassing animals from adjoining commons.
- Organised games - parish council may put playground equipment on the village green - use regulated by byelaws. Cricket and football clubs must obtain licences to use and maintain the pitches.
- Fairs - right to hold a fair is not a manorial incident but an ancient charter right granted to the Lord of the Manor or some other person to hold a fair at any place within the manor or other area of his jurisdiction. The right may, by custom or grant, belong to the parishioners.

52 Other Definitions Waste land was defined in the 16th century (Anon 1549) by the following; [A legal case in 1549 where the plaintiff's and defendant's names are unknown]. Legal cases in this study are referenced in bold italics with the year they went to court. The full references are listed in appendix 10.

'Waste ground is understood such ground as no man doth challenge as his own, or no man can tell to whom it certainly appertaineth, and lieth unclose and unbounded with hedge or ditch, but the ground that lieth enclosed and hedged and ditched in, and the land known is no waste ground.' 'Heath ground is understood such ground as is dispersed and lieth as common.' 'Barren ground is understood by the opinion and judgement of the Common Laws where of no profit ariseth ne groweth. And that ground that hath been stubbed and grubbed and after beareth either Corn or Grass is not barren.'

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definitions of commons and greens, it should be noted that such definitions may account for a wide variety of settlement features making a classification system a necessary requirement. While the different types of green are discussed in detail in chapter 3, an introduction to their diversity is considered later in the chapter.

**PREVIOUS WORK**

This section sets the context for the research against current knowledge on the subject. It draws attention to how little village greens have been studied as aspects of rural settlement and highlights the low quality of much of this.

A review of the intellectual and theoretical context into which this study fits is important. The general aim of this thesis, as stated on p.3 is a study in historical geography on aspects of greens as rural settlement. The subject matter concerns an element of the English landscape, which, like its surroundings, has developed its present great local diversity over thousands of years. Taking into account the lasting and permanent nature of village greens (although many have disappeared due to inclosure, many more result from land which has never been ploughed or cultivated and have been used as common grazing for centuries if not millennia) for an understanding of their present condition it is necessary therefore look to the past and the processes which have generated the present - an historical aspect is thus essential.

This ultimate purpose of this time element in geography has been expressed by Wooldridge and East (cited in Baker 1972 p.93) as the examination of processes which have operated in the past for the light which they shed on the world around us. In this case, the evolution of landscape elements throws light on the general principles which determine geographical pattern. Roberts (in Pacione 1987 p.277) noted three basic approaches adopted by current researchers to the field of rural settlement, which demonstrated variations in scale and time and in objectives and methods. These three approaches were empirical, those involving processes, and studies presenting a theoretical component. Empirical studies are concerned with the character of physical structure, functional aspects and lateral relationships and also with territorial extents which may lead to distributions and classifications, as well as stability and change expressed as a trajectory through time. Studies involving processes place particular cases in a broader framework, a method which Baker (1972 p.16-17) suggest has three ultimate goals - an understanding of the general processes generating geographical change, an understanding of the way these operate in specific situations, and as understanding and explanation expands, the creation of conceptual and theoretical frameworks.

As well as the historical approach to the study, a theoretical aspect is also important. The theory of historical approaches to geographical studies have been reviewed by Prince (1971). He suggests that ideas about the past may fall into three types - reconstructions of real worlds of the past, images of the world in the past held by later or contemporary observers.
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and models of abstract worlds of the past created by theoreticians. This last approach, the development of a model, allows the historical geographer to test abstract, changing landscapes against the real world which may then be more fully understood. It should be possible, he claimed, to measure the extent of change, test the operation of different hypothetical processes and to postdict the geography of periods with scant documentary evidence.

The 1960s and 70s which marked a great increase in the theoretical and modelling approaches in geography, were not matched to the same extent by this method in historical geography. Baker (1972 p.102) noted that historical geography was less ready for the development of theory than other branches of the subject and found there was a problem of integrating traditional empirical techniques to give a theoretical framework which could be used towards an understanding of the complexities of the real world. This lack of theory was no less in the study of rural settlement. Roberts (in Pacione 1987 p.293) declared an indisputable credibility gap between empirical studies and existing theory with a difficulty of bringing the two together in one study. He blamed this on a general absence of sound comparative work which could form an essential foundation for sound theory. The general lack of theory in the study of rural settlement and village morphology may, however, be due to its subject matter. Landscape and settlement, perhaps more than other branches of geography or historical geography are not particularly suited, especially at the current levels of knowledge, to this approach, particularly bearing in mind the popular demise of explanation by determinism, both environmental and economic. A lack of sound theory concerning rural settlement may be illustrated by Taylor's (1983) comment on the siting of medieval villages - 'The boundaries of these land units......were probably from late prehistoric times onwards, the only real determinants which controlled the siting of settlements other than the whim of their occupants.' Furthermore, the contribution of archaeology to our understanding of rural settlement has been highly important, a subject which to the geographer may seem to be of low theoretical content. In short, settlement appears to be too complex and there are too many independent parameters involved for the development of much useful theory.

Aston, Austin and Dyer (1989 p.4) have summarised the results of recent research trends into rural settlement which gives a better context and background into which this study of greens fits than do models or pure theory. They note that the study of rural settlement is concerned with history and geography ( and hence historical geography ), fieldwork and excavation. Fieldwork and excavation in this subject are largely the preserve of the archaeologist but geographers have rigorously classified and interpreted village plans with the result of exposing regular patterns and suggesting other lines of development. Settlements are no longer to be seen in isolation but in their landscape setting of whole village territories, estates and even regions. There exists the presence of rural landscape 'pays' each with its own pattern of settlement and landuse which provides a context for the understanding of local diversity. The medieval period, as the period of genesis of most nucleated villages, should no longer be viewed in isolation but as part of a succession of rural landscapes extending from the prehistoric and Roman periods to the modern world. Furthermore, a former preoccupation with the nucleated village has been replaced by an appreciation of the variety of settlement including hamlets and dispersed settlement ( and of greens not just village greens, but here is involved a difficulty of nomenclature - see chapter 3 ). It is now considered that determinism can not explain settlements and the landscape, human choice and whim being more important.

54 E.g. Taylor (1983).
55 E.g. Prince (1971).
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While settlement may not be suited to the development of useful theory (virtually none exists), greens are slightly different. The theoretical framework for the existence and future development of greens is covered by the law. Settlement, however, develops largely independently of the law, its morphology being a product of time, economic activity and, to a very large extent, sheer accident, whereas the greens within these settlements are in essence linked with the law. The law provides the theoretical and practical context for the emergence, management and future trajectories of greens which can not be understood aside from it. In practice, the law creates a general framework of potentialities within which specific cases can be evaluated. Bearing in mind the relative antiquities of greens and of English law (and antecedent forms, i.e. barbarian law and earlier Roman law, as well as byelaws and manorial control, ) greens can exist independently of any law, but once green and law exist for any length of time, the green comes under the law's influence and is affected by it. The presence of greens today would suggest the law has had a crucial effect in their survival. The law thus provides the theoretical framework for the understanding of village greens. This approach echoes work undertaken by Gissel et al (1981 p.57) who studied the rural settlement of 14th to 16th century Scandinavia and related change to four types of factors - population, land, political and economic factors, and legal and administrative factors. With greens, these legal factors take precedent.

As has been noted, the theoretical context relating to rural settlement is rather limited. Rural settlement in general has been the subject of a wide range of studies. On the theoretical side, models relating to settlement are not numerous, the best known ones being core and periphery models, Christaller's central place theory, rank-size distribution models, innovation diffusion and network models. The context of rural settlement morphology also forms an important background to the study. Notable contributions to the study of settlement morphology include Roberts (1987) who has classified village plans and examined the village and its elements in their wider context, Sheppard (1974) who has used metrological analysis to prove the planned nature of some settlements, and Taylor (1983) drawing on the work of archaeologists on the history and development of the diversity of settlement. A useful integration of various contributions of geographers and archaeologists to the study of rural settlement morphology may be found in Aston, Austin and Dyer (1989). Thus our understanding of the theoretical side to village morphology may be summed up as the existence of planned and unplanned settlements displaying regulated and organic morphologies and the many and diverse types of plans which they display relating to their origins.

The present understanding of rural settlement has also been influenced by neighbouring fields of study. The ways in which greens fit into the cultural landscape are also important in their understanding. The broader relationship between rural settlement and the physical environment, interlinked with the cultural landscape, has been studied to good effect. For example, Thirsk, an agricultural historian, and Baker and Butlin in studying field systems, 

56 For example, Everitt (1986) who used topographical reconstruction methods to examine the settlement history of Kent, Mills (1980) studied the effects of landowners on the social, economic and ultimately physical structure of settlements, Jones (1985) has studied the relationships of settlement with early estate patterns, Thirsk (1967) has discovered the presence of internal frontiers within England which form distinctive farming regions and Parry (1978) has worked on the effects of climate on settlement. Beresford and Hurst (1971) have examined deserted villages and provided a national distribution map as has Thorpe (1964) of settlement types. There have been many studies of settlement place-names which have contributed to their understanding (e.g. Gelling 1978).

57 Thirsk (1967).

58 Baker and Butlin (1973).
have moved beyond simplistic analyses of morphology towards the processes generating, sustaining and destroying such arrangements. Work by Rackham (1986) and Williamson and Bellamy (1987) have built on earlier descriptions of landscape types of England and moved on to discuss the cultural landscape when dealing with the woodland / champion divide. This classification divides England into two regions of landscape each possessing its own physical, economic and cultural similarities - the champion zone running up through central England, separating two woodland zones.\(^{59}\) Champion zones tend to be characterised by the presence of large nucleated villages, separated by large, empty open fields which generally resisted inclosure until the 18th or 19th centuries, whereas woodland zones display a more dispersed settlement pattern typically with smaller, more numerous open fields which were inclosed several centuries earlier than champion lands giving the landscape a less regular appearance.\(^{60}\) The position of settlement within these regions has been studied by Thorpe (1964) who mapped national settlement types and Taylor (1983) who has examined the distribution of nucleated villages. Possible explanations for the presence of these contrasting regions have been suggested but none is entirely successful, the distribution unable to be explained by factors of racial invasion or a political event, climatic or population change, general economic and social factors, nor by the introduction of open field farming. The explanation probably lies way back in the distant past and as yet is unknown for certain.\(^{61}\) This dichotomy of landscapes has provided a useful background in understanding the distribution of greens and is discussed more fully in chapter 4.

Some of the existing work on the historical aspects of village greens have been noted earlier.\(^{62}\) Most of this, however, seems to be largely reviews of other people's work and a limited amount of general commentary on the subject without adding anything new. The only full size book specifically on village greens is Bailey (1985) which largely contains regional descriptions of the appearance of English greens and offers little contribution to understanding the landscape. The large volume by Denman \textit{et al} (1967) covers both commons and a small amount on village greens. The book is largely a survey of management schedules and codes of practice but also looks at commons in special areas such as the Lake District and Dartmoor.\(^{63}\) Tavener (1957) describes the commons and greens of Hampshire linking their

\(^{59}\) See Figure 32 c.
\(^{60}\) These differences are discussed more fully in chapter 4.
\(^{61}\) See, for example, Williamson and Bellamy (1987)
\(^{63}\) The following types of commons are identified :-
- upland grass moors
- upland heather moors
- upland grouse moors
- bracken tracts
- lowland heather tracts
- downland and grass heaths
- scrub commons
- rough grazings
- fertile lowlands
- maritime sand dunes
- maritime grasslands
- estuarine and maritime marshes
- riverside meadows
- woodland commons
- urban commons other than metropolitan
distribution with soils and analyses them by administrative area. On the general subject of the
nature of shared resources as found on commons, it was Hardin (1968) who warned of the
unrestricted use of a shared natural resource when he said 'Each man is locked into a system
that compels him to increase his herd without limit in a world that is limited.....freedom in a
common brings ruin to all'. Several articles exist in county magazines giving accounts or
descriptions of the village greens in the county. These are of little use but range from
reasonable overall accounts and crude county distributions to romanticised descriptions. 64

The Rural Surveys Research Unit in the Department of Geography at the University of Wales,
Aberystwyth has made a collection of data from the commons and village greens registers in
England and Wales, funded by the countryside Commission. Despite what is probably an
excellent data source (assuming it has been accurately collected), nothing of much relevance
to greens or commons as aspects of rural settlement has been published. Four papers in
leading journals have been published including distribution maps of commons and rights in
Wales. Aitchison and Hughes (1988) sought to summarise the contents of the registers for
Wales and in so doing highlight the agricultural, conservation and amenity significance of
common land as a resource. Other papers superficially examined the commons registers as a
data source (Aitchison and Hughes 1982), public access to commons and village greens
(Aitchison and Hughes 1987), and the changes in the extent of common in Wales from 1958
(Aitchison 1990). This study found commons to be distributed throughout Wales but with
distinct clusters of small commons in certain lowland areas, with large tracts in upland areas.

Notable studies which can be considered to have made a major contribution to the
understanding of village greens in England are limited to Warner (1987) and Mulders and Van
der Wielen (1983) both concerning greens in Suffolk, and to Wade-Martin's work on Norfolk
greens. Mulders and Van der Wielen compare these greens to similar features in the
Netherlands called brinke. They found that although the greens and brinke originated
independently of each other in the same period, the two areas had comparable agricultural
systems and the same economic function of a place for collecting and pasturing cattle while
also resembling each other in shape and size. They found the two differed, however, as during
the 12th century, agriculture became increasingly dependent on cattle manure, in the
Netherlands sheep were introduced with extensive use of heathland for pasture whereas in
Suffolk, cattle were used and parts of the commons inclosed for pasture with secondary
settlement forming around the greens. The general lack of previous work concerning village
greens has been equally silent on their origins. A general review of the basic nature of where
they originated is useful in this introductory chapter.

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64 See, for example, Peters (1971), Tomkins (1972) and Palmer (1983).
INTRODUCTION

ORIGINS

While greens and commons are now part of a largely outmoded lifestyle, they were once essential for both arable and livestock husbandry. They can range from a plentiful underdeveloped resource to a highly valued and competitive source of grazing.

Medieval England was regulated locally by the manorial system. Campbell (1986) explains how this was fundamental to all aspects of land tenure, law and local administration and the organisation and conduct of agriculture which would include the implied and automatic right for freehold tenants of the manor to use the wastes for common grazing (known as rights of pasture appendant - see chapter 2.1). Villeins or smallholders needed the commons (common arable after harvest until the new crops were sown or on fallow fields), meadows (after the hay harvest) and waste (permanent grazing) to keep their creatures which were used to plough their arable land, unless they had their own inclosed paddocks. The arable farming was therefore dependent on the common grazing - if the commons were impaired, the arable suffered. Where they were extensive, greens and commons formed a plentiful underdeveloped resource but in other areas they were in short supply and became a highly valuable and competitive source of grazing (see chapter 4). Having explained how greens originated into the manorial system, there follows, in the methods used to classify them, an outline of the ways they originated physically and became village greens.

GREENS AND COMMONS

The need for classifying different types of green lies in their diverse nature. The ways in which they can be classified are numerous, the most useful being the way they originated. This provides a background to the following chapter and an introduction to chapter 3. The closely related nature of greens and commons is also explained together with the often arbitrary distinction between the two.

There have been several attempts to classify greens in the past, mostly based on their morphology. Thorpe's early classification of Durham greens into street, broad and greens of indefinite shape was one of these. Palmer (1983), studying village greens in Northamptonshire based his work on these but identified stream or river greens and pond greens in addition to street greens and broad expanse greens. Roberts (1987) has identified peripheral greens and integral village greens which can then be classified according to their

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65 For a background to English manors and the manorial system, see Kosminsky (1956), Lennard (1959) p 214-236, for manorial courts see Bennett (1937) p 193-221, Homans (1960) 309-327. For a description of the workings of a manor see Bennett (1937).
66 See Denman (1958) p 130.
67 Thorpe (1949).
INTRODUCTION

physical characteristics into flat, slope, stream or meadow greens or by their shape ranging between four extremes of street, triangle, circle, rectangle or irregular. A more useful form of classification is one based on origins, especially as a green's morphology is often largely a manifestation of its origins. Greens are classified according to whether they are planned or not, the classes identified being planned, and natural / organic. Natural or organic greens have not been deliberately laid out in the way planned greens have and result from the residuals of other landscape features such as commons and for this reason they are termed residual greens. These three basic types of greens can be divided further according to their origins. Planned greens may be integral, either with or without an attached cattle-drift (see p. 110) or peripheral on the edge of the settlement. Alternatively they may be residual and have developed from former commons, meadows or along the borders between adjoining territories. This gives just a brief outline and introduction to the classification system used and is discussed in detail in chapter 3.

As has been noted, the practical differences between greens and commons may not be distinct which can lead to problems of terminology. Figure 2 shows seven areas of common land in Norfolk whose edges have been settled to varying degrees in the 1790s. In this sample, those named 'green' tend to be smaller than those named 'common' but not necessarily more densely settled. If greens are commons whose edges have been settled, it would be possible with the accumulation and drift of settlement for land to change its status between green and common.
Figure 2. GREENS AND COMMONS

Source: (except Daffy Green) Faden (1797)
Daffy Green OS 2nd Ed. 25"
Chapter 2.1

LAW OF GREENS

Introduction
Sources of the Law of Commons
Local Control
National Control
Common Rights

This is the first of three chapters which provide a clarification of the law concerning village greens. It begins by reviewing the sources of law, then after a background to the structure of royal and manorial justice, deals with the complex subject of common rights.
INTRODUCTION

Village greens are old and the law has developed over a long period. While greens and commons do not represent the important resource they once were, they are still used by some people and protected in the public interest, while the law is still evolving. This section explains why the law of greens is unclear and unavailable from a single source, and defines areas of confusion.

The natural position of village greens at the centre of village life has for many hundreds of years has meant that it has normally been subject to intensive land-use with many interested parties involved in its use. Whether used as a place of recreation, the site of the village well or stocks or as a resource for grazing the oxen used to plough the great open fields, the village green has normally needed to be regulated, valuable rights guarded and practices such as dishonourable encroachment prevented. Such conditions have meant that the law relating to village greens has had many hundreds of years to develop and some of it may today seem strange and complex in an age where the largely self-sufficient lifestyle of the manorial system has gone. To illustrate these complexities with an example, where a commoner purchases common land over which he has common rights, the subsequent survival of those rights depends upon the subtle way in which the rights are held. In this case (see rules of severance p. 56) if the rights are held appurtenant rather than appendent (see annexations p. 51) the rights become extinguished. What to the urban dweller may seem strange, overcomplicated or maybe even quaintly anachronistic, to those who retain and still use their rights, such complexities in the law need to be understood.

Despite its ancient origins, the law of greens and commons is still evolving and undergoing change with such rights still of use in some places and many people in rural areas are still dependent upon common rights for their livelihoods. As recently as 1981 (Newman v Bennett 1981), after debate for hundreds of years as to the genuineness of the right, pasture rights pur cause de vicinage (see p. 53) were upheld as true common rights. The law of common land and village greens deals with common rights and those who own them and the use, regulation, ownership and restrictions of the commons and greens themselves. The law of common land is, even in the complex world of English law, an extremely detailed and complicated set of rules. While the common law relating to commons is relatively simple, it has been amended by a mass of statutes (Acts of Parliament). The first piece of legislation in its modern form was concerned with common rights (Merton 1236) which gives an indication of the fundamental importance of common rights in the daily lives of people in the Middle Ages. While this remained law until 1953 and a second Act of 1285 is still in force, there were only

1 Most civil legal cases are referenced in the form of the plaintiff (the person or body who believes they have been grieved and is bringing the case to court) versus the defendant (the one defending himself against the accusation) and many can be found in the various law reports in this form. Occasionally, for example when the case refers to a piece of land which is of more interest than the personal parties involved, the case may be referenced as e.g. Re Box Hill Common rather than the alternative Box Parish Council v Lacey.
2 Common law is judge-made law - nothing to do with common land and rights.
3 Jennings (1955-58).
4 Early statutes or Acts of Parliament are generally known by the name of the place they were passed - in this case the Statute of Merton which was passed in 1236. In more recent centuries they are called the something Act e.g. The Commons Registration Act 1965.

Statute of Westminster II which reinforced Merton and extended it to approvement against
a few more statutes relating to commons until the nineteenth century when many more were passed, mostly dealing with matters of inclosure. It is, however, the application of the law to an enormous variety of local circumstances which is so difficult (RCCL 1955-58).

In the past, the tenants of a manor had certain rights to take produce from the waste lands (uncultivated parts) of that manor which they needed for its largely self-sufficient lifestyle. These were recognised by the law and mainly included pasture for livestock to graze on, estovers for collecting wood to burn on the fire or to repair the house or plough, turbary for turf to burn or repair the house, piscary as a fishy supplement to a simple diet and common in the soil for gravel and stone which may be needed. Such rights still exist today in some places, but many have been lost forever. It is still possible, however, for new common rights to be granted and indeed for new village greens and commons to be created but such occurrences are very rare. By the mid 20th century, with many commons and greens having been inclosed and the manorial system gone, the extent of common rights and those who could use them had in many places become dwindling and uncertain. People rarely knew who all the commoners were and the amount of produce they were allowed to take. The Royal Commission on Common Land (RCCL 1955-58) precipitated the process of commons registration, making a once and for all register of greens, commons and rights to remove the uncertainty of the law which had developed. This is explained in detail in Chapter 2.3.

A historical context throughout the chapter puts the current law in a larger perspective and helps explain its path of development. Many ancient practices remain, while some have been overturned and some remain but are to all purposes obsolescent and obscure. For example, the right of pasture appurtenant (see p. 53) has anciently been related in terms of the amount of creatures allowed to graze to the needs of the land to which the rights are attached, as confirmed in 1584. This idea was recently upheld when an exclusive right to grazing for an unlimited number of creatures was said to be unknown to the law. On the other hand, the ancient remedy for dealing with people turning out onto the green more creatures than they were entitled - the common law remedy of distress damage feasant, lasted until recent times but was abolished by the Animals Act 1971 and replaced by a new remedy. In the third case, the Lord of the Manor has for many hundreds of years had the right of approvement or inclosure of the commons provided he left enough pasture for the commoners and was confirmed by statutes in 1236 and 1285. The Commons Act 1285 is still in force but a number of restrictions imposed by nineteenth century statutes make it more or less obsolescent.

A further complication is that the law is often different depending on whether you are the Lord, a commoner or the public. For example, where a commoner may have the right to pasture his sheep on the waste owned by the Lord, the Lord has the right to pasture his own sheep there only if there is enough room left without disturbing the commoners' sheep, whereas the public may not normally have the right even to walk on the common. Most of the law relating to village greens and commons applies to both. Even where this is not the case, the law relating to common land is of interests because many greens have resulted from the accumulation of settlement around former commons.

neighbouring manors.

6 Tyringham's Case (1584).
7 Anderson v Bostock (1976).
The explanation of the law of greens takes on two themes; the national law - laws of England which apply to the whole country, and local laws which only apply locally - manorial custom and later local authority byelaws. The best sources for someone wanting to find out the current law of commons is the relevant volume of Halsbury's Laws but this tends to be technical, unrelated to the landscape and difficult to interpret. It is in the following chapters, however, that the law of village greens past and present is brought together from many sources to a level of detail and explanation previously unknown. It covers most useful and interesting areas of the law from a practical viewpoint rather than complicating matters with large amounts of unnecessary legal theory. The chapter to follow deals with frequently unanswered questions such as....

- Do the inhabitants of a house on the edge of a green or common have any rights to use the common?
- A neighbour's garden extends several feet onto the green. Is this legal and can anything be done to remove it?
- A tethered goat often grazes on the village green. All rights of common have been extinguished, so why is it there?
- Is there a right to drive across a green for access to a garage?
- Do travellers have the right to set up temporary camps on common land?
- Do the public have any rights to walk on commons or greens?
- Why is common land not owned by the commoners?
- How did common rights originate and how can they be extinguished?
- How can new common rights be granted?
- How can I find out who owns a village green?

The law is a large section of the thesis and convenient breaks divide it into the following three chapters. The law itself can be seen as having a theoretical aspect ( chapter 2.1 - an explanation with origins in the past ) and a more practical aspect ( chapter 2.3 involves some examples and frequent problems of the law in application in a variety of circumstances ). Linking these two ( chapter 2.2 ) is the subject of registration - the effects of one statute on the present and future development of greens. The law also provides both a theoretical and a practical context for the emergence, management and future trajectories of greens and as such greens can not be fully understood aside from the complexities of common law and statute law relating to them. The law has had a great effect on all aspects of greens, but while there are certain advantages of dealing with law and morphology together, this study deals with them separately for a number of reasons. To run them together would make it more difficult for certain types of anticipated reader to gather information they require and certain sections of the law do not fit comfortably in with the morphology. Together, one is likely to detract from the other, but interrelated effects are, however, important. Furthermore, the law possesses both a practical and theoretical aspect and a discussion of a limited number of greens can not reveal all of those facets. There are many ways in which the law and morphology could be arranged and classified together but with none being entirely successful it is better to leave them apart.

The chapter begins with a survey of the sources of law.

9 For example, lawyers, councillors, settlement specialists would most likely want to see the law or morphology in depth.
10 For example, rights on gross, levancy and couchancy.
SOURCES OF THE LAW OF COMMONS

This is distinct from the sources used in the research explained in the methodology section of chapter 1. Rather than being an evaluation of the sources for research, this explains where the law is actually derived from including sources such as statutes, case law and byelaws.

The present legal framework of common land derives from most of the principle sources of English law - namely common law and case law, statute law and delegated legislation.

COMMON LAW

As the common lands of England are such an ancient institution, predating the concept of ownership and foundation of the national law, we must look back to the earliest sources of the law to understand their present regulation. As Padfield (1970) explains, in Anglo-Saxon times, before the kingdom of England was unified, there were 3 distinct legal systems in what later became England. There was the Dane law in the north and north-east, Mercian law in the midlands and Wessex law in the south and west, all of which were based on customs varying from place to place. There is no direct evidence of how the commons were regulated at this time and it is unlikely that there was any unified code resembling later laws. With no strong central government, royal justice was difficult to obtain but local justice could be had in the shire courts, hundred courts or courts granted by the King to others - the franchise courts.

Following the Norman conquest, the King did not impose a new set of laws on the conquered people but continued the old regional customs of the realm. He did, however, wish to have uniformity in the law throughout the land. The King achieved this by introducing the general eyre. Representatives of the King were sent out from the Royal Courts at Westminster to all parts of the country to settle disputes and fulfil certain other administrative functions. Although the general eyre was abolished by Richard II, the judges continued deriving authority from the King’s command - by Royal Commission. Civil matters, including disputes over common land were dealt with by the Commission of Assize. When these judges returned to Westminster, they discussed and sifted the local customs forming a uniform pattern of customary law. These laws were becoming common to the whole country and became the ‘common law’. According to the medieval lawyer Henry de Bracton, the common law was complete (i.e. uniform) by about 1250. In more recent times, the common law has come to mean the law made by the decisions of judges which are then followed in later cases thus becoming part of the law. Originally, however, the common law was the common sense of the King’s justices, and not judge-made law but the revealed law which the judges merely declared.

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11 See Denman (1958), Stamp and Hoskins (1963).
12 See footnote on p. 37.
13 Denman (1958).
CASE LAW

In order to make the law more certain and predictable, the judges on Royal Commission applied the principle of *stare decisis* (let the decision stand). This meant that when a new dispute was decided, the rule was subsequently followed by other judges in later cases. This is still the case today - judges are normally bound to follow decisions made in courts of similar or higher standing. The common law was never formally written down as statute law is, but its principles can be seen in the case law built up by judges ever since the Norman conquest. Much modern case law relates to the interpretation of statutes.14

LEGISLATION

Complementing the common law and providing the essential structure of new laws are the various forms of legislation made by parliament. These take the form of statutes and delegated legislation such as statutory instruments.

STATUTE LAW

Statutes or Acts of Parliament create new law which is absolutely binding and must be enforced by the courts. Statutes may only be modified or repealed by parliament. The very first statute made by parliament (Statute of Merton 1236, repealed 1953), contains provisions for the regulation of common land - an indication of the importance of commons in medieval society. Medieval legislation from then onwards was relatively rare and dealt only with the most pressing issues of the time15 leaving the bulk of things to be governed by the common law. Since the restoration of the monarchy towards the end of the 17th century, parliament's power has been increasing and now has almost unlimited powers to make and repeal laws and can even overturn the common law.16 Statutes may either be Public Acts or Private Acts.

*Private Acts*

There are two kinds of Private Acts - Personal Acts which deal with personal matters such as estates or peerages and have no concern with commons, and Local Acts which have purely local effects. It is under many thousands of Local Acts or parliamentary inclosures, as they are more usually known, that so many of the open fields, wastes, greens and commons were inclosed all over England in the 18th and 19th centuries.17

*Public Acts*

These are statutes of general application and comprise all the statutes in the great volumes *'Statutes at Large'* and *'Public and General Acts and Measures'*.18 There are now many thousands of these dating back to the 13th century. Public Acts relating to greens and commons begin with statutes in 1236 and 1285 and apart from one in 1549 there were none until the Inclosure Act 1773. Statutory interference in commons reached its height in the 19th century with nine General Inclosure Acts 1845-59 and regulation under the Commons

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14 Notable cases regarding commons include *Tyringham's Case* (1584) which was used as a source of law in *White v Taylor* (1967) and *Hampshire County Council v Milburn* (1990) which decided an important interpretation of the Commons Registration Act 1965 (CRA).
15 E.g. *Quia Emptores* 1290 which put an end to the subinfeudination of land.
16 For example, the *Animals Act* 1971 abolished the ancient common law remedy of *distress damage feasant*. (see chapter 2.3).
17 See chapter 2.3.
18 Available in libraries with good law departments e.g. university or county libraries and specialist law libraries.
Acts 1876-1908 and Metropolitan Commons Acts 1878 and 1898. The Commons Registration Act 1965 was the last major source of law for common land, followed by the limited effects of the Common Land (Rectification of Registers) Act 1989 which is now spent.

**DELEGATED LEGISLATION**

Parliament may grant the power to legislate and make rules which have the force of law to some other body such as a local authority or Minister of State. Such delegated legislation may take the form of orders in council, byelaws or statutory instruments. Sub-delegation by statutory instrument may, with increasing sub-delegation, take the form of ...

- regulations made under statute
- orders made under regulations
- directions made under orders
- licences issued under directions.

All forms of delegated legislation have the same force of law as a statute. There are, however, certain conditions when such delegated legislation can be overturned. For, whereas a statute of general application is absolutely binding and can not be invalidated by the courts, delegated legislation may be challenged on two accounts. These are that it is unreasonable or that it is ultra vires (goes further than its empowering Act allows - see D.P.P. v Hutchinson 1989 below).

As has been seen, greens are regulated by 2 different sets of rules - national laws relating to the whole of England such as statutes and the common law and locally applicable rules such as customs of the manor or byelaws made by a local authority. Such local rules may apply to just one green. Leading on from the sources of law come the various legal systems in which these laws are judged and administered.
LEGAL SYSTEMS

During medieval and later times, village greens were governed by two largely independent sets of rules and remedies for taking action. There was manorial justice or regulation according to the local custom of the manor where the Lord could pass judgement against his own rules and fine his tenants, and there was also royal justice. Royal justice was uniform throughout the country and dealt with criminal offences - things against the public good and also civil offences where one man may take action against another.

Most of the present law encountered today covers the whole country - in effect national law, either as common law or statutes. Locally applicable laws, however, do exist in the form of Local Acts of Parliament, byelaws and in common law customs which are confined to a locality. In the past, local law was of greater importance than it is now and existed alongside the national law. Figure 3 shows the relative timescales of different aspects of the legal system relating to greens and commons. From before the conquest, local manorial and the national common law were the systems governing common land and other aspects of the law. From 1236, this was complemented by the introduction of statute law or Acts of Parliament but it was not until the Inclosure Act 1845 that the amount of statutes relating to greens and commons greatly increased. By the late 19th century, with many commons inclosed there were no new Acts until attention reverted to them at commons registration in the 1960s. The importance of manorial justice was already well in decline by the time local authority byelaws replaced, to some extent, this local system of regulation. It can be seen from the figure that the common law long predates statute law and has outlasted manorial justice.

LOCAL CONTROL

Beginning with the local regulation of village greens and commons, this was historically a matter for the courts of the manor. Now that manorial justice and regulation is for most purposes extinct, the function of local control has been superseded in some respects by local authorities who may regulate greens with schemes and byelaws.

MANORIAL CONTROL

Manors may date from before the Norman conquest and may legally originate up to 1290 when the statute of Quia Emptores prevented the creation of new manors (but not, in practice, quasi-manors). Manors must therefore be at least 700 years old and have probably been regulating greens and commons for much of this time. For the background to manors and the manorial system see Kosminsky (1956), Lennard (1959) p 214-236, Homans (1960), Bennett (1937).

Manorial Courts
The Lord of the Manor held regular manorial courts - normally the Court Baron for free tenants and a Court Customary (Halimote) for villeins. Matters of estate administration,
including grazing rights, were dealt with by the Court Baron. Some Lords had been granted special powers to hold a Court Leet for criminal matters which would otherwise be tried in the King's Courts. Prior to 1236 when the first Act of Parliament relating to commons was passed, justice and regulation of village greens was the preserve of the manor and the common law. Since then there has been an overall increase in national law (statutes and the common law) at the expense of manorial control. From the restoration of Charles II and especially during the 19th century, a transitional period can be identified marking the overall supremacy of the national laws of England. The following evidence of manorial justice from the 17th century onwards is likely to be the vestigial remains of a system which was at the height of its power several centuries earlier. The ways in which greens were regulated in the past under manorial control can be illustrated with some examples of surviving evidence from manorial records.

In the past the Lord of the Manor had powers to regulate the use of the green. For example, in early 18th century Hertfordshire, two orders were made by the 'Jury and Homage of the Manor of Morrants with Narnells and Butlers in Pightlesthorne' discouraging the use of the green as grazing for pigs who would be likely to ruin the grass with their clumsy feet and careless snouts:-

17 Oct 1704 Item we order that no person shall put or keep any Hog or Pig...upon the Common Green of Pightleston upon pain to forfeit to the Lord of the Manor for every Hog or Pig that shall be found there....6d

29 April 1718 Item we order that no person shall turn out or keep any Hog or Pig upon the Common Green upon pain to forfeit and pay for every Hog or Pig as shall be found....6d one moeity there of to go to the informer.

It would seem that in the 14 years between these items, the fine has not changed in size but half of it has been diverted to the informer. It is possible that this was a conscious drive by the manor to protect the green from the menacing pigs or to increase manorial income by providing an incentive to inform on wrongdoers. In County Durham, manorial courts were trying and punishing people for misuse of village greens well into the nineteenth century. A search through the presentments of Halmote Court, the manorial court of the Bishop of Durham's estates shows a number of cases of punishment for unacceptable behaviour on the green. In Easington there is evidence of pasture offences, for instance....

Easington 20 October 1684 .....John Hunter for his Sheepe pasturing in the Town Greene five shillings eight pence.

There is a possibility that the Lord of the Manor did not really mind these sheep on the green and was more than happy to accept the fine with Mr Hunter willing to pay such a price for useful pasturing. However, the fine would seem to be rather high for this to be the case and the surviving records show only one such case so it is more likely that this is a genuine offence. There was clearly concern and action over the practice of intaking small pieces of green: thus at

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22 The surviving presentments of court meeting at Aukland, Easington, Houghton and Evenwood showed 15 such cases between 1684 and 1832. Of these there were 8 for inclosure and encroachment, 3 for depositing manure, 2 for removing soil, 1 for illegal pasturing and 1 joint offence. In Houghton, all five offences were for encroachment, while in Easington there was one encroachment, one soil and one pasturing offence.

23 DU P+D Halmote Presentments and Proclamations Box 4, Easington Division.
Escomb 1 May 1800 ....Sarah Kirk of Escomb aforesaid spinster hath lately incroached on the Lords Waste there called the Town Green by inclosing a part thereof adjoining to her Garden with a Stone Wall and she is therefore amerced in two shillings.

It would appear that on certain Durham greens at least, putting a midden or depositing mounds of manure upon the green was unacceptable.

Middridge 23 October 1832 ....John Gibson for laying down manure and digging up and taking away the soil from the Town Green and he is therefore amerced in twenty shillings.

Heighington 12 October 1825 ....That Robert Toward has and uses a Midden Stead or hole for depositing manure upon the Town Green in Heighington and is a great nuisance to the neighbours and ought to be removed and the hole filled up and the ground made level and he is therefore amerced in three shillings and four pence.

Heighington 21 May 1819 ....John Bash for laying and containing (?) a Soil Heap on the Town Green 0-1-8 and 2 others. Also Mary Temple for the like and for laying her manure there 0-1-8

While these cases are mostly of a relatively recent date, there is evidence that greens and commons were regulated and controlled by the manor from long before this. The earliest surviving manor court rolls contain references to grazing rights from around 1250 onwards which may indeed refer to customs which were ancient even then. 24

Decline of Manorial Control

The power of the manor to regulate the green and most other matters had largely fallen into abeyance by the turn of the century. As has been seen, the latest example found of an offence on a Durham green being amerced by a manorial court was in 1832 at Middridge (although courts were undoubtedly regulating after this date). Some courts went on sitting until 1926 when the Law of Property Act 1922, 25 abolished copyhold tenure and so made manors and manorial courts effectively obsolete. They did, however, retain their powers of jurisdiction until 197726 when, with a few exceptions, they were abolished. 27 In some cases, the green has been sold, 28 leased 29 or put into the control of the parish council. By this time, many greens were coming under the management of the local authority in these ways or by other means and were regulated by byelaws.

25 Effective from the start of 1926.
27 Some were exempted from this Act such as the Croyland View of Frankpledge, Court Leet and Great Court Baron which still retains jurisdiction over the village greens and commons in the Lordship of Croyland, Lincolnshire.
28 For example, part of Hertford Heath in Hertfordshire was surrendered to the parish council from the manor of Little Amwell otherwise Rushen, by a document dated 1912... The Clerk of the Rural District Council of Hertford...came before....Steward of the Manor out of Court and in consideration of the sum of ten shillings....surrendered into the hands of the Lord of the Manor...by his Steward...the land...and part of the waste of the said Manor....in trust....for the Parish Council of Little Amwell...by the Rod at the Will of the Lord according to the custom of the said Manor by copy of Court Roll Fealty Suit of Court the yearly rent of one shilling and the Fines Customs and Services therefore due and of right accustomed to be paid observed and performed by the Copy-hold Tenants of the said Manor.'
29 For example, at Newbottle, Co. Durham, the Ecclesiastical Commissioners, on behalf of the Bishop of Durham who was Lord of the Manor, leased the green to the Parish Council in 1900. They let 'All that the village green and other waste spaces of the township of Newbottle in the manor of Houghton' for 99 years for a reserved rent of 5/-. This decline of the manor's ability and willingness to regulate and look after village greens can be evidenced by Halmote's attempts to lease its greens to other parish councils (see chapter 2.3).
LOCAL AUTHORITY CONTROL
The other side of local control is the local authority who may regulate greens and commons with schemes and byelaws.

Schemes
Since the 19th century, the control of some commons (which includes some greens) has passed on to local authorities. The Inlosure Act 1845 (the first of the General Inclosure Acts 1845-1882), while mainly providing for cheaper and more efficient parliamentary inclosure, also made provisions for the 'adjustment of rights' and 'improvement' of commons. The adjustment of rights meant the local authority could regulate the use and extent of pasture rights, the rights and obligations of the Lord and was also given the authority to settle minor disputes. Improvement of the common was matters such as draining and levelling, planting of trees and landscaping, the enforcement of byelaws and regulations and the appointment of conservators for the common.

The Metropolitan Commons Act 1866 established local management of commons within the metropolitan area of London. This gave local authorities control over expenditure regarding drainage, levelling and improvement, and the power to enforce byelaws and regulations. This was later extended by the Commons Act 1899 to commons outside the metropolitan district. The present extent of what local authorities may do to regulate such commons is detailed in appendix 13. There are also various local Acts which govern the control and regulation of specific commons.

Byelaws
Byelaws are often taken to include local rules provided by the manorial court but here they mean rules made by local authorities with statutory powers such as parish councils. As the power of the manor has been greatly reduced, local control has been replaced to some extent by byelaws from around the late nineteenth century. Parish councils as managers of village greens may make byelaws for their regulation.

Typical byelaws regulating a green at the turn of the century would cover restrictions on...
- Carts, horses and cattle (horse, pony, mule or ass, bull, ox, cow, heifer, steer, sheep, lamb, goat, hog or sow)
- Rubbish and refuse
- Beating carpets
- Bonfires
- Injury by fire
- Digging or cutting turf

30 For commons which had any part in the metropolitan police district.
31 See Halsbury vol. 6 para. 765.
32 See Halsbury vol. 6 para. 774.
34 For example, Epping Forest is controlled by the Epping Forest Acts 1878 and 1880, the New Forest is governed by New Forest Acts 1877-1970.
35 Under the Local Government Act 1894 (LGA) and the Public Health Act 1875 (PHA). Under the LGA 1894, where the village green has been allotted under some inclosure award to the Churchwardens and Overseers of a parish, the land is vested in and managed by the parish council. Where there is no parish council, it vests in the chairman of the parish meeting and the overseers (LGA s.19(7)) and the county council have the power of conferring on the parish meeting the right to make byelaws in respect of it (19(10)).

33
Cricket, football, &c.
Interference with persons
Intoxicated persons
Bad language
Throwing stones
Climbing trees
Betting and gambling
Notice boards
Meetings.

In addition to some of these, the byelaws made under the Commons Act 1899 by the Rural District Council of Bradfield relating to Westrop Green, Bushnells Green and Bucklebury Common in Berkshire make it an offence to:

- Deposit materials or to take away from the common or injure plants
- Shoot and catch animals or take nests or eggs
- Land an aeroplane
- Place an exhibition or photographic cart on the green
- Exercise horses
- Erect buildings
- Discharge firearms
- Bathe in the pond.

**Limitation of Byelaws**

The parish councils were limited in the kinds of byelaws they could make to regulate the green. They had to be in harmony with the laws of England, certain, determinate and reasonable. Byelaws required confirmation by the Local Government Board and as the PHA 1875 states 'no byelaw made under this Act shall be of any effect if repugnant to the laws of England or to the provisions of this Act'. A recent case has shown that byelaws can become invalid under certain conditions.

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36 Berks CRO CPC 28 18/1
37 Under the Local Government Act 1894 (LGA) and the Public Health Act 1875 (PHA). Under the LGA 1894, where the village green has been allotted under some inclosure award to the Churchwardens and Overseers of a parish, the land is vested in and managed by the parish council. Where there is no parish council, it vests in the chairman of the parish meeting and the overseers (LGA s.19(7)) and the county council have the power of conferring on the parish meeting the right to make byelaws in respect of it (19(10)). In Director of Public Prosecutions v Hutchinson 1988 the accused was charged and convicted with entering a protected area of RAF Greenham Common on Greenham Common which was contrary to Byelaw 2(b) of RAF Greenham Common Byelaws 1985. The byelaws were made under s.14 of the Military Lands Act 1892 where such byelaws could be made over land used for military purposes belonging to a Secretary of State provided they did not affect any rights of common. At the first appeal, it was decided that since the byelaws prejudicially affected the rights of common, they were ultra vires (went further than their empowering Act allows). On the question of whether a person could be lawfully convicted of an offence under a byelaw when it was wider in its field of application than its empowering Act allowed, it was held that the byelaws did affect the rights of common but as the accused had no common rights he was rightly convicted. In the final appellate hearing in the House of Lords (89 LGR 1), the decision was overturned and the accused acquitted. The Lords decided that where a byelaw was good in part and bad in part, if it was to be upheld and enforced, it has to be substantially severable from its bad part in that its substance had to remain essentially unchanged in its legislative purpose, operation and effect. Lord Lowry stated that there was no valid part of the byelaw which can be severed from its invalid part and stand by itself and the byelaw would not survive the test of substantial severability. The appeal was allowed.
NATIONAL CONTROL

At the same time as greens were being controlled locally by manorial custom and later under local authority byelaws, they have also been regulated by the national laws of England. These take the form of common law (decisions of judges followed in later cases) from at least the time of the conquest up to the present and statutes (Acts of parliament) from the Statute of Merton 1236. After the Statute of Westminster 1285 there was very little statutory interference in greens and commons until the many private and public inclosure Acts of the 18th and 19th centuries. The last major statute concerning greens was the Commons Registration Act 1965 which attempted to compile a once-and-for-all register of all common land and town and village greens in England and Wales following the recommendation of the Royal Commission on Common Land (RCCL 1955-58). Figure 3 shows the development of the national control of greens and commons and the great increase in the number of statutes in the 19th century.

The general laws of England today apply as much to greens and commons as to everywhere else, while there are some laws which apply directly to such land. There is a relatively large amount of civil law relating to commons such as registration, grazing, overcharging where the plaintiff brings action against the defendant and may be awarded damages. There are also some criminal laws which apply directly to commons such as arson or criminal damage which are treated as crimes against the state, action normally being brought by the Director of Public Prosecutions against the accused who may then be sentenced if found guilty.

During the 19th century, the volume of public legislation concerned with greens and commons greatly increased. In the earlier part of the century, especially the Inclosure Act 1845, there was emphasis on easing the process of parliamentary inclosure. Later in the century, however, and led by the Commons and Open Spaces Preservation Society from 1865, public and national opinion changed to being concerned with protecting and conserving the remaining commons (see chapter 2.3). The intention to preserve the commons reached its height in the Commons Registration Act 1965 which intended to register all commons and town and village greens still left in England (see chapter 2.2).

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34 This statute lasted until 1953 when it was repealed under the Statute Law Revision Act 1953. The oldest current statute relating to greens is part of the Statute of Westminster II 1285 which is now known under the Short Titles Act 1896 as the Commons Act 1285.
39 The notable exception was in 1549 'An Act concerning the improvement of Commons and Waste Grounds' (3+4 Edw. VI c.3) which offered some protection to houses which had been built on common land. Where under 3 acres of waste or common had been inclosed to build houses 'which doth no Hurt, and yet is much Commodity to the Owner thereof and to others' no action could be taken to remove them. Where the inclosed land was above 3 acres, however, the overplus could be laid open leaving the house and 3 acres. This statute was repealed under the Civil Procedure Acts Repeal Act 1879.
40 The figure does not include private inclosure Acts.
41 See chapter 2.2.
42 See p. 40.
43 See p. 88.
44 For the current statutes in force relating to common land see Index to the Statutes or Statutes in Force.
FOREST LAW

In addition to local and national law, greens situated within forests provide an anomaly as they may also in the past have been subject to forest law. A forest, rather than being a place where timber was farmed as we may think of them today, was an area of roughland on which the King or a magnate had the right to keep deer and kill and eat them. The importance of the green being in a forest was that land and people in it were subject to an additional set of laws - forest law. Forest was originally a legal term for land within which people could be prosecuted for breaking the forest law. The best study of the medieval forest is Rackham's (1989) work on Hatfield Forest from which much of the following is taken.

The idea of the forest was brought to England by William I and by 1215 they numbered 143, with about 80 of them largely wooded. Most forests did not normally disturb the existing use of the land - the deer were merely added and the land had owners and often common rights. In a Royal Forest, the Crown held the forestal rights which were the right to keep deer, appoint Forest officials, to hold forest courts and keep the fines. The landowner had the soil, timber and grazing subject to any common rights. While most forests were also commons, the declaring of a forest did not much affect common rights and the King was often reluctant to infringe on the rights of the commoners. At Hatfield Forest in 1252, the Close Roll stated. . . . And the King orders, that when the said underwood shall have grown up, the said men may have their common-rights there, as they used to have earlier.

The main effect of forest law was the introduction of offences of venison and vert. Venison was killing deer without permission and was strictly punished, and vert was the harming of trees and green vegetation. Vert included commoners who surcharged and, in theory, a landowner cutting down his own tree. The manorial records and sizes of the fines suggest there was no punishment intended - the forest offences were intended to provide revenue, the fines being a reasonable grazing rent. Hatfield Forest was extensively used for pannage between Michaelmas and Martinmass (7 October - 19 November in today's calendar) to fatten the pigs. The Lord of the Manor rather than the holder of forestal rights was entitled to a payment of the acorn crop in the years when it happened, including for pannage of hedgerows, trees, stubble, pasture and gardens. The Lord levied a payment of avesage from all tenants who kept pigs which was dependent on their age. In Hatfield Forest, pannage had a special meaning of the use of the Forest by pigs of 'foreigners' who were charged double the avesage but this was still a modest fee. In 1446 four men of Takeley, six of Great Hallingbury and one of Thernhall paid 9s 7d for 47 animals.

It would seem, therefore, that the containment of a green or common within a forest had little effect except that overcharging, as a trespass against the vert was punishable by the holder of the forestal rights - the King or a great man.

SCOTTISH LAW

The law of common land so far discussed applies only to England and Wales. There is no common land in Scotland so the law of commons is not a subject concerned with Scottish law. There are, however, rights to pasture cattle called servitudes of pasturage. Servitudes, like easements, provide rights over land for the benefit of other land. This means that, like the
easements of English law, servitudes of pasturage can not exist in gross (be held personally) but must be related to dominant and servient tenements.\textsuperscript{45} Such servitudes could be acquired by prescription.\textsuperscript{46} Having discussed the general aspects and procedures of the law of greens, the study moves towards the deeper problems of common rights themselves.

\textsuperscript{45} Cochran v Fairholm (1759).
\textsuperscript{46} Inhabitants of Dunse v Hay (1732).
COMMON RIGHTS

The law, which may be considered as a set of rules regarding obligations and rights in various circumstances, is especially important to the subject of common rights. Hardin (1968) highlighted the natural tendency of a shared resource to be abused, for if one does not take all he can, then another probably will. In many places the commons were in short supply and their use for grazing in great demand as an essential part of the system of arable farming. A formalised and definite set of rules was therefore especially important to their fair and efficient operation.

The basis of the law of greens and commons centres around common rights - it is such rights which distinguish common land from other types of land. The relevant statutes are deceptively simple, but the issues are clouded by the existence of many thousands of decisions taken over the centuries by both manorial and royal courts relating to different local circumstances.

CLASSIFICATION AND LEGAL NATURE

This section sets the context of common rights on a background of legal theory.

Common rights are the rights to take some natural produce from land belonging to someone else, these rights being shared in common with the owner of the land. Common rights include things such as the pasturing of the commoner's own sheep or the digging of turf for use in his cottage or the taking of fish to eat from the Lord's pond. Common rights are a strange class of rights which exist over land belonging to someone else and take priority to the rights of the owner of the soil. They can be licensed for use to a third party and may, in the case of appendant rights (see p. 45) on freehold tenure of ancient arable land, be a natural incident to the land tenure. Figure 4 shows the legal nature of the different types of common rights and their associated rights in the context of rights over property. This figure sets the background to the position of common rights within a broader legal context but it is beyond the scope of this study to examine its elements in detail. A review of their legal nature sets up the chapter for a discussion of their classification and properties.

ESTATES AND INTERESTS

Whereas the modern meaning of an estate is the ownership of land or landed property, historically, an estate in land was a measure of an interest in land from the point of view of time and amounts to a collection of rights. Since 1925, when there was a great revision in the law relating to land, legal estates may be either freehold in fee simple or leasehold. All other rights such as freehold in fee tail or for life became equitable only (see below). Lesser rights such as profits are known as interests rather than estates and may also exist in law and in equity.

For a discussion of the terms in Figure 4, see Burns (1988).
See Denman (1958).
Figure 4. CLASSIFICATION OF THE LEGAL NATURE OF COMMON RIGHTS
LAW AND EQUITY

Common rights, as incorporeal interests may exist in both law and equity. Those which exist in law also exist in equity, having both a legal version and an equitable version, while equitable rights and interests can only exist in equity.\(^49\) Such legal subtleties are a complex issue and outside the scope of this study and can only be sketched here in outline.\(^50\) Such differences between law and equity come from the days when common law and equity were separate legal systems in England with distinct courts of common law and courts of Chancery. Legal estates were protected by common law courts and equitable estates by the courts of equity. Both were replaced by the Supreme Court in 1875 but the two sets of rules have survived.\(^51\)

As can be seen in Figure 4, under the legal classification of *chattels personal, choses in action* come the two important rights over common land - *profits a prendre* and *easements*. While easements may occur on many types of land that is not common land, it is profits a prendre which are the defining feature of common land. Profits a prendre are not usually held in gross (see p. 47) but are normally annexed to land (although they can be held in gross), while easements must be annexed to land and cannot be held in gross. While the right to a profit a prendre is an *incorporeal hereditament*, (inheritable rights in property incapable of physical possession), the subject matter of the profit must itself be corporeal and capable of possession, otherwise it is an easement. For example, water from a well or a spring is not regarded as a profit of the soil and therefore not a profit a prendre but only an easement.\(^52\)

PROFITS A PRENDRE

There is a collection of rights which are distinct from, yet similar to common rights which together with common rights come under the general heading of profits a prendre.

In *Alfred F. Beckett v Lyons* (1967) a profit a prendre was defined as a 'right to take from the land of another person some part of the soil of the tenement or minerals under it, some of its natural produce or the animals ferae naturae upon it.' There are two main types of profits a prendre - common rights and commonable rights, the difference being that common rights are capable of being used throughout the year while commonable rights are valid for only part of the year.\(^53\) As the *Commons Registration Act 1965* (CRA) included commonable rights as well as common rights, most of the current legislation relating to commons includes land with

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\(^{49}\) They can exist as legal interests only if they comply with the *Law of Property Act 1925* s. 1(2) by being held for an interest equivalent to an estate in fee simple absolute in possession or a term of years absolute and created by statute, deed or prescription. Otherwise they are equitable interests.

\(^{50}\) For a fuller explanation see Burns (1988).

\(^{51}\) Whether the interest is legal or equitable has some practical importance, for legal interests are enforcable against the world except a bona fide purchaser for value of the legal estate without notice. Equitable interests are registersable as a Class D (iii) land charge under the *Land Charges Act 1972* ss. 2(5) + 4(6) and if not so registered are void against a purchaser of the legal estate for money or money's worth. See, for example, Burns (1988).

\(^{52}\) *Race v Ward* (1855).

\(^{53}\) The origin of this difference probably derives from rights over the common arable which were normally available after harvest and before the new crop was sown and rights over the common waste which was available all the time.
only commonable rights. Rights held under lease from one year to the next or from year to year, however, are not included.\textsuperscript{54} This is using the term 'common rights' in a rather general way, for from this general term comes a further division - sole or several profits where rights exist to the exclusion of the owner of the soil because the rights have been granted away in their entirety, and profits in common or true common rights where the products of the land are shared with the owner.

\textbf{SOLE AND SEVERAL RIGHTS}

Common rights may either be shared with the owner of the soil, where the owner is entitled to the remainder of the produce after the commoners have had their sufficiency, or can be granted away in their entirety and can then be enjoyed to the exclusion of the owner in which case they are sole or several rights and not true common rights. Sole and several rights may be of pasture where they may also be called a vesture or herbage which according to Jackson (1978) may include other things which normally come under turbary or pannage. Vesture and herbage may comprise 'corn, grass, underwood and sweepage ( that swept with a scythe )'\textsuperscript{55} and unlike pasture, vesture and herbage is clearly not limited to be taken by the mouths of cattle.

\textbf{RIGHTS OF COMMON AND RIGHTS IN COMMON}

True common rights must be shared with the owner of the soil, but even then there are differences depending on the form of landholding to which they are attached, for there is a difference between rights of common and rights in common. Gadsden (1988) defines a right of common as

\begin{itemize}
  \item a profit a prendre held for an interest equivalent to a fee simple ( freehold ) and shared with the owner of the land over which it is exercisable, whereas a right in common is
  \item a profit a prendre held for an interest less than a fee simple and shared with the owner of the land over which it is exercisable. This may mean that freeholders of the manor had rights of common while the free tenants and villeins had rights in common. Before 1926, rights of common could also exist as a customary right annexed to a copyhold estate.\textsuperscript{56} Copyhold tenure became obsolete when it was enfranchised ( 'freed' ) by conversion to rights of common annexed to a freehold estate. A sole right, e.g. sole pasture is the right to take a sole profit of pasture ( profit a prendre held for a legal estate where the owner of the land over which it is exercised retains no interest in the product or part of the land concerned ). This may mean that where the commoners use the whole capacity of the common, leaving nothing for the lord it is not a common right but a sole right, perhaps allowing a change from common to sole rights and back from year to year.
\end{itemize}

\textbf{QUASI-RIGHTS}

These are the rights the Lord has on his own common land after the commoners have had their share but as they are exercisable over his own land they are not true common rights. Providing sufficient common is left, the owner of the soil may, by common law, plant trees, breed rabbits, pasture animals, grant licences to others to take the herbage and pasturage and other products of the soil ( Halsbury 1991 ). He may use the land and produce as if no rights existed if he does not interfere with those rights. Where ownership of the green has been severed from the Lord of the Manor, it is the owner of the soil who has the quasi-rights and not the Lord. The mistaken view that the Lord has rights to the remainder of the produce of

\textsuperscript{54} For this reason, Wimbledon Common in London is not registered. See Plastow (1982).
\textsuperscript{55} 5 Halsbury's Laws 3rd ed. 312,313.
\textsuperscript{56} This was ended by the effects of s. 188 of the Law of Property Act 1922.
the common and not the owner of the soil (the two nearly always went together in the past) has led to disputes. In 1979 the Lord of the Manor was grazing horses on Haughley Green in Suffolk. He (wrongly) claimed that everybody had the right to do so and would not take them away when the parish council objected. The inclosure award of 1853 passed the green to the successors of the churchwardens and overseers of the parish. On commons registration in the 1960s, the commissioners ruled the parish council as their successors and so in this case it is the parish council who holds the quasi-rights and not the Lord of the Manor.

**OTHER RIGHTS**

As well as rights of common, rights in common, sole and several rights and quasi-rights and before dealing with commonable rights, there is another class of rights available all year round and not shared with the owner - similar in some ways to sole and several rights. These are dealt with below and include rights such as free fishery, estovers or botes (not to be confused with the common right of estovers) and estovers or quasi-estovers (see p. 48).

**TYPES OF COMMON RIGHTS**

| Common rights are the central feature at the heart of commons and village greens. They are the useful product which gives them value and for this reason a detailed description and explanation of them is essential. |

One of the earliest references to common rights from a legal viewpoint was by the famous 12th century lawyer Henry de Bracton who describes a right of common as 'a right, which one or more persons may have, to take or use some portion of that which another man's soil naturally produces.'

The most frequent types of common rights include:
- pasture (grazing)
- pannage (acorns for pigs)
- estovers (underwood)
- turbarry (turf or peat)
- piscary (fish)
- common in the soil (minerals)
- animals ferae naturae (wild animals).

These are by no means the only common rights available and there is no reason why any natural product, part of the soil or animal ferae naturae may not form the subject matter of a grant of common. Turning from animals to fungi, there is no right of common to gather wild mushrooms in England which could have formed a good food supply at certain times of the year (as it does in Europe) which may be due to many people's fear of consuming a harmful toadstool. Picking mushrooms, however, has been upheld by the Commons Commissioners as a pastime indulged in as of right when registering town and village greens (see p. 66). The holders of common rights can licence others to use the right up to the holder's limit. The next section deals with the main types of common rights in turn.

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57 East Suffolk CRO CP/CP/C/26 Haughley.
58 Henry de Bracton or Bratton was a judge of the King's bench in the mid 13th century and wrote a book 'Concerning the laws and customs of England'. See for example, Davies (1928), p 15, 30.
60 *Rumsey v Ramson* (1669), *Hoskins v Robins* (1671). See, however, the limitations imposed in
Figure 5. TOTAL NUMBER OF CREATURES ON VILLAGE GREENS
CURRENT STINTS

Source: Counted from Commons Registers
PASTURE
By far the most important common right for village greens is the right of common of pasture which exists on 95 registered village greens. This allows the holder of the right to put certain creatures onto the green or common where they can feed upon the pasture growing there. This occurs on almost every green in England that still has common rights and in most cases is the only right still in existence. Very similar to the right of pasture is the right of herbage. Pasture and herbage are often used as the same, but there is a difference between them. Where herbage is a sole profit to take grass by grazing or cutting, pasturage is the right to take grass by the mouths of cattle and not by cutting. However, pasture may include a customary right to cut rushes. Pasture need not be just for grass but may include anything which may be grazed by animals including mast, acorns, nuts leaves and foliage but with no right to cut them. It allows entry to the land in order to use the right although the commoner has no property in the grass until it is taken by grazing - if a stranger cuts it, the commoner may not take it away and has no action of trespass. Where pasture rights are not shared with the owner of the soil they become sole or several rights. A right of sole and several pasture can be taken only by the mouths of cattle and there is no entitlement to the underwood, whereas, according to Scriven (1894), a right of sole and several vesture or herbage allows the grass to be mown and there is an entitlement to the underwood. Where there is a right of pasture for pigs over common land, they may eat the grass and also any acorns that are on the ground.

Creatures
Figure 5 shows that there are currently more sheep than any other creature allowed to take pasture on village greens, a total of more than 14,000. This is nearly three times the next most frequent animal, the cow and its related beasts. The figure shows, somewhat surprisingly that geese outnumber horses on village greens. It should be noted, however, that not all the creatures mentioned can be turned out onto greens at once for many of the rights include alternatives such as 1 horse or 1 sheep. The is a great variety of creatures permitted to take common pasture on registered greens including many variations of cattle. The figures appear relatively low because the great majority of village greens do not have any rights of pasture on them and all these creatures must share a fairly small number of greens.

Creature Equivalents
Rights of pasture are sometimes expressed with a choice of creatures. For example, on The Green, Wyck Rissington in Gloucestershire, the rights belonging to Wyck Cottage are for 4 horses or 4 cattle or 12 poultry. For the purposes of grazing, horses and cattle are considered equal in this case and 3 poultry to be equivalent to one horse or cow. A search through the greens where pasture rights are expressed as equivalents shows some variation in the various importance of different creatures. In some places (greens in Avon and Suffolk), 1 cow = 1

Appendix 7.

For example, on Dowinney village green in Cornwall there is a right belonging to Colhay House to graze 10 cattle, 5 sheep and 2 sows.

According to Gadsden (1988).

Hopkins v Robinson (1971).

Barnstone v. Gale (1649).

Creatures on registered greens include cows, cattle, calves, neatstock, followers (calves), beasts of burden, head of stock, bullocks, heifers, beef cattle, milk cows, milking cows, adult cattle, young cattle, horses, donkeys, ponies, she ass, yearling ponies, goats, sheep, fowls, ducks, geese, ewes, lambs, pigs, hogs, sows, litter, animals, turkeys, domesticated fowls, chickens, water fowls, attendant goslings, swine, animals (normally Friesian heifers), beasts.
horse, whereas on greens in Devon and Oxfordshire 2 cows = 1 horse, but on a green in Suffolk, 1.25 cows = 1 horse. In general, cows and horses are normally equivalent to a larger number of sheep - sheep being smaller and requiring less food. In Devon there is a green where 1 cow = 0.5 horse = 6 sheep (sheep being worth half the number of lambs) and in Suffolk 1 cow = 4 sheep. On a Suffolk green, sheep and goats are equivalent and each worth 5 geese or hens. The full list is given in appendix 4. Variations in creature ratios can be considerable. Sheep:Cow ratios range from 0.5 (1 sheep worth 2 cows) to 6 (6 sheep worth 1 cow) - both on greens in Devon. Cow:Horse ratios tend to be less variable ranging between 0.5 and 1. Goose:Sheep ratios show the greatest variation of all, ranging from 0.25 to 5 (both in Suffolk). Goose:Cow ratios are also variable and can be between 1 and 10 (Suffolk). Rights of pasture may also have complex combinations of rights for different animals. Creature equivalents vary greatly between greens (see appendix 19). Grazing rights may be seasonal, in which case they are not common rights but commonable rights (see p. 54).

**Stocking Rates**

Where greens have common rights of pasture exercisable over them, the stocking rates or density of creatures which can be turned out onto the green can be highly variable. Such creatures need to eat a lot of grass to survive. It has been estimated (Spedding 1983) that grazing ruminants must take up to 30,000 or more individual bites of herbage and spend up to 12 hours a day or more grazing to satisfy their appetites. Putting a figure on a maximum or optimum stocking rate can be difficult as it depends on a number of factors such as climate and quality and condition of the pasture and creatures. A typical figure for continuous grazing for 2-3 months may be 1 Ha for every 3 cows (Halley and Soffe 1988). Other sample rates put this figure lower. Spedding (1983) gives rates of 1.64 dairy cows per Ha and 16 per Ha for ewes. Figure 6 shows the theoretical changes in benefits to livestock in terms of gains per animal and gains per unit area with varying stocking rates. Reducing the stocking rate below the optimum increases the gain per animal at a uniform rate - halving the number of animals, doubles the available pasture, but the gain per hectare is reduced at an increasing rate. Similarly, increasing the stocking rate above the optimum initially reduces the gain per animal at a higher rate than the gain per hectare but this later catches up until the area is too overstocked to allow any animals to survive. Possible current stocking rates on village greens vary widely. Some have plentiful pasture whereas others are very limited and it is unlikely that some registered stocking rates could be fully exercised in practice.

**PANNAGE**

This is the right for the commoner to take his pigs into the common wood and allow them to eat acorns, beech mast and other certain produce that falls to the ground. Pannage differs from other common rights in that it was often accompanied by some kind of payment in exchange for the use of the woods. This is allowed under the implied conditions that the pigs

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66 For example, a right attached to a cottage at Thwaites Common, Alby-with-Thwaites, Norfolk allows for "24 geese and either 2 horses or 2 cows or 2 goats or 1 horse and 1 cow or 1 horse and 1 goat or 1 goat and 1 cow, and also a right of estovers." Sometimes young animals are regulated in the grazing right e.g. 2 cows or 2 heifers or 2 horses or 1 mare and 1 foal.

67 For example, on Brampton Common, Norfolk, one resident may pasture 2 cattle for any sixmonths of the year, or the dates may be stated e.g. 1st May to 11th October 2 animals.

68 For example, on Pamphill Green and Little Pamphill Green in Dorset, 3 creatures each have a 10 acre share of the 30 acre green. On the village green, Hartfield in East Sussex, 20 cattle are allowed on only 1.2 hectares which is equivalent to over 16 creatures per hectare.
may only eat the food they can find for themselves and the commoner may not shake or cut
the tree to help the acorns fall although the owner of the wood may lop trees in the ordinary
course of management and cut down ripe timber. The subject matter of a valid right of
pannage was stated in Anon (1563) where '....pannage est le profit des acornes, nuts, hawes,
sloes & de Beech.... & issint de apples & crabs.' Where apples and crabs fall to the ground in
a pannage wood it would be difficult to stop the hungry pigs from chomping upon such fare.
Pannage, however, does not include the right to graze pigs on common land and any
registered rights to graze pigs in this way should be rights of pasture. As pigs are not
commonable creatures, the grazing of pigs on a green must therefore not be a right appendant
( see p 52 ) but a right which has been granted or acquired by long usage. Assuming the green
is not wooded, this is likely to be an error of registration. However, if such a right of pannage
appears in the register, even if it is not appropriate, it will become a legal right for the registers
form the definitive document on the existence of greens and their rights of common. Pannage
now occurs less frequently than most other common rights and there are rights on only 3
registered village greens.

Pannage probably developed from a type of payment where pigs were allowed to feed in the
woods in certain years. On the estates of Ramsey Abbey in Huntingdonshire, the records of
pannage were arranged as a source of revenue rather than a tax on excessive demand for a
limited amount of mast. There was not always enough produce from the wood to provide
pannage every year and at Shillington on the abbey estates, when there was no pannage there
was no charge to the user. But this was not always the case, for in the Huntingdon manors of
the estates, pannage dues seemed to be almost an annual tax on the villeins' hogs, while at
Shillington the villeins were obliged to use pannage from the Lord's wood when there was any
and not from anywhere else.

ESTOVERS
While rights of pasture provided for the keeping of animals in the arable system of cultivation,
estovers satisfied the occasional and more regular needs for wood. The right of estovers
allows the taking of wood, underwood and small branches for fuel or repairing buildings and
hedges or bracken and similar growths for litter. This implies that the land needs to some
extent to be wooded and so is less likely to be found on typical integral village greens than on
more extensive commons. Estovers may be divided into four types depending on the type of
material taken and its intended uses.

Estoveria adificandi or greater housebote. This allows trees and timber to be taken to repair
or rebuild houses and includes repairs needed due to 'tempest, enemies etc.'

Estoveria ardendi or lesser housebote or firebote. This allows the commoner to cut and take
tops and lops or shrubs and underwood, or old decayed and dead trees to burn in the house or
tenement.

69 Chilton v London Corporation (1878).
70 For instance, there is a right of pannage on Kilcot Green in Gloucestershire.
72 For example, in St. Ives, the commoner had to pay 'whether he fed his pigs at home or not' and at
Holywell 'whether mast or not', while in Warboys, Broughton, Abbots Ripton, Upwood and Wistow 'as long as
there is a supply of mast, whether he keeps his pigs at home or not'.
74 These divisions are in Jackson (1978).
75 Jackson (1978).
Estoveria arandi or ploughbote, carbote or wainbote. The holder of this right may cut and take 'proper timber and other stuff' for mending the commoners' ploughs, carts, wains and harrows and for making rakes, forks etc. necessary for getting in his hay or corn.

Estoveria claudendi or hedgebote, haybote, heybote, fencebote or estovers of inclosure allows the taking of proper timber for making gates, stiles etc. or boughs, shrubs, bushes etc. to repair hedges or inclose open fields where corn is sown etc. Richardson (1968) mentions a right of foldbote - the right to take wood from the common to make sheep folds. These divisions of estover rights on greens would now seem to be almost obsolete. Registered rights of estovers may take various forms. The rights may be very general rights of estovers or may be more specific and require certain conditions. For example, the estovers may be limited to a certain use, or specify the size of the produce which may be taken or may include unusual produce such as pea or bean sticks. Estovers occurs on 12 registered village greens.

There are 2 other classes of rights which are closely related to estovers called estovers or botes and estovers or quasi-estovers but which differ slightly in their legal nature.

Estovers or botes
Harris and Ryan (1967) mention this right for a 'person with a life interest in a property to take such timber from that property as will not prejudice the rights of the remaindermen'. This is probably similar to the rights in common mentioned above where the land is held for an interest less than a fee simple (see p. 42).

Estovers or Quasi-estovers
Harris and Ryan (1967) explain this as where the whole product of a given piece of land is subject to an exclusive right resembling the common right of estovers but is more analogous to sole vesture. Lands where estovers could be exercised may have been known locally by other names. For example, in Norfolk there were woods with common rights of fuel called doles, ings, carrs or buscallys.

TURBARY
Estovers provided some wood for fuel, but rights of turbary allowed the commoner to dig and take turf for the same purpose. This was considered by Bracton to be estovers but it is generally now thought of as a right of common of its own. Gadsden (1988) mentions two forms of turbary: turbia - dry out of the body of the ground blestia - pared from the surface, which he considers to now be obsolete. Turbary exists on 14 registered village greens.

PISCARY
This is the right shared with the owner of the soil to fish in a stream or pond on the common or green. When the right is to the exclusion of the owner, who is not allowed to fish there it is

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76 On Westrop Green, Bucklebury, Berkshire, there is a right of estovers to 'Cut and take for the holding rough or dead wood, tree loppings, furge and fern (as limited by the presentments currently in force at Bucklebury Manorial Court Baron and Lee!) and to take timber for repairs, to lop pollards which have been usually lopped, to have hedgebote and firebote'. On Goose Green, Bramley in Surrey, there is a right of 'estovers limited to cutting of saplings for cultivation purposes'.

77 On Dunstall Green, Surrey there is a right of estovers for 'heather and trees up to 7” diameter'.

78 On Stroud Green, Greenham in Berkshire, there are rights of estovers for 'wood for firing and garden purposes, gravel for paths and drives, leafmould, peat and small kindling, peat for farm purposes, bracken for litter and underwood - pea and beansticks'.

79 Slater (1907) p 78.

80 For example, there is a right to 'dig and take turf' on Heyshott Green in West Sussex.
a right of free or several fishery. These right have been known in the past (e.g. Coke) as liberam pischariam and separalem pischarium. Piscary can not occur on some coastal commons where the water is tidal as everyone has the right to fish there. Piscary, together with animals ferae naturae (see p. 49) are profits of greater value than other common rights - the products themselves have a high market value and so there is a danger of overuse and exhaustion of the product. An unlimited right to take fish and trade them could provide someone with a lot of money whereas with other rights such as pasture it could not. This is why claims to rights of piscary have sometimes been disputed and judged not to be valid. In Bland v. Lipscombe (1854), while a custom for all inhabitants to dance in a particular spot was good, a custom to take a profit which is valuable would be injurious to the owner with little benefit to the inhabitants and was ruled as bad. It was decided that a custom to angle for, catch and carry away fish was bad and would be bad even without the last bit. In a 19th century case, a custom for commoners, copyholders and ancient freeholders of a manor and their tenants and dwellers in the parish and manor to have common of fishery over the Lord's waters on the waste of the manor and to take and carry away fish as a profit a prendre was ruled as unreasonable and bad. For a person claiming a common right of piscary, as with the sole and several rights of free fishery and several fishery, the onus is on the claimant to show the foundation of his claim for the right is 'prima facie' in all the King's subjects or in the owner of the soil.

VENARY
In Forest law (see p. 38) venary meant beasts got by hunting or sometimes all the beast of the forest or beasts of chase (ferae campestres). Beasts of chase are the buck, doe, fox, marten and roe; beasts of the forest are the buck, hart, hind, hare, boar and wolf.

VERT
In Forest law, vert meant anything from a small shrub to a tree which bore leaves and was in a forest. Vert is sometimes considered to be everything with a green leaf within a forest which could cover deer but especially great and thick coverets. But herbs and weeds, as described in the eighteenth century, 'although they be green, our legal vert extendeth not to them.' This was sometimes divided into the trees, called over vert or haut-boys and the shrubs, called nether vert or sub-boys. As explained in De la Warr v. Miles (1881), special vert was all the trees growing in a forest which bore fruit to feed deer and offences against this were more grievously punished than other vert.

AUCCEPTARY, CULLETT

81 See sole and several rights, p. 42.
82 Allgood v. Gibson (1876).
83 Lord Fitzwalter's Case (1674).
84 Jowett (1977).
86 Jacob (1782).
87 References to these rights are found in claimed (and subsequently cancelled by the Commons Commissioners - see chapter 2.2) rights on commons in Doncaster (aucceptary) and Norfolk (cullett). The precise nature of aucceptary is unknown to the author but may have something to do with feathers. Cullett, according to Adams (1976, p.45) is a right found in Norfolk which allowed tenants to put their sheep in with those of the Lord in the demesne flock, in proportion to the amount of land they held in the open fields.
COMMON IN THE SOIL
The right of common in the soil allows the removal of soil, gravel, stones and minerals. For example, on Stroud Green in Berkshire there is a right to 'take gravel for paths', on Warnborough Green in Hampshire, a right to 'dig and take gravel' but it may also include the use of building stone from local quarries.

ANIMALS FERAЕ NATURAE
Animals feræ naturae means wild animals and the common right is the liberty to take such wild animals from the common or green. This does not include animals mansuetae naturae or domitae naturae which are domestic animals or animus revertendi which are tamed creatures such as pigeons or tamed hawks which would not become wild if they escape. Similar to pasture, the commoner has no right in the product until they are taken. Wild animals are incapable of ownership until they are dead, or, according to Scriven (1894), tamed or confined such as in an enclosed warren but then become unownerable again once they escape. The property in the animals feræ naturae, however, was held in Ewart v Graham (1859) to belong to the owner of the soil who could grant a right to others to come and take them by a grant of hunting, shooting, fowling etc., such a grant being a licence of a profit a prendre. There has, in the past, been some debate as to what creatures may be feræ naturae or profitable animals. In Hadesden v. Gryssel (1607) it was first considered that the coney (now known as the rabbit) could be destroyed by the commoner as feræ naturae but it was decided to follow an earlier precedent in Bellew v. Langdon (1601) where it was decided that [conies are] 'profitable as deer are, not vermin (like foxes) and therefore keeping of them by the owner of the soil is lawful, killing them unlawful.' The subject matter of animals feræ naturae can include mussels on a foreshore bed.

Licences, Shooting and Profits a Prendre
With hunting and shooting rights on common land there is a fine distinction between personal licences of pleasure and licences of profits a prendre. If the holder of the right is meant to have a property in the game then it is a profit, otherwise it is only a licence for pleasure. This means that if there is a personal licence for an individual to hunt at his pleasure, he has no property in the game and can not take it away or send his servants to hunt for him or assign the licence to others. In Wickham v Hawker (1840) a grant of 'free liberty, with servants or otherwise, to come onto and upon lands and there to hawk, hunt, fish or fowl' was held to be a grant of a licence of profit and not a mere personal licence of pleasure which meant that the grantees could hunt by sending servants in his absence and was therefore a profit a prendre within the Prescriptions Act 1832.

Shooting rights and Commons Registration
The distinction has been made between a right to shoot game and a right to shoot it and take it away. Whereas a right to shoot game and take it away was a profit a prendre, a right to just shoot it was not. On a common in Devon it was held that registrations including rights of shooting or sporting were not valid and should not be finally registered. The Commons Commissioners stated that rights of common result from the same necessity as pasture - the maintenance of husbandry, and as shooting and sporting is primarily for pleasure, they should not be registered as common rights. There are, however, several shooting rights which have

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88 R. v Howlett and Howlett (1968).
89 Webber v Lee (1882).
90 Re Lustleigh Cleave, Devon (No.1).
got through final registration, for instance on Wick Green in Devonshire there is a right belonging to Lower Wick Farm to shoot on the green.

**FRUCTUS NATURALES**
Existing rights to take wild edible crops are rare on village greens but this right does occur on Stroud Green in Berkshire as a right 'to take edible nuts'.

**OTHER RIGHTS**
There are other rights which may exist on greens and commons as there is a great variety of natural produce which may be granted to others by the owner of the land but such rights are very rare on registered greens. Occasionally rights of a dubious nature may escape detection and pass to final registration. For example, in Bradford there is a right to dry clothes on a village green, in Nottinghamshire a right of access to water for animals and on a Somerset common, access to adjoining fields. None of these should have been registered as they are not profits a prendre in that they are taking produce from the land belonging to someone else but are only easements.

**COMMON WOODS**
Some medieval communities had areas of woodland which were considered to be common to certain inhabitants. For example, on the estates of Ramsey Abbey in Huntingdonshire, there was usually a general permission for all to common [pasture] in the woods except for one section set aside for the Lord's animals. This is in addition to rights of pannage, the more usual form of common right found in woodland.

**ANNEXATION OF RIGHTS**

The law of common rights involves a further distinction depending upon the way the rights relate to their holders.

This is a legal distinction of great antiquity and the law has for many hundreds of years recognised a classification of common rights depending upon the way they are held by their beneficiary. This difference is important in that the different annexations were formed and originated in different ways often depending on the nature of the tenancy in the land. Freehold tenants of the manor had rights appendant to their freeholds to pasture commonable beasts on the waste. Where this was extended to non-commonable creatures (see below) or to freeholders who were not tenants of that manor, the rights were appurtenant and said to derive by grant from the Lord. The Lord could also grant common rights to people who had no land - these are said to be rights in gross and could descend to their heirs as incorporeal herditations rather than being attached to land or properties. In many ways, however, most of the use of the waste was by the copyhold tenants and landless cottagers who had common

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91 On Moor Edge, High Side, Harden a right for 'Inhabitants of the hamlet of Harden to dry clothes'.
92 On The Green, Trentside, Gunthorpe in Nottinghamshire there is a right 'To pass and repass across the surface to water and wash sheep, to water cattle, to draw water and to fish'.
93 Mells Green, Somerset.
94 Raftis (1957) p 157. For example, in Abbots Ripton there were two woods - Westwood which had common pasture and Hawland where there were no common rights.

48
rights according to the custom of the manor, and in some cases even built their homes around the edge of the waste. Common rights can be held in the following ways:

common **appendant**
common **appurtenant**
common **in gross**
common **pur cause de vicinage**

The legal distinction between appendant and appurtenant rights (a right as an appendage to a piece of land and a right appurtaining to it) is not as valid today as it was in the past. Jackson (1978) cites Davies v. Davies (1975) where the court refused to discuss the subtle distinction between commons appendant and appurtenant as 'if we were sitting in a manorial court in Glamorgan n 1270'. The Royal Commission on Common Land Report (RCCL 1955-58, 272) recommended that upon registration, appendant rights should become appurtenant but this was not adopted and the two types remain.

**COMMON APPENDANT**

A grant of arable land to a freehold tenant prior to 1290 (after when the creation of new manors was made illegal) entitled him by common law to use the manorial waste (which would include commons and greens) for such purposes as were necessary for the maintenance of his husbandry. This meant the cattle, horses oxen and sheep used to plough and manure the arable land. With common appendant, only the amount of creatures that were necessary to plough and manure the tenant's arable land could be put out to common pasture. For example, in c. 1150 William de Solers established a chapel at Postlip and granted to the priest a house, half a yardland of arable and common rights for six cattle and one horse on the common. This right formed an appendage to his grant of land and was a natural incident to his landholding - no special grant of use of the waste was needed and was therefore an implied rather than express right. A freeman who held arable land from the Lord of the Manor could rightly assume he had use of the waste. Any rights which are attached to land which is not anciently arable (ancient arable includes arable land which has been inclosed or built upon) can not have rights appendant. Appendant rights also differ from common appurtenant by the types of animals allowed to feed upon the common pasture. More than 150 years after the abolition of new rights appendant it was stated in court that:

'A man shall have common appendant to his arable land and for such beasts of his as plough and manure that land; that is to say horses and oxen to plough it, cows and sheep to manure it. He shall not use this common with goats or geese or such like; for these animals are not comprised within the usage of this common.'

This gives an indication of the reasons for this type of common. It would seem that land was necessary to keep beasts of the plough and sometimes cows and sheep to provide manure for the arable land. Other creatures such as goats or geese were not allowed as they did not fit this original purpose of the land. A century earlier, however, an objection that pigs, goats and geese were not commonable under a right appendant was not held, allowing their use of the common. The statute of Quia Emptores 1290 had the effect of freezing the amount of freehold tenants of the manor - a number which thereafter could never be increased as any sale or grant of land would take it, for legal purposes, irreversibly out of the manor. No more rights of common appendant have been created since then.

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95 As stated in Hampshire County Council v. Milburn 1990.
96 Aldred (1990) p 51
97 Bennett v Reeve (1740).
98 Anon (1459).
Another condition of this type of common right was that the land had to be anciently arable. This means that recent assarts (conversion of rough land to new farmland) from the common or waste when granted as freehold had no common rights attached to them as the land was now separated from the manor. When granted as copyhold, however, the same privileges and common rights went with it as to other copyholders. This has sometimes been called 'waste-hold copyhold' (Scriven 1894). Where this has occurred and the land leased as customary land, an express mention in the lease of customary rights of common is not necessary for such rights to be conferred.100

Tyringham's Case (1584) forms a useful early authority on appendant rights. It decided that something can not be appendant to another unless it agrees in nature and quality with it. This means that a corporeal thing (something capable of ownership) can not be appendant to an incorporeal thing (something incapable of ownership) and v.v. However, some incorporeal things can not be appendant to some corporeal things as they must also agree in 'nature'. For example, turbary can not be appendant to land, but can be appendant to a house for while it agrees in quality (incorporeal to corporeal), the nature does not agree as turves are to be used in a house and not on land. A right of pasture appendant is of common right and need not be prescribed for but only belongs to ancient arable land and for horses and oxen to plough and cows and sheep to manure the land.

COMMON APPURTEMENT
Unlike common appendant, the commoner need not be a tenant of the manor but his right depends upon a grant (or presumed grant) from the Lord101 and may include vicinage102 (see below). Common appurtenant may be claimed by grant within legal memory (since 1189) and by prescription.103 Evidence of 50 years rights of common on the waste was sufficient to presume a new grant of common appurtenant. Such claims would now be of no use since the Commons Registration Act 1965 (see chapter 2.2) unless they are claimed over land which became common land after 2 January 1970. Pasture appurtenant must be related to the needs of the dominant tenement (the land to which the right is attached), as an exclusive right to grazing without limit is unknown to law.104

COMMON IN GROSS
Unlike easements, profits a prendre may be annexed to persons rather than lands. Common rights in gross may include estovers.105 Common rights in gross are rare today on registered greens. For example, on Rosamunds Green, Frampton-on-Severn in Gloucestershire, there is a right to pasture 6 cattle, 12 sheep and 12 hogs belonging to H. Clifford.

COMMON PUR CAUSE DE VICINAGE
This means by reason of vicinity. Vicinage exists where there are adjoining wastes of two different manors and the tenants of each manor may allow his creatures to graze on the other.

101 A grant from Abridge Monastery in Hertfordshire in 1285 allowed '....common pasture for their animals and pannage for their pigs...' (Herts CRO, AH 915).
102 Minet v Morgan (1871).
103 Cowlam v Slack (1812).
104 Anderson v Bostock (1976) (Harris v Earl of Chesterfield (1911); Staffordshire and Worcestershire Canal Navigation v Bradley (1912) applied).
105 Hayward v Cannington (1668).
Vicinage is different from commons appendant, appurtenant and in gross as it is not a type of annexation in the same way but exists dependent upon two commons being adjoining and may itself be held appurtenant or in gross but not, according to Tyrringham's Case (1584) appendantly. Chapter 3 describes the frequency of this type of green in certain parts of the country. Vicinage has historically been considered an excuse for trespass rather than a true right of common in itself, but under present common law it has been decided that it is a true right. Under the historical interpretation, vicinage does not confer a right but only an excuse for trespass. In Jones v. Robin (1847) the judge said '...[vicinage] is not properly a right of common or profit a prendre but rather an excuse for trespass.' Blackstone (1830) considered it a right, although a permissive right. 'This [vicinage] is indeed only a permissive right, intended to excuse what in strictness is a trespass in both, and to prevent a multiplicity of suits.'

At the time of commons registration, vicinage was held in this way to be not a right of common but an excuse for trespass, and not within the scope of the CRA. More recently, however, vicinage was upheld as a true right setting legal precedence. Grazing animals may stray on to the next common but not onto a third, so vicinage can not exist over more than two commons. From Tyrringham's Case (1584) it is not permissible to put the cattle on the common of vicinage originally but they must escape there. The Lord of one manor of vicinage has long had the right to inclose against the other, taking away the right. There is some evidence that many common rights were widely exercised without any legal entitlement. In some places most people in a community benefited form the commons to some extent and commoners seem to have been ubiquitous, but many of these in practice, were by custom and had no legal rights. Even in Northamptonshire, an area where wastes were not extensive, there is evidence of much usage by custom and in the mid 18th century some people were surviving purely by using the commons with no land of their own.

COMMONABLE RIGHTS

These are rights available during certain times of the year only and are neither sole profits nor rights of common but are similar. The origin of the difference between common land and commonable land may be the ancient arable strips which were not common throughout the year like the common waste, but became common after harvest until the new crops were sown, some now remaining as commonable land long after the common fields have disappeared. Commonable rights may be registered under the CRA in the same way as common rights. There are three main types of commonable rights of pasture - shack, lammas lands and gated or stinted pasture but with many alternative names as well. It is not certain whether other rights such as estovers with restrictions on dates of usage are forms of common

106 Re Cheesewring Common, Henwood Common and Longstone Downs, St. Cleer, Cornwall.
107 Newman v. Bennett (1981) In a case of dispute concerning Pundle Green, in Hampshire which adjoins the New Forest, the byelaws of the New Forest required cattle to be marked while the manor Pundle Green was in did not. The defendant was done for not marking his cattle as he put them on to Pundle Green and they escaped legitimately by vicinage into the New Forest where marking was required. It was held that a right of pasture pur cause de vicinage was limited in character but not merely a defence to trespass, but a right of pasture on adjoining common land where the byelaws must be obeyed.
109 Slater (1907) p25.
110 Clapham (1926), Chambers and Mingay (1978) p 97.
111 Neeson (1993) p 58-71

51
or commonable rights. For example, a right of estovers was not exercisable during fawning months in a forest. Registered rights are sometimes limited to certain time periods, for example ‘25 cattle and 50 ewes with lambs April to October’. Alternatively, they may be limited within the day. Dealing with these in turn;

**LAMMAS LANDS**
Also known as half year lands as they are commonable for roughly half the year- after harvest and before the new crop is sown in the spring. In Ealing in Middlesex (now a west London suburb) in 1553, animals could graze in the open fields from Lammas to Candlemas but at other times they were kept out with fences. Lammas rights survived over much of Ealing until the 19th century.

**SHACK**
The right to carry off the remains of stubble and dropped grain after the harvest is called shack and may be either appendant or appurtenant. The custom for one commoner to inclose against another was held as good in *Barker v. Dixon (1744)*. The right of shack is not extinguished by unity of possession. It seems that there were sometimes local variation and peculiarities in commonable lands. For example, in Norfolk once existed *brecks* which were large newly-made inclosures (new in the 19th century) which may have been subject to rights of shack, as well as rights of common.

**GATED OR STINTED PASTURE**
This commonable right is a form of pasture more prevalent in the north known as gated or stinted pasture, cattlegates, cattlegaits, cowgates, oxgates, horsegates, sheepgates, kinegates, beastgates, pasturegates, lowgrasses, beastgrasses or stints (not to be confused with the normal meaning of stints as the number of creatures a commoner is allowed to put on the common). *Rigg v. Lonsdale (Earl) (1857)* explains a number of points relating to the law of gated pasture. From the case it seems that cattlegates gave the holder no right to the possession of the soil but ownership remained in the Lord of the Manor subject to the right of several pasture upon it by the cattlegate owners, and the Lord may maintain trespass against a cattlegate owner for sporting over it without his permission. Cattlegates etc. are not strictly classed as common rights but rather sole and several commonable rights as the cattlegate owner is entitled to his rights to the exclusion of the owner of the soil. Common rights need to be exercised ‘in common’ (or shared) with the owner of the land. Having discussed the nature and occurrence of the various forms of common rights, there follows an examination of the more practical matters of the splitting and sale of common rights.

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112 *Russel and Broker's Case (1587).*
113 The Green, High Strut, Stonehouse, Gloucestershire.
114 For example between 8 am to 10 am and 3 pm to 5 pm on The Common, Scrooby, Nottinghamshire.
115 VCH, Middlesex vol. 7 p. 100-172.
116 See Slater (1907) p 79.
117 *Corbett’s Case (1585).*
118 *London (BP) Case (1614).*
119 Slater (1907) p 79.
RULES OF SEVERANCE, APPORTIONMENT AND SALE

This section discusses the practical nature of what the law dictates to happen when commons are altered in various ways.

With rights of common come certain rules of apportionment when the land is sold or severed from the holder of the rights. While these three are lumped together by Harris + Ryan (1967), they have also been detailed by Bird (1801) at a time when common rights were more important and widespread and many were fast disappearing by inclosure. As estovers were normally attached to a particular house (incorporeal to corporeal) and rarely held in gross, this annexation to a building must always remain and he suggests this is particularly so with the (lesser) house-bote. This means that when a tenement is divided, the estovers can not be divided between the land and buildings. In the Bishop of Chichester and Strodwick's Case (1613) it was stated that estovers cannot be appertaining to lands but to houses only. It is not clear, however, whether this was the decision of the judge making it law or it was a case put forward as evidence. Estovers may be limited spatially or temporally, e.g. a right between the feasts of St. Michael and Christmas. Bird (1801) cites Russel and Broker's Case (1587) where estovers were not exercisable during fawning month in a forest. Where estovers and turbary appurtenant belong to house which is then destroyed, the rights are not necessarily abandoned. The rights may be passed on as appurtenant to the new house provided that no greater burden is imposed on the land and the new house need not even be built on the same foundations as the old. As well as being limited by severance and apportionment, estovers can often be only for a certain use at a certain place. For example, in The Earl of Pembroke's Case (1635), under a right of (greater) house-bote four trees were felled for legal use as posts of a house. These proved to be unsuitable and it was judged that he could not divert these timbers to another use (cooperware) or sell them and buy other fir wood with the money. Sometimes estovers may have special uses through custom. For instance, there was a custom of the manor of Ashenhurst, Sussex that when the Lord felled or sold timber trees, the Lord had only the timber, and the poor tenants had the branches for estovers to be burnt in the tenements. The custom was upheld in court and judged that the Lord should have maremium (main timber) and the tenants should have residuum - (the boughs and branches).

Some rules of sale also apply to commons. For example, it was stated in Wyat Wyld's Case (1609) that if a commoner purchases land in which he has common appendant, the common shall be apportioned while if it is appurtenant, the rights will become extinct. The appurtenant right is not severable because it wholly belonged to a house by prescription and the commoner can not make whole the thing that is several. Where the Lord has sold off part of the manor, although the land had become severed from the manor and was no longer part of it, this did not affect any rights of common. Similarly, when all copyhold land was enfranchised by the Law of Property Act 1925 and became freehold, common rights were retained. A further practicality of the regulation of common rights is the limits of creatures allowed on the green, known as stinting.

120 Attorney General v Reynolds (1911).
121 Costard and Wingfield's Case (1593).
122 Bishop of Chichester and Strodwick's Case (1613).
STINTING

Continuing under the background of common rights as a limited and valuable resource, this section deals with the practicalities of how commons are regulated and have been in the past.

For many hundreds of years, most pasture rights have been limited in some way in the number of creatures a commoner is allowed to turn out onto the common or green. This is known as stinting. Under the CRA, all rights of pasture must be for a certain number of creatures but in the past, rights were either limited to a definite number or were rights sans nombre. An attempted case of new stinting in the 18th century failed because of the need for all concerned to agree to it. For example, at a 5000 acre common in Cleeve, Gloucestershire, the landholders agreed to a stint of 2 sheep for every acre in the land, 1 cow for 2 acres and 1 horse for 4 acres. Eleven would not agree to this and it was said that 'a right of common can not be altered without the consent of all parties concerned therein.' In Delabeere v. Beddingfield (1689), however, agreement to stinting, unlike agreement to inclose did not need the consent of all tenants, and it stated 'If one or two humoursome tenants stand out and will not agree, yet the court will decree it.'

RIGHTS SANS NOMBRE
There is considerable evidence that rights without stint could not in the past exist by law, as this could lead to the destruction of the common. In a sixteenth century case there seemed to be evidence against rights sans nombre as it states 'Common sans number cannot be granted for a rich man may surcharge and leave none for the rest of the commoners'. In Benson v. Chester (1799) it was held that a claim to a common right without stint cannot exist by law and even an ancient deed of foeffment granting wastes to foefees to use as they were accustomed to means a right of common as exists by law, i.e. levancy and couchancy. Rights sans nombre have occasionally been registered under the CRA, although the real maximum number is also stated.

LEVANCY AND COUCHANCY
A legal right to common sans nombre does not therefore mean a right to depasture unlimited creatures but is limited in some way. When the common right is appendant or appertenant, common sans nombre means a right of depasturing so many cattle as are levant and couchant on it. Levant and couchant (literally getting up and lying down) was defined in the late 17th century as '...so many cattle shall be said to be levant and couchant as the estate will keep in winter'. When in gross, however, sans nombre means a right for an unlimited number of cattle provided a sufficiency of herbage remains for all the commoners. A grant of common sans nombre in gross was held as good in Weekly v. Wildman (1698) but it was also held that the grantee can not then grant the right over to anyone else. However, the customs need to appear of themselves to be reasonable, otherwise they will not be good which means a sufficiency must remain for the other commoners. Sufficiency means the number of animals

124 Smith v. Bensall (1597).
125 For example, 'Grazing sans nombre at an estimated number of two' on Thorncote Green, Northill, Bedfordshire. On Mells Green, Somerset 'Sole grazing rights sans nombre (say 80 cattle)'.
126 Dixon v. James (1698).
which the commoners are entitled to turn out, not the number they have recently been in the
habit of turning out. In Chichley v. ----(1658) it was held that common sans nombre can
not be appurtenant to any thing but lands and is called sans nombre because it is only for
beasts levant and couchant and while it is uncertain how many this is as there may be more in
some years than others, it is still a common certain in nature. The principle of levancy and
couchancy was being used in Hatfield Forest in 1574 when the court records stated 'Myhell
Borling keepeth 2 bullocks in ye forest which he did not keep in ye winter nor ought to keep
yem in ye forest, yervere we amerce him at 20d.' The RCCL (1955-58) suggests the
possibility of fraudulent use of levancy and couchancy for it was possible to buy in fodder
from other villages for winter feed and so maintain more creatures on the land over winter,
increasing the summer stint on the common. It was interpreted in Black Mountain, Dinefwr,
Dyfed that s.15 CRA intended to abolish levancy and couchancy and to register a definite
fixed number of creatures.

HISTORICAL DEVELOPMENT

The history of common rights has been described as an increasing limitation of rights to more
sharply defined classes of user, a natural response to an increasing population and a fixed
supply of grazing. Long, long ago maybe in prehistoric times, the lands which were later to
become common lands were used, as far as we can tell, for grazing by any who could get to
the land and put their creatures upon it. They were completely unlimited in who could use
them or in the numbers they could turn out as the demands on the extensive lands were small.
Later, in Anglo Saxon times some large commons were for use by the inhabitants of the
county. Sometimes there was further limitation than to the county by restriction to the
hundred. Hoskins (1955-58, p 150) gives the example of the Domesday reference to pasture
common to the hundred of Coleness in Suffolk. With the adoption of the manorial system of
organisation most commons became limited by user to the inhabitants of the manor, but
possibly without limit to the number of creatures the commoner could turn out. ( Many
commons which formed the boundary between two manors or territories could be grazed by
inhabitants of both by the system of vicinage ). The RCCM (1955-58) gives the example of a
court roll of Bishop's Hampton, Warwickshire in 1482 where 'none of the tenants shall have
more animals in the common pasture than he is able to keep in winter.' This may be the
introduction of levancy and couchancy in the manor or may be a reintroduction. Further
limiting from levancy and couchancy could be a stint or a definite quota of creatures rather
than the variable term of the number which can may be maintained over winter. Under the
Commons Registration Act 1965 levancy and couchancy was practically abolished, and all
grazing rights had to be of a definite number and attached to a certain property individual or
group. The possible development of stinting could take the form of.  

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127 Robertson v. Hartopp (1889).
130 For example, Sherwood (Shirewood) Forest in Nottinghamshire means the wood belonging to (for use
of) the county. Hoskins (1955-58) gives the example of Andred's Weald, a common wood in Kent which is
suggested by Anglo Saxon charters that it was common to the whole county of Kent. Similarly, the huge
common of Dartmoor was once common for the whole county of Devon except for the inhabitants of Totnes
and Barnstaple, two boroughs which originated in the mid 10th century. As Devon became an administrative
unit in the mid 8th century, common rights which had previously existed for anyone who could reach them
were then limited to the inhabitants of the county.
131 This pattern of development can be illustrated with reference to the parish of Ealing, now in west
London. The VCH volume for Middlesex gives an account of the increasing restrictions of stinting. The
background to this need for stinting lies, as VCH suggests, in the change from arable farming to stock rearing,
This chapter provides a discussion of the law relating to village greens over many centuries. It is not possible, however, to say which laws are applicable to greens today and which are not. It is possible to determine which statutes are still in force and which have been repealed, but the workings of statutes are for interpretation by judges as they think suits the case and the common law resulting from judges' decisions may or may not be followed in later cases depending on the relative seniority of the courts in which the judge sits. Furthermore, many cases relating to green and commons have not been judged in modern times and whether 16th century precedents would be followed today is a matter of speculation.

The historical background to the development of the law and the nature of common rights provides both a background to the workings of greens in practical circumstances and a context to the links between the landscape of greens, farming practices and the legal framework in which all aspects of greens operate. Its long development and evolution in a wide variety of local circumstances and the frequent difficulties of understanding ancient legal practices in the modern world have made this a complex matter. On the subject, Harris and Ryan (1967 p.v) have noted that the law relating to common land was 'an uneasy combination of medieval custom and nineteenth century statute, often obscure and tortuous, and sometimes almost unintelligible without reference to the conditions, now long outdated, under which it developed'.

Although complex, the law is thus an essential framework for the understanding of greens. The law has had some effect on most areas of landscape and human society but rarely to the extent which has occurred with greens, for they are now and have been for a long time, in essence linked in with the law. An illustration of their long-standing legal importance may be or may lie in the increase in the population of Ealing. The large acreage of open field and the comparatively small amount of commons implies that the early medieval tenants were predominately arable farmers. Ealing's farmers later turned towards stock rearing, accompanied by inclosure possibly due to the consolidation of holdings in the 15th century - the growing activity of Ealing manor court from the early 16th century reveals tension between arable and pastoral interests. For grazing purposes, common fields and pasture commons were treated jointly in Ealing. A stint was necessary by 1474 and offenders were frequently prosecuted. While this could be interpreted as a way of raising funds by the manor rather than a restriction on limited grazing, repeated exclusions from the 16th century onwards suggest there was a true shortage of common grazing land. Inhabitants of the neighbouring parish of Acton were excluded from 1520 and inhabitants of New Brentford and Gunnersbury were excluded from Old Brentford Field, presumably a common field of the parish. In 1524, residents of Ealing village were shut out of Old Brentford Field and the people of Old Brentford denied access to Haven Green Common. Tenants using Ealing Common were restricted in 1525 and 1561. Restrictions were sometimes imposed depending on the status of tenure. From 1528, rights were denied to strangers, from 1615 to lessees of land in Ealing, from 1630 to servants of inhabitants and from 1652 to out-parishioners. From 1630 until 1697 of later, only those paying scot and lot were entitled to common grazing, and repeated offences indicate a severe shortage of pasture. The actual stint was proportional to the holdings in the common field. In 1611 the stint was 1.5 sheep per acre of common field arable and 3 sheep per acre of common field meadow. Owners of land in Ealing that was not commonable could pasture 4 sheep and 2 kine but inhabitants of new cottages on the waste had no common rights. In Bishop's Cleeve in Gloucestershire, stinting was first recorded in the 13th century when the holding of freehold of 20 acres allowed grazing rights for 2 oxen, 1 cow and a calf. The court rolls suggest that the stints were unenforceable after 1400, although overgrazing was seen as detrimental to the community, and by 1538 the holding of a yardland allowed a stint of 30 sheep on the common. See Figure 35 for a map of the area.

See, for example, Halsbury (1991).

Chapter 2.3.
shown by the first statute passed by parliament\textsuperscript{134} in 1236 which was concerned with greens and commons. Greens form a special class of land which has provided the useful resource of grazing in a limited area in which there were normally many personal interests, the natural tendency being to exploit it and use as much as possible rather than leave it for someone else to take,\textsuperscript{135} has meant that regulation has always been necessary whether by local byelaws and manorial law or by the laws of England. The presence and survival of many greens would not have been possible without the presence of the law. The national law provides one set of rules which refer to diverse types of land and transcends greens resulting from planned villages or ancient, residual features and includes those open spaces in village centres and more loosely grouped settlements at greens or common edges. The law, both national and local, therefore provides a theoretical and a practical context for the emergence, management and future trajectories of greens and as such greens can not be fully understood aside from the complexities of common law and statute law relating to them. This development of the law has taken a very long time to evolve and the wide variety of local circumstances into which it must be placed has led to great complexities. These have to some extent, however, been simplified by the \textbf{Commons Registration Act 1965} as shall be discussed in the next chapter.

\textsuperscript{134} The \textbf{Statute of Merton 1236}, later known as the \textbf{Commons Act 1236}.

\textsuperscript{135} See Hardin (1963).
Chapter 2.2

COMMONS REGISTRATION

Introduction
Scope of Registration
Registers
Process of Registration
Amendment of the Registers
Effects of Registration
Evaluation of Registration

This chapter explores the complicated and often technical procedures of commons registration as it occurred in the 1960s. The intentions and processes of getting land registered are explained together with the nature and content of the registers themselves. There is a detailed examination of the effects of common law and the precise types of land which could be registered and the chapter ends with effects of common registration and its evaluation as a data source for chapter 4.

"The Common Registration Act 1965 was an attempt to preserve [the commons] but it has sadly failed in this purpose. It is ill-drafted and has given rise to many difficulties. It has been interpreted by the courts so as to put an unduly heavy burden of proof onto commoners. It set down an unduly rigid timetable for registration of common land and of rights of common. It made the registers too conclusive. The power to amend the registers is too narrowly defined." Denning (Master of the Rolls)
Commons Registration Act 1965

CHAPTER 64

An Act to provide for the registration of common land and of tenures over common land, to amend the law as to the use of common; and for incidental purposes.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled, that...

Royal Commission on Common Land 1955-1958

REPORT
INTRODUCTION

Public and national concern over the loss and protection of common land had grown from the mid 19th century led by the Commons Preservation Society to preserve the remaining commons as public open spaces. The uncertainty which had developed in the law of greens and the need for registration was highlighted by a Royal Commission in the 1950s. This section explains who is responsible for maintaining the registers and how these authorities have changed over the years.

Commons registration is the general term given to the attempt in the 1960s to compile a permanent register of all common land and town or village greens then existing in England and Wales. This was directed by the government and under the force of law, following the recommendations of the Royal Commission on Common Land (RCCL) which ran from 1955 to 1958. This was a very large project undertaken on county and county borough level by the relevant councils.

PUBLIC AND NATIONAL CONCERN OVER COMMON LAND

In the period prior to the Royal Commission, concern over the remaining greens and commons had been voiced at both public and national level. Following the many parliamentary inclosures of the late 18th and early 19th centuries, and the huge areas of common land which were lost, public opinion moved from viewing commons as a source of land into which to expand existing arable towards a dwindling historic asset and recreational resource which should be preserved, especially in urban areas. From 1865 the Commons Preservation Society helped to influence government policy towards the protection of commons as public open spaces. By the 1950s, legal and practical uncertainty over common land, rights and ownership led to a Royal Commission enquiry into the subject. The RCCL made a number of recommendations concerning the future of common land. The most important one which was actually carried out was the registration of all common land and town or village greens in England and Wales (with a few exceptions - see below). This was enacted by the Commons Registration Act 1965 (CRA) and the relevant statutory instruments. The purpose of commons registration was to compile registers containing three types of information about each piece of registered land, namely:

(i) the location and extent of common land and town or village greens
(ii) details of any common rights exercisable over them and
(iii) the owners of the land.

The intention was not to have a continuous process of registration with a fluctuating body of common land, but to compile a once-and-for-all register of surviving greens and commons which could not easily be altered. There was a period of 3 years in the late 1960s when registration could take place and following a time when objections could be lodged, the land was either withdrawn from the registers or finalised. After final registration, the registers

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1 Under the Commons Registration Act 1965 (CRA).
2 On 1 December 1955 a Royal Commission under the chairmanship of Sir William Ivor Jennings QC was appointed 'to recommend what changes, if any, are desirable in the law relating to common land in order to promote the benefit of those holding manorial and common rights, the enjoyment of the public, or, where at present little or no use is made of such land, its use for some other desirable purpose.'
became the definitive legal documents for the existence of such land and rights. Any land which failed to be registered during this period for whatever reason could not thereafter be common land or a village green and any common rights the land may once have had were lost forever. Registration was quite a detailed process and the main procedure is summarised below.

**UNCERTAINTIES BEFORE REGISTRATION**

The RCCL highlighted some of the problems of uncertainty which characterised greens and commons before registration.¹ There were areas of land which were in dispute as to whether they were common or not. Some were alleged to be common while others claimed the same piece of land had no rights exercisable over it. Where the existence of a common was not in dispute, the ownership or holders of the rights may be uncertain, and normally there was no easy or sometimes any way to tell for certain. For example, there were commons where the ownership was in dispute and even commons where the owner was unknown (not that there was no owner, but they just could not be traced). Similarly, with common rights there was often dispute or uncertainty as to the full extent of rights holders and quite rare to find a commoner who was aware exactly what his rights extended to and by what authority they were held. Clearly some kind of legislation was needed to rectify this and make the law relating to common land more certain and determinable.

**REGISTRATION AUTHORITIES**

Commons registration was mostly undertaken on a county level. Depending upon where the land was situated, the registration authorities were the County Councils, County Borough Councils or the Greater London Council.² The relevant authorities were altered in line with changes to local government boundaries, the greatest reorganisation being in 1974. The following tables show the registration authorities responsible for maintaining the registers at different dates.

<table>
<thead>
<tr>
<th>Location of the Common or Green</th>
<th>1965-74</th>
<th>Registration Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the GLC area</td>
<td></td>
<td>Greater London Council</td>
</tr>
<tr>
<td>In a County Borough</td>
<td></td>
<td>County Borough Council</td>
</tr>
<tr>
<td>In an Administrative County</td>
<td></td>
<td>County Council</td>
</tr>
</tbody>
</table>

On the county reorganisations of 1974, register entries were transferred to the new authority where they were affected by boundary changes.

<table>
<thead>
<tr>
<th>Location of the Common or Green</th>
<th>1974-86</th>
<th>Registration Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the GLC area</td>
<td></td>
<td>Greater London Council</td>
</tr>
<tr>
<td>In a Metropolitan County</td>
<td></td>
<td>County Council</td>
</tr>
<tr>
<td>In a Non-Metropolitan County</td>
<td></td>
<td>County Council</td>
</tr>
</tbody>
</table>

At the demise of the GLC and non-Metropolitan counties in 1986, the registration authorities became the London Boroughs and Metropolitan Borough Councils.

⁴ Under s.2(1) of the CRA.
Location of the Common or Green  
In the GLC area  
In a Metropolitan Borough  
In a Non-Metropolitan County

<table>
<thead>
<tr>
<th>Registration Authority</th>
<th>1986-</th>
</tr>
</thead>
<tbody>
<tr>
<td>London Borough Council</td>
<td>London Borough Council</td>
</tr>
<tr>
<td>Metropolitan Borough Council</td>
<td>Metropolitan Borough Council</td>
</tr>
<tr>
<td>County Council</td>
<td>County Council</td>
</tr>
</tbody>
</table>

There are now

<table>
<thead>
<tr>
<th>ENGLAND</th>
<th>WALES</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Councils</td>
<td>39</td>
</tr>
<tr>
<td>Metropolitan Boroughs</td>
<td>36</td>
</tr>
<tr>
<td>London Borough Council</td>
<td>32</td>
</tr>
</tbody>
</table>

This makes a potential total of 214 registers kept in 107 locations throughout the country (in addition to those in Wales), although some of the smaller registration authorities have no common land or village green - for example, London Borough of Kensington and Chelsea. In cases where the land cuts across political boundaries and falls within two registration authorities, they may agree between them for just one of them to register the land.

SCOPE OF REGISTRATION

While some land is excluded from registration, the attempt was to record details of common land and town and village greens and any common rights they had and who the owners were.

The results of commons registration form the data set used for the national distribution maps in chapter 4 and for this reason alone it is important to be aware of exactly what types of land have been registered. The first part of this chapter, therefore, is concerned largely with a detailed examination of the types and categories of land which were capable of registration for while the statutory definitions of common land are relatively simple, there has been a large amount of common law which has developed relating to a great variety of local circumstances. The background and details of the law are also discussed in relation to ownership and common rights which were also registered. Registration primarily involved a formal recording of 'facts' already in existence concerning the areas of land involved, the precise rights extending over them and the persons or corporations possessing these. It begins with certain types of land which were excluded from registration.

EXCLUSION OF REGISTRATION

While it was intended to register all common land in England and Wales, a few exceptions were made because they were already covered by specific legislation but there was also a provision to exempt other land under certain conditions.

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5 CRA s. 2(2).
6 The New Forest, Epping Forest and the Forest of Dean CRA s.11(1). The New Forest already had records and the Forest of Dean was considered not to be true common but rather grazing by sufferance of the Crown. See Langdon-Davies (1967).
For the Minister\(^7\) to approve an application for exemption, the land needs 3 conditions\(^4\): -

(i) It must be regulated by a scheme under
   (a) Commons Act 1889\(^9\)
   (b) Metropolitan Commons Acts 1866-1898\(^10\)
   (c) A local Act\(^11\)
   (d) An Act confirming a provisional order made under the Commons Act
       1876

(ii) The land must have had no common rights exercised over it for at least 30 years

and (iii) The owner must be known.\(^12\)

**LAND**

Turning from what was exempt from registration to the definitions of the land which could be registered, the intention was to record both common land and town or village greens. For the purpose of registration, common land meant

(i) Land subject to common rights

(ii) Waste land of a manor not subject to common rights.\(^13\)

It is clear from this that some land which could be registered as common even though there were no common rights exercisable over it. The precise definitions used under the Act determined which types of land could be registered and which could not. A detailed examination of these is therefore essential especially as the registers form the data set used in chapter 4.

**Town or Village Greens**, on the other hand were defined as

'Land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes or on which the inhabitants of any locality have indulged in any sports and pastimes as of right for not less than twenty years.'  From this definition it is clear that many recreation grounds will appear in the village green registers, most of which will not contain 'green space'.

What constitutes 'pastimes' in registering town and village greens has been a subject of debate at registration. The following activities were judged to amount to 'pastimes' indulged in 'as of right'\(^14\):

- unaccompanied local children playing, picnicking, fishing in a pond, collecting bulrushes and picking mushrooms;
- local children accompanied by adults playing, gathering blackberries, and studying fish and plant life;

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\(^7\) At the time of registration the Minister was the Minister of Land and Natural Resources. Today, the government official concerned with granting exemptions and permitting inclosure is the Secretary of State for the Environment or the Secretary of State for Wales in the case of a Welsh common.

\(^8\) CRA s.11(3). This section of the CRA came into force on 1 Jan 1966 by virtue of The Commons Registration Act 1965 (Commencement No.1) Order 1965 (SI 1965/2000).

\(^9\) This Act allowed local authorities to draw up schemes to regulate and manage commons.

\(^10\) The object of the Act was to establish local management on London's commons with a view to drainage and improvement, and byelaws and regulations.

\(^11\) Certain local Acts govern the regulation of particular commons, for example the New Forest is controlled by the New Forest Acts 1877-1970

\(^12\) The person who holds the legal estate in fee simple.

\(^13\) CRA s.11(3).

\(^14\) White Lane Pond, Four Doles and Clay Pits, Thorne and Stainforth, South Yorkshire (No. 1).

Similar to legal cases, Commissioners' decisions are referenced by *bold italics.*
local adults picnicking, fishing in the pond and taking dogs for walks. In a similar case, however, the Commissioners decided that walking with or without dogs, along strips of land following the course of a public footpath was not 'indulging in sports or pastimes as of right'. But in another case it was held that the pastime of idling by a river is within the definition of a customary right and may be proved by walking, fishing and picnicking on the foreshore.

**COMMON RIGHTS**
While it has been noted that common land need not have any common rights to be registered, where land has common rights it was necessarily common land and it was intended to record details of such rights. Common rights could be registered over both common land and town or village greens. The nature of common and associated rights have been discussed in chapter 2.1 but for the purposes of registration, common rights include rights of common, rights in common, sole and several rights and cattlegates, beastgates etc. Rights held from year to year or for a term of years, however, were excluded. Rights can not be registered or exist on their own without a proper entry in the land section, as held in a case in Humberside, where a High Court order in 1976 deleting the land section also caused the rights to be deleted.

**OWNERSHIP**
The last of the three types of information falling within the scope of commons registration was details of the ownership of the land. Claims to ownership of common land and town or village greens could be registered except where the ownership was already registered under the Land Registry Acts 1925, 1936 and 1966.

**Unclaimed Ownership**
Many commons and greens which were registered had no claims to ownership and the owner could not be traced. In this case, the land came under the protection of any local authority in whose area the land was situated. This gave them the same powers of protection against unlawful interference of the land as if they were the owners. There was, however, a provision made for a future Act of Parliament to dispose of the ownership of common land in some way but this has not yet been fulfilled. Where greens were registered but no one claimed to own them (as happened in many if not the majority of cases), the Commons Commissioners held a hearing in the local area at which any late claimers were given a final chance to make themselves known.

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15 River Don and its Banks (No.1), The.
16 Foreshore, The East Bank of River Ouse, Naburn, Selby district, North Yorkshire.
17 CRA s.22.
18 Crowle Waste, Boothferry District, Humberside.
19 CRA s.4(3).
20 GLC, County Council, County Borough Council, London Borough, County District, Parish Council or Borough Council included in a Rural District - (CRAs.22).
21 CRA s.9.
22 R. v Teignbridge Borough Council.
23 For instance, at Shincliffe, County Durham, the village green had been finally registered but no one had claimed ownership. The hearing was held in Durham on 1 July 1980 but no one attended it. The Commissioners decided ownership should pass to Shincliffe parish council (Shincliffe, Durham).
WHAT CAN BE REGISTERED AS COMMON LAND

Many local conditions and circumstances have complicated the matter of exactly which types of land could and could not be registered. Commons registration caused a great increase in the body of common law relating to this.

The Commons Registration Act 1965 defines common land as being either

(i) Land subject to rights of common
(ii) Waste land of a manor not subject to rights of common.

The Act specifically excludes land which forms part of a highway or town or village green. Where a village green has common rights exercisable over it, it can not be registered as both common land and village green but only one or the other. In practice, some have been registered as village greens due to their morphology and location within a village, and some have been registered as common land due to their common rights. From these simple definitions, a great variety of local circumstances and different interpretations has caused difficulties in deciding what these definitions mean regarding the land on the ground. Waste land of the manor has proved particularly difficult.

LAND SUBJECT TO RIGHTS OF COMMON

This is the common law meaning of common land. Registerable rights include those rights exercisable at all times or only during limited periods and include cattlegates or beastgates ('by whatever name known') and rights of sole or several vesture or herbage or of sole or several pasture but does not include rights held for a term of years or from year to year. Vicinage was held to be not a true right of common and therefore not registerable on a Cornish common. This has since been reversed by a recent decision and vicinage rights may now be registerable. When local circumstances led to difficulties in interpreting the broad statutory definitions, disputes were taken to the Commons Commissioners whose decisions have added the detail of common law to the above statutory definitions. Their interpretations of the CRA in numerous different local circumstances have generally been followed in later cases thus adding to the body of law. These variations in local circumstances pose further questions concerning the exercising and character of the common rights. These have been summarised below and show what types of land could and have been registered and therefore get legal status and protection as common land or village green.

Rights of common over the registerable land must be exercisable at the time of registration (although they need not actually be exercised). Land over which common rights have been suspended for any period is not land subject to rights of common, and can not therefore be registered but if the rights become exercisable again, they can then be re-registered. Furthermore, the nature of the common right must be a true right and not just an agreement. In an example in North Yorkshire, land once in common ownership was split into three plots but not fenced. All the owners grazed cattle over all the land but it was decided that this was
grazing by agreement and not a right of common and therefore not registerable. Where rights depend upon a supply of natural produce which has been exhausted, they are prevented from being registered. For example, a right of turbary in Suffolk had been recognised since 1829 and although exhaustion of the supply of turf did not extinguish the right which continued in respect of wood suitable for fuel, the right was not registerable under the CRA. Straying rights are not registerable rights, neither are rights to sail on the land.

Highways
While commons and greens in the past typically had tracks or roads crossing them and were normally considered part of the common, the law recognises them as separate items. Land which forms part of a highway was excluded from registration as a common (although land may be registered as both highway and town or village green - see below). Deciding exactly what constitutes a road or where the green or common ends and the highway begins can be difficult. On a village green in Hampshire it was held that mowing six foot strips at the edge of the green by the County Council as highways authority was not enough to establish they were highway. In Cornwall, a muddy lane along which cattle passed and occasionally ate grass was not a highway and therefore not excluded from registration. Land over which common rights exist and is let or the rights licensed to others can still be registered whether the payment is in money or other forms. For example, a piece of common land in Wales which had been let to a series of tenants since 1926, licensed others to graze there and was registerable as common land. Whether the payment received for the licence was in money or kind did not prevent the land and rights being registerable. Furthermore, the common rights making the land registerable need not be in use as long as they have not been abandoned. For the right to be abandoned (see above) it must be proved not only that the right has ceased but also that the holder never intends to use it again. Prescriptive rights of estovers and turbary were registerable rights in common, whether or not the commoners actually used them or not.

Land which has the characteristics of a green or common but which is also a pound may be registerable.

WASTE LAND OF A MANOR
This second statutory definition of common land has caused a number of problems. It is often difficult to decide whether or not the waste land is 'of a manor' and if separation from the manor and subsequent reacquisition does or does not make it waste of the manor. The deregistration of common land which became severed from the manor after registration

31 Re Hurst Fen, Holywell Row, Mildenhall, West Suffolk.
32 Re Walkhampton Common, West Devon.
33 Re Gallows Point, Beaumaris, Ynys Mon Borough Council (Alfred F. Beckett v Lyons (1967) applied). The precise nature of sailing rights is unknown.
34 Re Medstead Village Green, East Hampshire.
35 Re Higher Predannack Downs, Mullion, Cornwall (No.2).
36 Re Bury Field, Newport Pagnell, Bucks; Davies v Davies (1974) followed (means that the court was bound by a previous decision where the facts were materially the same).
37 Re Twm Barlwm Common, Risca and Rogerstone.
38 For example, in Hampshire a right of common had been exercised from time immemorial until 1942 when the land became Blackbushe aerodrome. It was decommissioned in 1960 and became Blackbushe airport where legal restrictions prevented the commoners exercising their rights and so no intention to abandon the rights could be established. Re Yateley Common, Hampshire; Arnold v Dodd (1977).
39 Re Brookwood Lye, Woking, Surrey (No.1).
40 Re The Pound, Compton Dando, Somerset. A pound is a small inclosure, often on the village green where creatures which are not permitted to graze can be imprisoned by the Lord or his steward until a fine is payed to aseme the wrongdoing.
became controversial in the 1980s causing a conflict of interests between profit for the owner and the interests of the public as it had the potential to deregister large amounts of common land against the intentions of the CRA and recommendations of the RCCL. The two main areas of contention at registration were whether the land was actually 'of a manor' and if so if it was waste or other land such as demesne or customary freehold.

**Local Inclosure**

Any land which had been redistributed, allotted or remains unallocated under an Inclosure Award can not be regarded as waste of the manor. Land can not be considered manorial waste where its status as waste of the manor or common land has been abolished by private Inclosure Act or where it has been allotted as a public pond or watering place.

**Cultivation**

Where the waste has been used for purposes other than common grazing, the question arises of its conversion to demesne and at what point it can be considered to have been cultivated. Waste of the manor can certainly become demesne land by approvement (inclosure) but simply cutting the grass does not amount to cultivation. In Re Britford Common (1977), cutting grass for hay or silage on waste of the manor amounted to taking the natural produce of the land without altering the status of the waste to demesne. On another common, however, similar action was held to amount to cultivation, for at Bromley in London, rights of common had been abandoned and operations by the commons conservators to prevent the land becoming overgrown was decided to amount to cultivation and could not be waste of the manor. As may be expected, more intense alteration of the waste normally converts it to demesne land which can then not be registered. On Rush Green in Suffolk, since 1932, hedges on the waste of the manor had been trimmed and the grass burned and the land ploughed in 1969 and left fallow for 2 years. Previously, since 1932, the hedges had been trimmed and the grass burned. The Commons Commissioners decided that ploughing and cropping converted the land from waste into demesne land. On the question of demesne reverting to waste, there was no authority. The Commissioner suggested that as land which ceases to be parcel of a manor by severance (see p. 77) does not become parcel again by subsequent purchase of the Lord of the Manor, it follows that waste of the manor does not include land which has gone out of cultivation at a known time. If this were not the case, however, and demesne could revert to waste, it could only do so if the Lord of the Manor abandons his rights to it as demesne land which he acquired by approvement which would take 20 years. This would seem to be in direct conflict with an earlier decision by the Commissioners in Re Chewton Common, Christchurch; Borough of Christchurch v Milligan (1977) where the waste was severed from the manor in 1804 and subsequently reacquired. It was held that the land was registerable as common land because it was waste land at the time of registration and had formerly been part of a manor. In addition to demesne

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41 For example, in Re Lord's Waste, Winterton-on-Sea, Norfolk, waste of the manor which was inclosed by local Act in 1805 and allotted to the Lord of the Manor ceased to be waste of the manor. Similarly, unallocated lands from a local Inclosure Act 1806 were decided not to be waste of the manor. (Re Land to the West of Geldeston Lodge, Geldeston, Norfolk (No.2)).

42 For example, an Act of 1807 in the case of Re River Common, Dover, Kent.

43 As in Re The Pond by Little Moseley Lodge, Hughenden, Bucks.

44 Re Chiselhurst and St. Paul's Cray Commons, Bromley, Gr. London.

45 Re Rush Green, Harleston, Suffolk.

46 This raises the question of how much waste has been ploughed in the past. It has been suggested (e.g Parry 1978) that much marginal land came out of cultivation during the onset of less favourable climatic conditions in the Middle Ages. Did this become known as the waste?
land not being waste, customary freehold can not be waste of the manor as it is not part of the manor. This leads to the question of land being parcel to the manor or not.

Severance from the Manor
When part of the waste is sold or the Lordship title is sold without the land, the waste becomes separated from the manor and it may be argued that the land is not waste of the manor. For a discussion of this matter, see p. 77.

WHAT CAN BE REGISTERED AS VILLAGE GREEN

The CRA defines town and village greens as being:

(i) Land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality, or
(ii) Land on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes, or
(iii) Land on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than 20 years.

All three definitions emphasise exercise, recreation or sports and pastimes and require it to be for the inhabitants of the locality. To demonstrate some of the practical problems of the inclusion and exclusion of specific pieces of land, an example is given concerning each 'limb' or section of the above legal definition.

FIRST LIMB
The first limb of the statutory definition (i.e. (i) above) deals mainly with land set aside for exercise or recreation under local Inclosure Acts. Land acquired under the Public Health Act 1875 for a public pleasure ground was held not to be 'allotted' to get a definition of a town or village green.

SECOND LIMB
Where evidence went back before 1914 for the use of a Northamptonshire green for fairs, feasts, concerts, hunt meets and sporting events this was considered sufficient evidence for a customary right for the inhabitants to indulge in sports and pastimes on it and could therefore be registered as a village green. A custom for the inhabitants to erect and dance around a maypole fell within the definition of a town or village green.

THIRD LIMB
Under the third limb, the sports and pastimes must have been exercised 'as of right'. Under common law, to establish a local custom, the custom must have been exercised nec per vim, nec clam, nec precario (peaceably, openly and as of right). For a right to be nec per vim, nec clam, nec precario, it must not be exercised by permission. For it to be exempt from registration by failing to be used as of right, the permission to use the land must be a reality and it must be clear that the act will not be done unless permission is obtained. Where sports

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47 Re 655 Acres at Portland, Dorset (No.1).
48 s. 22(1).
49 Re The Downs, Herne Bay, Kent,
50 Re Devon Ox (Green), Kilby, Northants.
51 Re The Village Green, Shillingstone, Dorset.
52 Re Rodmersham Green, Swale District, Kent.
and pastimes took place through the indulgence of landowners and not as of right, the land could not be registered.53

Unlike common land, town or village greens may include part of a highway.54 In a Norfolk village,55 eight grassed islands surrounded by metalled road formerly used as a market site were capable of being registered, even though they were both part of a highway and a town or village green. The use of the land must be made with authority in order to use it as of right. At Doddiscombleigh in Devonshire,56 land had been diverted from the highway to form public gardens. As the highway was diverted without authority, the land could not be used for sports and pastimes as of right. Where it had been established that a long usage of land has been of right and is capable of existing as a custom (by being confined to the locality), the origin is assumed to be from time immemorial and once established, can only be removed by statute57 and can not be lost by disuse or abandonment. Land may become registerable which has become part of the green by slow accretion.58 For example, in Amport, Hampshire,59 part of the green upon which the village hall had been built remained part of the green and was therefore registerable. This was because before it was built, the parishioners had a customary right to indulge in sports and pastimes on it, a right which could only be removed by nothing less than an Act of Parliament. Turning from the definitions and conditions of registration, there now follows a description of the registers themselves and the types of information which can be found in them.

REGISTERS

The content and appearance of the registers, together with the matters of public access are dictated by the law.

ACCESS

All details of land, rights and ownership which were recorded under the CRA are kept in a number of registers with separate registers for town or village greens and common land in each registration authority. The registers are kept and maintained by the registration authorities and must be open to public inspection 'at all reasonable times'.60 Alternatively, an official search may be made by the registration authority upon payment of a fee.61

In practice, however, access to the registers is not always as straightforward as it should be. On a visit to inspect the registers of nearly every registration authority in England, most County Councils allowed inspection immediately or within a few minutes without an appointment (Humberside and Worcestershire being the main exceptions). In the London Boroughs, however, access was often initially refused completely, sometimes in a very unhelpful way. A copy of the legislation was normally enough to gain access where the registers could be found - several London Boroughs admitted to having lost them (this is bad where the registers provide the definitive documents for the existence of common land) or not knowing of their existence. What constitutes a reasonable time may be open to debate. In the less helpful authorities, some claimed that an appointment was necessary to inspect the registers. It would seem clear that any time during office hours is

53 Re Mill Green, Wargrave, Berkshire.  
54 Re Land in North Street, Hundon, Suffolk; Re Kings Norton Village Green, Birmingham.  
55 Re The Greens, Burnham Market, Norfolk.  
56 Re The Triangle, Doddiscombleigh, Devon.  
57 New Windsor Corporation v Mellor (1974).  
58 Re Harrold Green, Harrold, Bedford RD, Bedford.  
59 Re The Village Green, Amport, Hampshire.  
60 CRA s.3(2).  
61
The content of the registers is governed by the Commons Registration (General) Regulations 1966. There are separate registers for common land and town or village greens. Each one consists of four parts - a general part, a register map, as many register units as there are registrations and supplemental maps if needed. Dealing with these points in turn:

**GENERAL PART**
The general part contains details of any agreement under s.2 of the CRA (where land falls in 2 registration authorities), any excluded land under CRA s.11 (see p. 60) and transfer of land between authorities other than under s.2.

**REGISTER UNITS**
Each register unit consists of 3 sections called the land section, the rights section and the ownership section and are on standard green forms supplied by HMSO. The land section contains details of the registered land and where it is situated. The rights section has, where applicable, details of common rights exercisable, the names and addresses of the people who registered them, the capacities in which they applied and a description of the land to which the rights are attached (unless held in gross (see chapter 2.1) in which case the name of the holder is recorded). The ownership section contains the name and address of those claiming to be the owner(s) of the land. If the land is already registered under the Land Registry Acts 1925-66 (the registration authority should have been notified by the Chief Land Registrar if it is) this will be noted in the ownership section of the register but the owner itself will not be noted. The Act provides regulations for the precise way in which the registers should be kept. The rights section should be placed in the register below the land section and above the ownership section, the three sections comprising a register unit. Each entry should be numbered and kept in order with a CL or VG prefix depending on whether the land is a common or village green.

**OTHER ITEMS**
The regulations made provisions for other items to be mentioned in the registers, namely;

**Matters Affecting the Public**
Where regulated land is registered, the registration authority have the option to enter a note of the regulation in the land section if no one else applies to do so but must do so if an

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61 Rights in gross are not attached to plots of land or houses but belong to people.
62 SI 1966/1471 s.4(5).
63 SI 1966/1471 s.21.
64 SI 1966/1471 s.10(2).
65 SI 1966/1471 s.10(3).
66 SI 1966/1471 s.10(5). Most registration authorities have their registers arranged properly. Kent would seem to be the main exception. Each register unit is filed in a separate envelope which impedes fast data access for some purposes. While it may suit the council for their purposes of doing local searches, the purpose of the register is to provide conclusive evidence of common land, greens and rights and should be kept in the order specified by the regulations.
67 The Commons Registration (General) Regulations 1966.
68 The Commons Registration (General) Regulations 1966. Metropolitan Commons Acts 1866-1898, Acts confirming provisional orders made under the Commons Act 1876, local Acts regulating the land or under the limitations and conditions imposed under proviso (b) to s.193(1) of the Law of Property Act 1925.
application is made by any person charged by law with the management or regulation of the land.\(^70\)

**Charitable Interests**

Where the registered land is held for charitable purposes, a note must be entered of that in the lands section on application by the owner or charity trustees.

**Private Rights and Interests**

Private rights and interests appear in the land section of the register ( normally on the reverse of the sheet ) on application of persons claiming to be entitled to them.\(^71\) Such rights and interests may include

- Easements
- Profits a prendre other than common rights
- Rights and interests of the Lord of the Manor ( in that capacity ) other than ownership
- Ownership of minerals and rights incident to them where the ownership of the minerals in or under the land is severed from the ownership of the surface
- Rights of lessee or licensee under any mineral lease or licence
- Rights acquired by statutory undertakers for the purpose of their undertakings

An example of these other items which may be registered can be seen from Langford Green in Somerset. The register states that *Sir John Vernon Wills...claims such rights as may be possessed by the Lord of the Manor of Wrington and which were expressly reserved to him by the Commons Regulations (Burrington) Provisional Order Confirmation Act 1911.* These include:-

1. **Ownership of the soil of the common**
2. **Rights in respect of timber, furze, fern, plants and grass growing and being thereon and the stone, sand, gravel, clay and other minerals under or on the common**
3. **Right of sporting on the common**
4. **Rights to the streams of water on the common**
5. **Rights to develop caves in or on the common**
6. **Right to plant trees**

**Area of the Land**

Where land is finally registered, the area of the land in hectares should appear in the register ( but frequently does not ) and should be updated by the registration authority if the area changes. \(^72\)

Chapter 4 highlights some of the shortcomings and regional variations that have occurred during registration. In order to understand some of these imperfections, it is necessary to examine the precise processes involved during registration.

\(^70\) Namely the owner, the common rights holder or the Church Commissioners if any part of the land or rights belong to a vacant ecclesiastical benefice of the Church of England.

\(^71\) Or the Church Commissioners on behalf of a vacant ecclesiastical benefice, as above (SI 1966/1471 s.24).

\(^72\) SI 1972/437 s.6(1). Many registration authorities have failed in their duty to supply information on areas. Some, e.g. Wiltshire County Council know of the regulations but are not prepared to comply with them.
Figure 8.

POSSIBLE PATHS FROM PROVISIONAL TO FINAL REGISTRATION

PROVISIONAL REGISTRATION

- OBJECTION
  - OBJECTION NOT WITHDRAWN → COMMISSIONERS' DECISION
  - OBJECTION WITHDRAWN
- NO OBJECTION
  - REGISTRATION NOT WITHDRAWN
  - REGISTRATION WITHDRAWN

REGISTRATION WITHDRAWN

REGISTRATION CANCELLED → FINAL REGISTRATION

WITHDRAWN
PROCESS OF REGISTRATION

The time limits and detailed process from provisional to final registration are examined, dealing with matters of objection and responsibilities of the registration authorities. Certain qualifications must be met before a successful application can be made.

PERIOD OF REGISTRATION

The time limits and series of procedures which the law laid down are listed in appendix 11. A graphical summary of the time series of common registration can be seen in Figure 7 and the possible paths and processes involved are in Figure 8. A period of 'not less than 3 years' was allowed for registration of common land and town and village greens in England and Wales, after which no land that was capable of being registered as such can then legally be common land or village green or have common rights exercisable over it (see below). This meant that all such land and rights which existed had to be registered then or be lost forever. This period was determined as from 2 January 1967 to 31 March 1970 but fixed the last date for making applications as 2 January 1970. This was later extended from 31 March to 31 July 1970 but the last date for applications remained unchanged at 2 January 1970. The registration period was divided into two parts called the first registration period and the second registration period. These were fixed as 2 January 1967 to 30 June 1968 for the first period and 1 July 1968 to 2 January 1970 for the second. Applications during the first period were free of charge, but normally cost £5 during the second period. Anyone could apply to register common land or village greens, but rights and ownership were often limited in various ways as to who could make the application.

WHO MAY APPLY

Applications for registration of common land and town or village greens could be made by any person but applications for common rights could only be made by the owner of the right, or where the right is attached to land and is comprised in a tenancy of the land, by the landlord, tenant or both of them jointly. From 9 May 1968, the Church Commissioners could apply for registration of common rights where the land belongs to an ecclesiastical benefice of the Church of England. Applications for ownership could be made by the person or body claiming ownership, the Church Commissioners (as above) and from 9 May 1968 other people with evidence of rights to apply as the registration authority may require. In practice, registration authorities dealt with applications from the public who were interested in getting

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73 CRA s.2(1).
74 The Commons Registration (Time Limits) Order 1966.
75 SI 1970/383.
76 SI 1966/1471 s.5(1).
77 SI 1966/1471 s.5(2).
78 SI 1966/1471 s.8(2) unless the land, rights or ownership did not become registerable until after the end of the first period or if during the first period the applicant gave the registration authority proper notice of his intention to make the application.
79 SI 1966/1471 s.7(1).
80 SI 1968/658.
81 SI 1968/658.
certain pieces of land registered for whatever reason, or could take the initiative and register the land themselves.

**ACTION BY THE REGISTRATION AUTHORITY**

Before the start of registration (2 January 1967) it was the responsibility of the registration authorities to publicise the forthcoming registration. The appropriate registration authority was obliged to display and publish at least twice in a local newspaper (with at least a 7 day interval) a standard notice of the procedure of registering land and the warning of possible loss of unregistered rights and land. On receiving a valid application for the registration of common land, the registration authority entered the details in the register and should within 4 weeks have sent a copy to every concerned authority. Where common rights affected any coal or anthracite, the registration authority was required to give details to the National Coal Board.

**OBJECTIONS**

Where land or rights were applied to be registered, it was thought suitable that there should be adequate opportunity for objections to be made before the registration was finalised. Objections to the content of land, rights or ownership in the registers could be made during a period of 2 years after provisional registration had ended. The first objection period (for objections to first period registrations - those made before 1 July 1968) was from 1 October 1968 to 30 September 1970 and the second objection period (for objections to second period registrations - those made after 30 June 1968) was from 1 May 1970 to 30 April 1972.

**WHO MAY OBJECT**

Anyone may object to land which has been provisionally registered as common or village green or to rights over the land or to the provisionally registered owner.

**WHAT COULD BE OBJECTED TO**

Objections could be made in the belief that the land was not common land or town or village green. Objections could also be made as to the provisionally registered owner or the existence of common rights, or their type, extent, numbers etc. Whatever the objection may be, it must have related to the state of affairs at the date of registration - any change since then should have been rectified by an amendment rather than an objection (see below). Objections may relate to only part of the land, and where they do, it is not up to the Commons Commissioners to give judgement about the whole of the registered land, but only the part that is objected to.

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82 SI 1966/972.
83 SI 1966/1471 s.11(1).
84 SI 1966/1471 s.9(2).
85 SI 1968/989 s.4 Objection forms (Form 26) were available from 15 August 1968 from the registration authorities free and post free. (SI 1968/989 ss.5-7).
86 Re Kingston North Common, Ringwood (No.1), Re Sutton Common, Wimborne (1982) considered (means this previous decision was considered but was not followed or applied etc.). Re West Anstey Common (1984) followed.
ACTION BY THE REGISTRATION AUTHORITY
On receiving an objection on the appropriate form, the registration authority was required to note the objection in the register and give notice to any holders of common rights. Due to the finality and intended permanence of commons registration, it was intended to fully publicise what was going on and make sure all interested parties knew which land had been provisionally registered and to allow them the voice to object. At the end of the first registration period it was the registration authority's responsibility to publicise which land had been provisionally registered and to give information about objection facilities. This had to be done by 30 September 1968 for first period registrations and by 30 April 1970 for registrations in the second period. It was essential for the registration authority to publish a brief and accurate description of the land, for if they did not it may have prevented the registration becoming finalised.

Figure 1 shows the possible paths of the processing of land which had been provisionally registered. During the objection period, there were two possible outcomes for the provisionally registered land. The land (or rights or ownership) could be objected to or it could remain with no objections in which case it became finally registered at the end of the objection period (30 September 1970 and 30 April 1972). If objections to provisionally registered land were made during the objection period, there were a number of possible outcomes. Firstly, the objection could be withdrawn before it had been referred to the Commons Commissioners, in which case the registration became final at the end of the objection period as if no objection had been made, or the objection could be maintained. In this case, the application for registration could be withdrawn and the registration cancelled, or the registration and objection both remain at the end of the registration period. Where both registration and objection remain in this way, the matter must be referred to a Commons Commissioner to decide. Once the matter has been referred to a Commissioner it is then too late to withdraw the objection and he must inquire into it (as held in Mynydd Preseli). For both registration periods there was a period beyond the end of the registration period when objections could be withdrawn and registrations cancelled, although no further objections could be made. This became the earliest date at which disputes could be referred to a Commons Commissioner and was set at 1 January 1971 for first period registrations and 31 July 1973 for second period registrations.

CONFLICTING REGISTRATIONS
It was possible for applications to have been made to register a piece of land as both common land and village green which was known as a conflicting registration, showing that the

87 Form 26.
88 SI 1968/989 ss.5-7.
89 This should have been done by publishing in one or more local newspapers and in the London Gazette, displaying notices on the registered land and informing any other local authority in whose area the land was.
90 SI 1968/989 s.3.
91 For instance, in Smith v East Sussex County Council (1977), the notice of registration described the land CL 116 as an addition to CL 108 which geographically it was not. The owner was ignorant it had been registered and as he was not able to object, s.7 did not make the registration final as no one seeing the notice would have reason to believe the land concerned was included in the notice.
92 CRA s.7(1).
93 As in Mynydd Preseli.
94 See notes to SI 1968/98.
95 SI 1973/815.
statutory definitions do not cover every local circumstance. For the purposes of registration, this counted as an objection to the registration of the land but not to any common rights over it. As the notes to SI 1968/989 explain, if, for example, you think that provisionally registered common land should be a town or village green but you do not wish to object to the common rights over it, the correct action would not be to object to the common land but to apply to have it registered a town or village green, causing a conflicting registration which would need to be referred to a Commons Commissioner to decide. 96

COMMONS COMMISSIONERS
The Commons Commissioners are a series of barristers or solicitors with at least 7 years experience appointed by the Lord Chancellor to deal with disputes relating to common registration. At a disputed hearings, the Commissioners were required to take into account events which had occurred since provisional registration when voiding or confirming the final registration, 97 for it was the state of affairs at the time of final registration which was important, not the state at any other time. 98 As may be expected with such a large-scale national undertaking, the system of registration was open to abuse and a few people tried to register land which they knew was not really common or green. Where such applications are discovered and objected to, they may be judged to be frivolous and the costs of any hearing could be awarded against the applicant. 99

FINAL REGISTRATION
After the relevant objection period ( if no objections are made or if they are subsequently withdrawn ) or after a decision to allow registration by the Commons Commissioners ( in cases of disputed registration ) the land became finally registered. Once finalised in this way, appearance in the registers of land and common rights provides conclusive evidence of their existence under s.10 of the CRA and there are very few circumstances where the registers can be amended.

96 CRA s.22 Exclusion under s.22(1) of registering land as common land and village green was upheld in Re The Green, Wrea Green, Ribby with Wrea, Fylde RD, Lancashire.
97 Re Merthyr Mawr Common (1989); Knight v Ogwr Borough Council (1989).
98 Cefn Hirgoed and Hirwaun Common.
99 For example, at Haythorn Common in Dorset, (Haythorn Common, Horton, Dorset 1972, (reported in Campbell (1972)) an application had been made of common rights of pasture, estovers, turbary, herbage, the right to keep 4 beehives and collect fuel wood, leaf mould, bracken, sand, gravel, berries, nuts, moss and heather. An objection was made and the Commons Commissioners held a hearing. The applicant did not appear at the hearing and produced no evidence. The claim was found to be frivolous and the applicant had to pay the objector's costs.
The law is very rigid about the registers providing conclusive evidence of the existence of greens and commons and amending them is very difficult. They can only be changed if the land either becomes or ceases to be common or village green.

The period of registration has now been passed for more than twenty years. Any land that was capable of being registered at the time can not now be registered and therefore can not legally be common land or town or village green regardless of its historical or present characteristics. The registers have been effectively closed since 2 January 1970. If land or rights which were capable of being registered before this date have not been registered it is now too late to do so. New common rights can not be registered ( and therefore can not exist ) over land which is already registered or over land which was not registered but was capable of being registered before 2 January 1970. It would seem, therefore, that this prevents new common rights being acquired by prescription over existing ( i.e. registered ) common land. The only way of changing the registers is if land becomes common land or town or village green since that date or if it ceases to be such land.

REGISTRATION SINCE 2 JANUARY 1970

In such cases, s.13 of the CRA provides the current law for amending the registers where land becomes or ceases to be common land or town or village green or where rights are apportioned, extinguished, released, varied or transferred. These are dealt with in turn.

LAND

How land becomes Common Land

As has been noted, common land is land which is subject to common rights or waste of the manor not subject to common rights. As no new manors have legally been created since 1290 and since the abolition of the manor by the Law of Property Act 1922, no more land can now become waste of the manor. New land can only become common land if it became subject to common rights after 2 January 1970 or it becomes 'substituted' land ( see below ) after this date.

Who may apply

Applications for the registration of land which became common land or a town or village green after 2 January 1970 may be made by any person.

How land becomes town or village green

Land can become town or village green after 2 January 1970 in one of the following ways:

(i) By customary right established by judicial decision
(ii) By becoming substituted land ( see below )
(iii) By Act of parliament other than as substituted land

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100 CRA s.22(1).
101 Due to the statute of Quia Emptores 1290.
102 Where common land is removed by compulsory purchase by central or local government, it is replaced with other land nearby. This is known as 'substituted' land.
103 See notes to SI 1969/1843.
By the actual use of the land by the local inhabitants for lawful sports and pastimes as of right for not less than 20 years. It is now 20 years from 1970 and a few new village greens have been registered in this way. For example, a small green in Halifax was registered under s.13 CRA as a new green called Steepfields / The Delph at Hebdon Royal on 8 January 1992.

Supporting evidence
The notes to SI 1969/1843 give some examples of the type of evidence which may be required to support the registration. Where land becomes common land or town or village green by local or private Act or Statutory Instrument, the award or other instrument of allotment (if any) is suitable evidence. Where land becomes common land or town or village green as substituted land, the original or authenticated copy of the compulsory purchase order, order of exchange or other instrument authorising the exchange or substitution and the instrument (if any) under which the substitution actually took place will do. Where land becomes common land by acquiring common rights, evidence as in supporting evidence of common rights is sufficient (see below). Where land becomes town or village green by customary right or by 20 years use, an office copy of an order of court embracing such a declaration will be regarded as suitable supporting evidence.

RIGHTS
As has been noted above, the only way in which land can become common land (other than substituted land) is if it becomes subject to common rights.

How land becomes subject to common rights
Land can become subject to rights in the following ways:

(i) By a grant by the owner of the land of common rights over it. Why would anyone do this?

(ii) By common rights being acquired by prescription (long user). An application based solely on the Prescriptions Act 1832 will not be admitted and a claim based on prescription other than under the Act is unlikely to be admitted if the application is objected to.

(iii) By an Act of parliament other than substituted land - unlikely.

(iv) Substituted land. Such land may be substituted or exchanged for other land which ceases to be common land under the Inclosure Act 1845, the Acquisition of Land (Authorisation Procedure) Act 1946 or any other Act providing, on the exchange of land, for the transfer of rights, trusts or incidents attaching to the given land. Substituted land need not have common rights to be registered as new common land where it has been exchanged for common land which has been originally registered by being waste of the manor not subject to common rights. There is no need to apply to have the substituted land registered as it should be done by the registration authority and any rights will be transferred to the substituted land.

Who may apply
Applications for the registration of common rights may be made by the owner of the right or by the Church Commissioners where the right belongs to a vacant ecclesiastical benefice of the Church of England. In certain cases, the application may be made on the owner's behalf.

104 From the notes to SI 1969/1843
105 Ss.147-148.
106 Para. 11 of Sched. 1.
107 The notes to SI 1969/1843 give the following examples: - a receiver appointed under s.105 of the
Supporting evidence
The notes to SI 1969/1943 give examples of the type of evidence required and include:–. The award or other instrument of allotment where the right has originated from a private or local Act or Statutory Instrument. Where the right comes from a grant, a copy of that deed or grant and where it is claimed by prescription, a declaration by a court should be produced if there is one.

OWNERSHIP
Ownership may be noted in the register of land which is already registered but should not appear where the freehold title to the land is registered under the Land Registry Acts 1925-66.

Who may apply
Application for ownership may be made by the owner of the land, the Church Commissioners where an ecclesiastical benefice of the Church of England is vacant or those entitled to apply on the behalf of the owner (as with common rights, above).108

Supporting evidence
Documents which the applicant would not be obliged to produce to a purchaser of the land need not accompany the application.109

REMOVAL OF LAND FROM THE REGISTERS

WASTE OF THE MANOR
As has been noted, land may be registered as common (this includes some land which is historically village green) either by having common rights or being waste land of the manor without rights. This definition of waste of the manor has caused some problems with regard to the unwelcome deregistering of common land, for it has been argued, initially with success, that where land ceases to be waste of the manor it ceases to be common if it has no rights over it and can therefore be deregistered. There is sometimes a conflict of interest between owners of common land who feel their land would be more valuable if it was not registered and public opinion wanting to safeguard the commons. Self-interested landowners could quite easily sell the manorial lordship of the land while retaining the ownership of the soil of the common thereby separating the land out of the manor and could then delete the land from the registers. It was also unclear whether or not land could be considered waste if it had been separated from the manor in the past and subsequently reunited. Through the course of the 1970s and 80s these problems were resolved.

An early test of this principle was in regard to Chewton Common in Dorset. It was decided in 1977 that land could be considered waste of the manor even if it had been separated from the manor in the past so long as it is still waste and had formerly been manorial waste.110 In the Mental Health Act 1959, charity trustees where the common right is vested in the Official Custodian for Charities and trustees authorised under s.24 of the Settled Land Act 1925.

108 SI 1969/1843 s.3(6).
109 SI 1969/1843 s.4(2).
110 In 1804 the lordship was sold while the ownership of the soil was retained, effectively separating the waste from the manor. Although the ownership of the soil and the manor were reunited a few years later in 1811, it was claimed it could not be registered as the land had once been separated from the manor. The court...
case of Box Hill Common in 1979-80,\textsuperscript{111} this decision was disapproved. This meant that the judge disagreed with the decision in Chewton Common as the land and the manor had been separated before registration and in this case not reunited. The land had already been registered and the court decided it should be deleted and cease to be common land.\textsuperscript{112} In 1989 it was further decided that land could be deregistered if separation occurred after registration.\textsuperscript{113} The effect of this decision was to potentially allow the deregistration of a great deal of common land (which would include some historic village greens). The increased value the land would have by not being common provided an incentive for landowners to engineer such severances. This process was finally stopped in the public interest by a House of Lords ruling in 1990 where it was decided that ‘waste land of a manor’ means ‘waste land now or formerly of a manor’ - returning to the original dictum of Chewton Common.\textsuperscript{114}

In \textit{Re Box Hill Common (1980)} the owner objected to registration by the local authority as waste of the manor (without common rights) on the grounds that the land was severed from the Lordship in 1878. The Court of Appeal held that it could not be considered waste of the manor if severed from it before registration. In a case in Wales\textsuperscript{115} where the common was provisionally registered as common land with rights in 1969, the land was sold in 1978 resulting in the severance of ownership from the lordship. The new owner then received the rights of common in 1987 and the Commissioners confirmed both entries. At the appeal it was decided that as the rights were released in 1987 and deprived as waste of the manor by 1978 severance it was no longer common land. The Commissioners should have taken into account events since registration and the entry was deleted. This was upheld in \textit{Knight v. Ogwr Borough Council (1989)}.

\begin{itemize}
  \item found that it was sufficient that the land was waste at the date of registration and had formerly been waste of the manor. This would in some ways seem to be in conflict with the statute of Quia Emptores 1290 which had the effect of removing from the manor any land which was sold after this date and preventing the legal creation of new manors (\textit{Re Chewton Common, Christchurch}).
  \item \textit{Box Parish Council v Lacey (1979), Re Box Hill Common (1980)}. The land was registered as waste of the manor by the local authority but the owner successfully objected on the grounds that the land and the lordship had been severed in 1878.
  \item In 1978 the lordship was sold, severing it from the ownership of the land therefore taking the land out of the manor. This was not enough to deregister it because it still had rights of common exercisable over it. The new lord then received the common rights in 1987 which in effect released those rights by the unity of ownership and possession (Common rights can only exist over land belonging to another. See chapter 2.1). It was then deregistered as it had no common rights and had ceased to be waste of the manor since its severance in 1978 (\textit{Re Merthyr Mawr Common}). This was upheld in \textit{Knight v. Ogwr Borough Council (1989)}.
  \item Mattingley Green and Hazeley Heath in Hampshire were registered as common land in 1965 as waste land of Putham manor and Hazell manor. The Lord of both manors conveyed the two manors and lordships and all manorial rights, reserving the ownership of the land themselves together with the mineral and sporting rights. As the land was now severed from the manor, he applied for deregistration as they ceased to be waste land of the manor. The County Council appealed but the Court of Appeal was bound by a previous decision \textit{In re Box Hill Common (1980)} and the council were obliged to accede to the deregistration. A final appeal to the House of Lords, however, held that the true meaning of s.22(1) of the CRA was that ‘waste land of a manor’ meant ‘waste land now or formerly of a manor’ or ‘waste land of manorial origin’. Lord Templeman stated that since no new manors have been created since Quia Emptores 1290, for at least 700 years they have been as they are now ‘open, uncultivated and unoccupied’ (to quote from the common law definition of manorial waste).
\end{itemize}

\textit{In re Merthyr Mawr Common 1989}. 78
REMOVAL UNDER 1989 ACT
A recent piece of legislation has catered for certain circumstances in which common land was wrongly registered. The Common Land (Rectification of Registers) Act 1989 allows the deregistration of bits of private houses and gardens registered by mistake as common land or village greens. This applies only to dwellinghouses or land ancillary to a dwellinghouse and no other type of building or land and only those that have been there since 5 August 1945 (20 years before the CRA). In a recent addition to common law on this matter, it was decided that such houses did not have to be lived in continuously for all of this time. 

EFFECTS OF REGISTRATION

The registers contain land which is not historically green or common and there are many greens and commons which have not been registered. The registers have effectively been closed for over 20 years, fixing them as a reflection of a 1960s landscape. An enormous number of ancient common rights were lost forever in 1970. As has been seen in the previous chapter, registration caused the permanent loss of very many ancient common rights but there is some evidence that it allowed some rights that never existed to become legal by allowing unsubstantiated claims to pass through final registration. The effects of final registration were of great and lasting importance. The CRA s.10 states that the registration of any land under the Act, or any rights of common over it shall be 'conclusive evidence of the matters registered'. This means the registers provide conclusive evidence of common land and rights in law, a very strong term for even if highly convincing evidence can be produced that unregistered land is common land or has rights of common over it (or conversely that registered land should not be so), it is not enough to change the register after final registration. This has meant that the registers have effectively been closed since 2 January 1970. Many counties, (for example, Hampshire, Norfolk, Somerset), have no registered rights over village greens and now that final registration has passed, the common rights that they must surely once have possessed have been lost forever (see chapter 2.3), although it is possible that many had fallen into abeyance long before this. After the end of the second registration period, it was then too late to register any land or rights which should have been registered. In Lancashire, the registration authority asked the Commons Commissioners to direct the authority to amend the registers by inserting a right which should have been registered during the registration period. The Commissioners had no power to do so as their powers derived entirely from statute, (the CRA did not allow this) and in such

117 In the case in question, four stone cottages were built on Greenhow village green, North Yorkshire as dwellinghouses in the 19th century and had become derelict. In 1970 they were condemned as unfit for human habitation. Two had been vacated by then and the other two were vacated in 1972. They were registered as village green in 1972 and an objection under the new Act of 1989 was refused by the Commons Commissioners as the houses were neither dwell in or capable of being dwelled in at all times since 1945. The Court of Appeal decided the Commissioners erred in law and overturned their decision. The houses did not need residence and could be derelict, unoccupied or condemned unfit and still be deregistered under the new Act. 'Used and enjoyed' did not necessarily mean actual use or enjoyment of the garden, garage or ancillary outbuilding.
118 Newton Fell, Newton in Bowland.
case there would be no objection period. Failure to register within the required period will even extinguish the rights when granted by a previous private Act.119

It is important to note that registration was dealt with by the various registration authorities, who along with the public at large, were responsible for making applications for registration. As a result, there is likely to be an amount of regional variation in registration procedure, such as in their relative dedication to registering all the village greens and commons in their area, or in their interpretation of the suitability of land for registration. Similarly, the temperament, characteristics and social development of the inhabitants of different regions must have been of some importance. This has significant effects in interpreting the results of the distribution maps in chapter 4 as the registers provide the data source. Furthermore, the Commons Commissioners only sat where there was a dispute arising from objection to a registration and could not change final registration, and where totally unsuitable land that was not a historic green or common was provisionally registered and no one objected to it, it would be finalised without reaching a Commissioner. The extent to which this happened is not known for certain.

Due to the definitions of types of common land given in the Act and their different interpretations, there is now somewhat of a mismatch between what is historically common or village green and what appears in the registers (legally such land). There are cases of what are historically village greens and seem as such on the ground and have the functions of a green, registered as commons. Figure 9 shows that historical village greens may now be legally

- town or village greens
- common land
- neither and unregistered,

and land which is registered as town or village green may be historically

- town or village green
- common land
- recreation allotments dating from parliamentary inclosures
- waste of the manor
- roadside waste or greensward
- other land not containing green space.

For example, Derbyshire has 57 registered town or village greens. Of these, 41 are actually such greens on the ground, while 7 are recreation allotments, 8 are other pieces of land but not greens, and there is 1 common (in addition to the commons registered as common land). There is thus a mismatch of historic village greens in the landscape and legally recognised village greens which have been registered. The true extent of this mismatch can be known by taking samples to evaluate the results of common registration.

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119 Act of 1801 in the case of Re Turnworth Down (1977), CEGB v Clwyd County Council applied (this means the principle of a previous decision was applied even though the facts were materially different).
EVALUATION OF REGISTRATION

As the commons registers are used as a data source for the distributions in chapter 4, an indication of their accuracy and ability to represent the greens in the landscape is important. The greens registered have been tested in London and on more local scales by using other sources, mainly cartographic, to determine the true number of greens both in the present and in the past, giving an indication of lost greens.

The last two chapters have discussed the processes and results of common registration and nature of the law of village greens from a more theoretical viewpoint. The more practical nature of the details of disputes regarding subjects such as access and overcharging are developed in the next chapter. Inclosure, the endpoint in the long lives of many greens and a discussion of what was one of the three main aims of commons registration - that of the legal and practical side of ownership completes these three chapters of a clarification of the law regarding village greens.

Figure 10 shows a sample of the different types of land which have been registered as village greens. Some, such as Sedgefield are true historic integral village greens (see chapter 3) while some represent small areas of land in modern housing estates with no historical significance (for example The greens, Merry Oaks). Occasionally, as in The Hill, Middleton-in-Teesdale, some true village greens are given a different name. The examples at Quebec and Cotsford Park show that these types of registered land do not normally contain any green space. For an evaluation of registered greens as a source for chapter 4, see chapter 2.3 greens in the 20th century on p. 94.

To put this chapter into its broader context, the CRA has had the effect of formalising the extent and number of greens, commons and rights as well as giving a statement of ownership. In doing so it has removed much of the uncertainty from the law regarding status as village green or common, the extent and ownership of rights and of green. This was a measure to safeguard them for the future with legal protection. The wordings and definitions of the Act have not had some of the desired effects and the landscape historian may not agree with some of the definitions. Many landscape features from diverse sources have been treated as one class of land and have been covered by the Act - some false greens have been included and some valid greens have been left out of the registers.

The village green was given no separate legal identity before 19th century legislation and was treated as common land which happened to be within settlements. Since the CRA they have been treated differently with separate registers for commons and village greens. There is, however, little practical difference, the importance of the distinction more to do with the definitions of land which has been included in the registers. The Act has also implicitly made the distinction between registered and unregistered land with its effects of legal protection and ultimately of physical condition.

In addition to the conservation and preservation effects of the Act, some land has been changed economically. Land which has been registered (normally applies only to commons and large greens) is often considered to have a lower economic value than land which is not registered due to the restrictions of rights and prevention of inclosure. The process of

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120 For example, the recreational value was probably originally low for many greens.
deregistration was therefore beneficial to landowners concerned for the value of their property and some tried and were successful in having it deregistered - a process often contrary to the wishes of the local inhabitants. The chapter has shown how this took place and the procedures taken to stop it. Chapter 4 shows how the CRA has displayed some different regional effects, for example more false greens have been registered in the south and east of England. Possible future developments of the law and registration of greens have been suggested and recommended by the Common Lands Forum.121

The crucial aspect of this chapter, however, is the status of land as village green or common and the legal protection which registration affords. The attempts to register land in a great variety of local circumstances have built up the body of common law to encompass these local circumstances. The decisions of the Commons Commissioners have therefore had an important effect on the future status of our village greens.

121 Common Lands Forum (1986) recommends, among other things, that Owners of greens who could not be found at registration and the green subsequently vested in the local authority should be allowed to reclaim them. The inhabitants of the locality should be granted a statutory right of recreation over every registered green in that locality, which should be neighbourhood rather than parish based. Where the owner manages a green so that it can not be used for recreation, the local council should have power of compulsory purchase. Councils should have the power to restrict recreational uses of the green where they conflict with other uses. Some cases of access for vehicles over greens should be permitted where the owner is in agreement and the Secretary of State gives permission. Temporary use of a limited area of the green for informal car parking in connection with recreational activities should be allowed. All three definitions of village greens under CRA s.22 should be treated identically by the law.
Figure 10. SOME REGISTERED GREENS

COTSFORD PARK
PLAYING FIELD, HORDEN

SEDGEFIELD VILLAGE GREEN

THE HILL, MIDDLETON-IN-TEESDALE

FIR TREE VILLAGE GREEN

AND AT QUEBEC

Source: OS 25" 1939-1960

THE GREENS, MERRY OAKS
Figure 10a. SOME REGISTERED GREENS

THE GREEN, MORLEY
Chapter 2.3

DISPUTES
INCLOSURE
AND
OWNERSHIP

DISPUTES
Overcharging the Green
Encroachment
Public Access
Vehicles
Criminal Offences

INCLOSURE
Medieval Inclosure
Later Inclosure

OWNERSHIP
Past
Present

These rather diverse subjects are integrated by their legal context and application to village greens.
While remaining under the general subject of the law of greens, the study now turns to look in more detail at several types of frequent causes of dispute. The law in such circumstances is clarified and illustrated with suitable examples. The rest of the chapter deals with the ways greens and commons have been lost to inclosure and covers the subject of their ownership. Beginning with disputes, the limited and valuable resource which most greens and commons provide, has meant that they have for centuries been subject to disputes such as people grazing more animals than they are entitled or encroachment of houses or gardens onto the green and more recently with matters such as car parking. It is often unclear what action can legally be taken and such action may depend upon who has committed the offence and who is remedying it. With some offences, and under certain conditions, extra-judicial action may be taken to rectify the grievance while still within the law.

### OVERCHARGING THE GREEN

The legal mechanisms which have existed to deal with offenders who turn out too many creatures to graze on the green included, until the 1970s, the action of seizing the offending animals without need to resort to judicial authority.

Under the Commons Registration Act 1965 (CRA) all grazing rights on commons and village greens must be for a definite and registered number of creatures and in the past they have often been limited in a similar way. As has been seen, (chapter 2.1) even rights *sans nombre* were limited to levancy and couchancy where held appendantly and appurtenant and rights sans nombre held in gross were required to provide sufficiency for other commoners. Thus it would seem that on most greens the pasture has been limited for many centuries.

Surcharging the green (grazing it with creatures which were not permitted) could be remedied under common law (national law) or under the justice of the Lord of the Manor (local law). Distrainting (the action of seizing animals which were not entitled to common pasture without resorting to a legal case) could be undertaken by the action of *distress damage feasant*.\(^2\) In practice, the lord could distraint the commoners' creatures but the commoner was rarely able to seize the surcharged animals of the Lord.\(^3\) This common law practice of damage feasant was abolished in 1971\(^4\) and replaced with a new system with the effect that the commoners now have right of seizure over the surcharged creatures of the owner of the soil, while the owner has no such rights - a reversal of common law rules.

### DISTRESS DAMAGE FEASANT

Distress damage feasant (sometimes referred to as just *damage feasant*) is an ancient remedy at common law for surcharged animals on common land. In 1373\(^5\) it was alleged that

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1. This means the action may legally be taken without the specific sanction of the court.
2. The legal term given to the action of distraint.
3. The Lord could surcharge on his own land by not leaving sufficient pasture for the commoners' creatures which were entitled to be there.
5. 46th YB Edw 3. fo. 12.
'the plaintiff had common for so many beasts only and that he put in more than he ought and therefore the defendant took the overplus damage-feasant.'

It does not mention who distrained the surcharge of animals but it seems likely it was the owner of the soil rather than a commoner, for the action may be different depending upon who is remedying the abuse of rights and who the overcharged animals belong to. They may belong to a commoner who has surcharged his stint, to the Lord who may or may not have quasi-rights (see chapter 2.1) or to a stranger with no common rights at all.

**ACTION BY THE LORD**
The Lord could take action by damage feasant on the surcharged creatures of a commoner or a stranger or could sometimes administer justice through his manorial courts, for at Easington, Co. Durham in 1684 John Hunter was fined 5/8 for 'his Sheepe pasturing in the Town Greene'. In the 18th century it was decided that where there was a right of common for cattle *levant and couchant*, the Lord could not distrain if surcharged for *he can not judge thereof*. Further limiting the Lord's action, where there are cattle under some *colour of right* he can not distrain but may do so if he has no right at all. It would appear from this case the Lord had no more or less right to distrain than the commoners.

**ACTION BY THE COMMONER**
The commoner could also take action by damage feasant on the creatures of a stranger however many he turned out as he had no rights so they were all surcharging. With the surcharging of another commoner who had rights for some creatures, the legal remedy was more complex. In *Hall v. Harding (1769)* it was stated that one commoner cannot distrain another commoner's cattle which he has overcharged beyond his stated number but can with a stranger. It was decided, however, that the overcharge by a fellow commoner should be interpreted as the cattle of a stranger and, as such, they may be distrained for they have no *colour of right*. It was summarised in the Burrow's Report (1769) that a commoner can not distrain where there is a colour of right though he may distrain the cattle of a stranger, or even a Lord if totally excluded by custom. He cannot distrain a fellow commoner's cattle, however, where

- (i) the number allowed depends on the number of acres of the common
- (ii) requires a medium to determine the proper portion
- (iii) numbers depend on collateral fact
- (iv) there are matters of judgement
- (v) there is levancy and couchancy.

This seems to be a measure to prevent people from taking this action of damage feasant in cases which were not totally clear thus preventing the public from acting in the place of proper judges, in effect taking the law into their own hands. The principal that one commoner can not distrain another commoner's cattle because they have a *colour of right* to be there applies to vicinage as well as common appurtenant. Where there is surcharging but little or no

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6 DU P+D Halmote Presentments and Proclamations Box 4, Easington Division.
7 *Anon* 1770.
8 See p. 51.
9 The term is frequently found in historical references to distraining.
10 *Sloper v. Alen* (1617) provides an example concerning levancy and couchancy. 40 sheep were taken damage feasant. It was found that 20 were levant and couchant and 20 not and there was no right to distrain. The remedy in this instance would presumably be by action of the case.
11 *Cape v Scott* (1874).
damage, there are further complications to the action which may be taken. In 1612\textsuperscript{12} it was held that if a stranger puts beasts on the common and the trespass is so small that the commoner sustains no loss there should be no right to damage feasant and no action for trespass. The Lord may, however, have action for trespass no matter how small the loss or damage. The action of damage feasant was intended for creatures which were normally entitled to common pasture and did not extend to bunny rabbits. In 1601\textsuperscript{13} it was stated that 'Conies are beasts of warren, and a commoner cannot justify driving them away, or killing them, or destroying their burrows damage feasant'. In this case the defendant had a right of common appurtenant to a house by prescription and killed 200 conies damage feasant. The court found for the plaintiff. In some cases of dispute, however, extra-judicial action is not lawful. In 1757,\textsuperscript{14} a commoner filled up the Lord's rabbit burrows which he claimed were unlawfully erected and surcharged the common, preventing the commoner from enjoying a sufficiency. It was held that the commoner was not justified in his action and should have resorted to the law for his remedy.

**DAMAGE TO IMPOUNDED CREATURES**

When animals are taken damage feasant, the question arises of what to do with them and the amount of care and attention they deserve. Where the impounded creatures die, it is the responsibility of the detainer to provide reasonable care of the creatures. A further complication arises if the animals are harmed in some way. When they are well looked after, the distrainer is not held responsible for deaths amongst them. In 1670\textsuperscript{15} in an action of trespass for chasing sheep and detaining them until a payment was made one of the sheep died. While the plaintiff claimed he had common there, the defendant pleaded the sheep were there damage feasant and impounded them. The defendant was held not to be responsible for the sheep dying and the plaintiff did not declare any extraordinary chasing.

**OTHER METHODS**

There is evidence in *Tyrringham's case (1584)* that damage feasant is not the only lawful extra-judicial remedy for the trespass of animals for in this case it was held that 'when cattle trespass, he might chase them out with a little dog, without being compelled to distrain them damage feasant'. The Lord sometimes claimed a payment for creatures which stayed on the common overnight but were not meant to be there. In Eccles, Norfolk in 1275\textsuperscript{16} the Lord claimed 'resting gild if the animals of a stranger rested one night on the common in shawtime (when the common fields were opened to grazing after the harvest, see chapter 2.1). In Lancashire and Yorkshire, there was a similar system of 'thistle-take'.

**MODERN REMEDY**

When the ancient common law remedy of distress damage feasant was replaced by the *Animals Act, 1971* detention of straying (or overcharged) animals was retained, but the regulations for detention were more clearly defined. Detention can not be undertaken by the

\textsuperscript{12} Mary's Case (1612).
\textsuperscript{13} Bellew v. Langdon (1601).
\textsuperscript{14} Cooper v Marshall (1757).
\textsuperscript{15} Leech v. Widsley (1670).
\textsuperscript{16} Hone (1906) p. 112.
owner of the land but only by the occupier (which includes commoners). The occupier may detain such animals as long as they are well treated and given food and water but the right ceases:-

(i) after 48 hours unless notice is given to the officer in charge of a police station or if the detainer knows the owner.
(ii) payment is made to satisfy the claim
(iii) when livestock is claimed by the person entitled to its possession.

If the conditions in (ii) and (iii) are not met and notice is given in (i), then after 14 days the detainer may sell the creatures at a market or public auction unless procedures for return or claim are pending.

PUBLIC ACCESS

The rights of the public to walk upon and use the green are not always clearly defined. When a stranger from outside the locality walks upon the green, a local may or may not have the right to remove him and the method he may legally use is also usually uncertain. With urban commons and greens, public access for exercise and recreation is permitted under the Law of Property Act 1925 but for the majority of greens - those outside urban areas, it is less clear. It would appear that from **Blundell v. Catterall (1821)** the owner may take action against a stranger who walks upon the common.

VEHICLES

Problems with vehicles on the green usually take two main forms - car parking and driving to houses over rights of way on foot.

**CAR PARKING**

The parking of vehicles on village greens is prohibited by statute under the Road Traffic Act, 1988 but this has not always prevented cars being driven onto greens. Under the Act it makes it an offence to drive off a road onto common land, moorland or any other land. In the Act, there is an exception to this which allows a car to be driven onto common land if driven no more than 15 yards from the highway with the sole purpose of parking. This 15 yard exemption has led to the mistaken view that the public have a right to park on village greens, etc. but it is expressly provided in subsection (3) that nothing in s.18 is to prejudice the operation of s.193 of the Law of Property Act 1925, or any byelaws applying to the land, or affects the ordinary law of trespass to land. When a common is wholly or partially in an urban area the provision of s.193 of the Law of Property Act 1925 apply to it. The case would be the same with a rural common to which s.193 had been applicable by the owner or if byelaws made it an offence to drive vehicles on to it. In addition, s.12 of the Inclosure Act 1857 forbids any act whatsoever which interrupts the use or enjoyment of a green as a place for exercise or recreation. There is no requirement for the act to be wilful and is an offence if done in ignorance, so this would also probably be an offence to park on the green. It is usually the parish council as owners and managers of the green which takes action over parking disputes. The records of Evenwood parish council give an account of a dispute over parking on the green in 1964. Part of the green opposite Manor Street was being used as a car park by

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17 Replacing s. 36 of the RTA 1972, reproducing s. 18 of the RTA 1960 and s. 14 of the RTA 1930.
visitors to the Evenwood Workingmen's Club and complaints were made to the parish council about the bad effects of this on the green. The Workingmen's club were told by the parish council to find an alternative car park or face prosecution. The parish council refused the club's request for more time and erected four metal signs with the message 'Parking Prohibited. Offenders will be Prosecuted. By Order of the Parish Council'. As the byelaws relating to the village greens prohibited the parking of cars on the green and the green was under the control of the parish council, they took legal action. This proved successful and two dozen people were dealt with by Bishop Aukland magistrates court and fined £1 each. Two years later, however, parking was becoming a problem again with one case of a resident driving over the green to get to his garage. The parish council were considering enclosing part of the green with concrete posts to stop the parking.

**CRIMINAL OFFENCES ON THE GREEN**

Gadsden (1988) has outlined some criminal offences relating to common land. Damage to property on common land is an offence under the *Criminal Damages Act, 1971* which makes it an offence to destroy or damage property in which another has a proprietary interest. This excludes damage to wild mushrooms, flowers, fruit or foliage of a plant growing wild (*fructus naturales*). Destruction of a green, (including seats, litter bins etc.) by fire is treated as arson. Injury or defacement to any object of historical, scientific or antiquarian interest is an offence as is the killing or injuring of any wild bird or the taking or damaging of their eggs or nests. In addition, some animals *ferae naturae* are protected. Certain plants are listed and it is an offence to pick, uproot or destroy any of them but it is also an offence for an unauthorised person to intentionally uproot any wild plant not listed.

Where the public have access without payment, it is an offence to deposit litter. This may only apply to urban commons which come under the *Law of Property Act 1925* as there is no public right of access on most other greens and commons. It is an offence to abandon on open land (including commons and greens) part of a motor vehicle or any thing.

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Under the *Ancient Monuments and Archaeological Areas Act 1978*.
Under the *Wildlife and Countryside Act 1981*.
Under the *Litter Act 1983*.
Under the *Refuse Disposal (Amenity) Act 1978*. 

88
Many village greens have been destroyed by inclosure which may have been a gradual process of encroachment or piecemeal conversion to closes and pasture but often involved the great upheavals and extinction of the village community and ancient field systems of parliamentary inclosure resulting in the almost total transformation of the appearance of the landscape.

Inclosure is when open land is closed off by a fence, hedge or barrier of some sort to either keep people and animals in or out which were previously free to enter and leave. The specific meaning normally conveyed by inclosure is when this happens to common waste or the common arable fields of medieval or early modern England. While inclosure may apply to two separate and distinct types of land (common waste and common arable) it also involves two distinct processes both of which had markedly different effects on the landscape. These may be termed piecemeal inclosure and general inclosure. Piecemeal inclosure was normally a slow, gradual process of inclosing small pieces of common arable through private transactions between individuals. There was generally less effect on the common wastes although this was often colonised as the need for arable land increased. This contrasts with general inclosure which typically involved inclosing all the common waste and arable in a community (manor, village, township) all in one go, by general agreement (at least of the main landowners). There were two mechanisms of general inclosure, firstly by agreement, where the principal landowners and holders agreed amongst themselves to extinguish common rights and inclose the common fields and wastes, and from the early 17th century but especially in the 18th/early 19th centuries, by parliamentary inclosure. The earlier parliamentary inclosures were the result of landowners petitioning parliament for a local Act of Parliament, but later inclosure could be carried out much more cheaply under the General Inclosure Acts 1845-1882. Parliamentary inclosures had a number of benefits but also some disadvantages for some people. Of its favourable effects, the greatest was the improvement in agricultural efficiency. The open fields were redrawn and reallocated into better shaped units under private rather than shared communal control, and dispersed and intermixed holdings were redistributed into discrete units. Agricultural production was further increased by allowing large areas of former common land to be ploughed for the first time or for many years since medieval retreat from marginal lands.

This gives only a brief outline of the background to inclosure. Indeed there is a large volume of literature concerning its background, history, agricultural and social effects. It is not within the scope of this study to reproduce or summarise their findings but rather to outline and clarify the legal position of inclosure and its significance for village greens. Here are examined the different ways in which inclosure has legally been carried out over the years and the action which can be taken to rectify unlawful inclosure. Such processes of inclosure meant the end of very many greens throughout England. The precise amount would be difficult to

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References:
22 See Richardson (1968).
23 For the effects of climate on medieval retreat of marginal lands, see, for example, Lamb (1972, 1988), Oliver (1973), Parry (1978).
24 For example, Gommer (1912) and Slater (1907) are early surveys on the subject and give a reasonable account on the time-series and geographical extent of inclosure. Neeson (1993) tackles inclosure from more of a social aspect emphasising the income and independence the commons provided for the poor and landless. See also Clapham (1926), Allen (1992), Curtler (1920), Tate (1967), Turner (1980, 1984).
DISPUTES, INCLOSURE AND OWNERSHIP

quantify but the large number of surviving place-names with a green element (see chapter 3) in areas which now retain very few village greens (e.g. Cheshire) give an indication of this. Commons can be inclosed legally under statute or common law or illegally in which case it is an encroachment. An illegal encroachment can, however, become legal after time under common law.

MEDIEVAL INCLOSURE

In the Middle Ages, before the very first statute was enacted in 1236, the Lord of the Manor could inclose commons or greens by two methods at common law:- by agreement with all the commoners or by exercising his right of approvement. According to Halsbury, reaching agreement with all the commoners was difficult in practice and is now probably obsolete. The Lord's right of inclosure was extended and made statutory by the Statute of Merton 1236 and the Statute of Westminster II 1285, a right which is now also probably obsolete.

The Statute of Merton allowed the Lord to inclose the common providing he allowed sufficient pasture for the commoners and allowed them free access to and from the common (see appendix 5). This was confirmed and extended by the Statute of Westminster II, 1285, and is still a current statute. These provisions were confirmed by a later Act but that was repealed in 1879. This right of approvement applies not just to the Lord of the Manor but extends to any person who is seised in fee (possesses the freehold) of the waste. Approval normally means inclosure of pasture but may apply to turbary and estovers by special custom.

Arlett v Ellis (1827) explains that this was subject to two conditions. Firstly, the inclosure must be subservient to the rights of the commoners and not injurious to them, and also that the Lord showed sufficient waste remained and that the commoners could conveniently reach it, for it 'makes a great difference to a commoner whether he has to go only a quarter of a mile for his turves or 2 or 3 miles'.

INCLOSURE BY STATUTE

Until 1845, the only legal methods of inclosure were under the Commons Acts, 1236 and 1285 or by private Inclosure Acts (Parliamentary inclosure) at great expense. The first known private inclosure by statute (Richardson 1968) was of several parishes in Hertfordshire in 1607. The large numbers of private inclosures and the great areas of inclosed commons and greens in the 18th and 19th centuries are evidence of their outdated purpose and need to put the land to other uses. The Napoleonic wars increased the need for home produced food and much land in marginal areas was ploughed for the first time since the Middle Ages. The great areas of underused commons were therefore a great resource which needed to be used to grow food. The government took some time to help this with legislation and the first important Inclosure Act was passed in 1845. The Inclosure Acts 1845 to 1882 were then used for nearly all inclosures apart from compulsory acquisitions.

25 Statute of Merton, 1236.
26 Approval is an old word for improvement which, in effect, meant inclosure (see Hone 1906).
28 Due to the Law of Property Act 1925 s. 194.
29 Now known as the Commons Acts, 1236 and 1285. Names changed under the Short Titles Act 1896.
30 Due to the Law or Commons Amendment Act 1893, ss. 2+3 and s.194 of the Law of Property Act 1925.
31 3+4 Edw 6 c3, 1549.
32 Under the Civil Procedure Acts Repeal Act, 1879.
33 Glover v Lane (1789).
34 See, for example, Parry (1978).
Act 1845 established the Inclosure Commissioners for England and Wales, a central body set up to deal with matters of inclosure of common arable and common waste. This function is now carried out by the Secretary of State for the Environment and requires the consent of parliament to inclose greens or commons. Under this act (between 1845 and 1875), 590,000 acres of common were inclosed and divided among 25,930 people. Within 30 years public opinion had changed dramatically from supporting the need for easing inclosure to one of conservation and regulation of commons especially in metropolitan areas. From 1865, the Commons Preservation Society voiced public opinion and influenced government policy on the need to protect the remaining commons. Their intention was to halt the trend of commons becoming private property to help them become public open spaces. The destruction of commons in certain areas had been recognised as undesirable long before this. In the 16th century, an Act of Elizabeth I prevented the destruction of commons within 3 miles of London, for when a large resource gets used up, shortages cause measures to be taken for their preservation. Regulations for inclosure of greens and commons are now governed by the Inclosure Act 1876. The Metropolitan Commons Acts 1866-1898 provided schemes and regulations for commons wholly or partly within the Metropolitan police district of London similar to those under the Commons Act 1899.

From a time before the parliamentary inclosures, it was ruled in Silway v. Compton (1681) that a common inclosed for 30 years shall not afterwards be thrown open, while in Creach v. Wilmot (1752) it was decided that the Lord could not eject someone after 20 years possession. Similarly, in Piggot v Kniveton (1607), it was decided that lands [probably waste] inclosed for 30 years by the consent of the majority of parishioners [commoners ?] should continue inclosed.

UNLAWFUL INCLOSURE
Commons may be inclosed only with the consent of the Secretary of State for the Environment (or Secretary of State for Wales in the case of a Welsh common) under the Inclosure Act 1876. Before the CRA, village greens which did not have any common rights exercisable over them would not come under this definition of common land and were therefore in danger of being lost. Where rights had been surrendered or could not be proved and had fallen into disuse, there was often little to legally stop the owner inclosing such greens. This seems to have been of some concern in Hertfordshire in the 1930s.
ACTION BY THE COMMONERS
When the Lord approves the common without leaving sufficiency for the commoners, or obstructs them in some way, the commoners may remove the whole obstruction, not just enough for them to get through⁴⁰ and may even go so far as to pull down a house wrongfully erected on the common if necessary for the exercise of his rights provided no one is in it at the time.⁴¹ Where the commoners are not wholly excluded, the proper action should be of the case⁴² but it is up to the commoner to show insufficiency.⁴³

ENCROACHMENT
Linked to inclosure is the more gradual and sometimes devious procedure of intaking pieces of green or common, a practice which was widespread in many areas. By the early nineteenth century there had already been considerable encroachment of some greens. Tithe maps of 1838⁴⁴ show the state of encroachment in several Durham villages. For example, at Evenwood there were 10 gardens on the green - it is not clear if these belonged to adjacent houses or to houses fronting the green or elsewhere. Sadberge had 9 houses, a pinfold and a yard, while Heighington had 2 houses with gardens, 7 cottages, a school and garden and a church with a churchyard. It is unknown whether the church was built on an existing green or the green was laid out around an existing church, or whether they were built together. The pattern of encroachment shown here is one of building right on the green rather than intaking smaller bits or strips at the edges. Long continued encroachment on a village green can not deprive the site of its status as such.⁴⁵ The only way for encroachment to lawfully continue is by private Act of parliament.⁴⁶

where they have been surrendered. With break up of old estates, danger of manorial waste going to persons not concerned to protect them.'⁴⁰

⁴⁰Arlett v Ellis (1827).
⁴¹Perry v Fitzhove (1846).
⁴²Clayton v Horsey.
⁴³Sadgrove v Kirby.
⁴⁴DU P+D ref. DDR Heighington, Evenwood and Sadberge.
⁴⁵Re The Village Green and Hargill, Redmire, N. Yorks.
⁴⁶New Windsor Corporation v Mellor (1975) applied (this means the principle of this decision were applied even though the facts were materially different).
Ownership normally implies exclusive control and use. Greens and commons are different. Their defining factor, the common rights exercisable over them, means the owner does not have exclusive use but has to share their produce with others, even if this right is exercised at the owner's expense and excludes him. This section removes the frequent misconception that commons are owned collectively by all the commoners.

All the greens and commons in England (as well as all the other land) are, in legal theory, owned by the Queen as successor to William I who gained the land by right of conquest. The nearest that anyone else can get to ownership of land is the ownership of an estate in the land (see above). For many centuries, however, the ownership of an estate has in practice amounted to ownership of land as we commonly know it. When he became the owner of England in 1066, the King granted much of the land out for use by people he favoured in return for certain services which he needed to run the country known as feudal dues. These were services such as the provision of teams of armed knights or the supply of crops.

The local administrative unit of the countryside was the manor. The context of ownership of greens in medieval England needs to be placed within the ownership frame of other land comprising the manor. In early medieval England, following the conquest, each manor had a Lord and both free and unfree tenants. The free tenants had use of their land upon providing certain fixed services for the Lord, and once these services were performed, they were free to use the land any way they liked. The unfree tenants - the villeins or serfs, however, were under the control of the Lord and had to do what the Lord wanted to a larger degree. As villeinage died out due to changes in population and demand for land, and especially by the fourteenth century, the unfree tenants became known as copyhold tenants and similarly the free tenants became known as freehold tenants. Copyhold tenure lasted until 1925 when it was enfranchised by the Law of Property Act 1922 and became freehold. The demise of villeinage during the Middle Ages and the transfer of power from feudal courts to the King's courts and parliament established both the common law and statute law. Rights in land became determinate and landownership underwent a transformation from an empirical order to something with a permanent definition.

This leads to the question of ownership within the manor. By later medieval times, when villeins had become copyhold tenants and free tenants had become freehold tenants there were 4 main types of land in the manor - the freehold strips of the open fields, copyhold strips, demesne and the waste (see chapter 1). Figure 11 shows that the Lord owned the demesne, the waste and the copyhold strips in fee simple held of the Crown or tenant-in-chief. While the demesne was in the exclusive control of the Lord (an estate owned in fee simple absolute), the waste and copyhold strips were owned by him in fee simple but subject to certain conditions. The waste was often subject to common rights by freehold and copyhold tenants and the copyhold strips were subject to a customary tenancy by the copyhold tenants who had

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Footnotes:
47 For manors, see the footnote on p. 18.
48 See chapter 2.1.
49 See Denman (1958) p 107.
DISPUTES, INCLOSURE AND OWNERSHIP

exclusive possession of them against the Lord. This just leaves the freehold strips in the open fields. The freeholders owned an estate in these in fee simple held of the Lord of the Manor and had use of their land upon providing fixed services for the Lord. These free tenants had an estate in their freehold strips held of the Lord in fee simple and once the services were performed, they were free to use the land any way they wanted. In time, these services were replaced with a cash payment and the tenure became freehold. Ruislip in Middlesex was probably a fairly typical manor in this respect. Bowlt (1989) explains that by c. 1245 there were 7 freemen in the manor who paid rent for their land and performed no labour services for the Lord except on special boon days.

The other type of manorial tenants - the unfree tenants, were known as villeins or serfs. They were bound to the Lord and in early times had to do whatever he wanted. The serfs had no estate in the land they farmed, which was owned in fee simple by the Lord. As villeinage died out, and especially in the 14th century, they became known as the copyhold tenants and had a customary tenancy in their copyhold strips. Copyhold tenure was enfranchised in 1925 by the Law of Property Act 1922 and became freehold (see Figure 11). In Ruislip c. 1245, there is evidence (Bowlt 1989) of an unfree tenant who held half a hide who was probably one of the better off villagers. A customal describes the many tasks he had to do including three days a week all year round. In practice, however, it is likely that full work was only required in certain years and in that case he could send a slave to do his work. The Lord also owned an estate in his demesne in fee simple. This brings us onto the ownership of the wastes - the greens and commons. The land that comprised the waste was owned by the Lord as an estate in fee simple held of the Crown or a tenant-in-chief but subject to any common rights of the tenants.

HISTORY OF OWNERSHIP

Ownership of greens and commons historically went with the manor and were owned by the Lord as his waste or uncultivated and unoccupied land. This was confirmed by the statute of Merton 1236. Prior to the development of the manorial system, common land may have been common property and came into private ownership as early as the 9th century under the imposition of the manorial system. In early times the waste was the land within the manor that had not been inclosed for farming and may have been wooded or open country. In the 12th and 13th centuries, as the population grew arable farming was increasing to supply the extra food and these pieces of waste became more important for pasture for animals to plough the fields. Many manors were held by absentee landlords who could be people such as great Lords or bishops, an Oxbridge college or ancient public school or even the King. Manors which had an absentee Lord were frequently leased out. Bowlt (1989) explains how Ruislip manor in Middlesex was granted to the College of Our Blessed Lady and St. Nicholas at Cambridge, which later became King's College, who held the manor until manorial rights were suppressed in 1925. As they were absentee Lords, they leased out the manor - in 1529 to Roger More. They let him the "Manor of Ruislip with all lands, tenements, meadows, feedings, pastures and rents appertaining to it." The Lords reserved certain manorial rights

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50 These services were of four types - military tenure where the tenant provided himself or someone maybe with a horse ready to do battle on a certain number of days each year, spiritual tenure (frankalmoign) which was praying for the Lord, socage tenure which comprised non-military services such as the supply of crops, and serjeantry where personal services were provided for the Lord. See Padfield (1970).

51 Hoskins (1955-58), appendix II, p152.
Figure 11. **OWNERSHIP OF LAND WITHIN A MANOR**

### STATUS OF TENURE

**LORD OF THE MANOR**

- **FREE TENANTS**
  - Fixed services
  - **FREEHOLD TENANTS**
    - **FREEHOLD**

- **UNFREE TENANTS**
  - Villeins, serfs
    - Do what the Lord says
  - **COPYHOLD TENANTS**
    - **FREEHOLD** (1925)

### OWNERSHIP OF LAND

**CROWN**

- (Tenant-in-Chief)
  - Estate in the land owned in fee simple held of the crown

**LORD OF THE MANOR**

- **FREEHOLD TENANTS**
  - Estate in the land held of the Lord in fee simple
  - **FREEHOLD STRIPS AND CLOSES**

- **COPYHOLD TENANTS**
  - Customary tenancy
  - **COPYHOLD STRIPS**
  - Subject to common rights
for themselves - namely fines and amercements. View of Frankpledge, leets, wards, marriages, homages, scutages, reliefs, heriots, escheats, strays, waifs, franchises, warrens, swarms of bees and palfrey silver. This allowed them to maintain an income from the manorial rights (especially as most of the reserved rights had probably been commuted for money payment) as well as income from the lease of the manor.

An example from 1845 gives an idea of the nature of ownership of village greens in North Norfolk. White's Directory (White's 1845) names the Lord of the Manor for each parish. While not expressly mentioned, it is highly likely that the Lord was the owner of the greens wastes and commons. In a sample of 32 manors in the hundred of Holt in North Norfolk, most of which had greens, 11 of them were owned by 5 titled Lords - Lords Calthorpe, Hastings and Suffield, the Earl of Orford and the Marquess of Townsend. Others were owned by untitled squires (4 by H. Gurney and 3 by R. Copeman) and one by the Fishmonger's Company. It is likely, therefore, that in this part of mid-19th century Norfolk, greens and commons were still owned by the Lord of the Manor.

**UNCERTAINTY OF OWNERSHIP**

The RCCL (1955-58) report highlighted the uncertain nature of ownership of greens and commons by the mid-20th century. Evidence from Durham and Hertfordshire suggests that this was the case sometime before then, for in Durham, around the turn of this century, the ownership of the village green at Esh was uncertain and in dispute. In 1939 there was correspondence between the Lord of the Manor and the Ecclesiastical Commissioners who were acting for the Bishop of Durham, the Lord of a neighbouring manor concerning the ownership of the green. There is earlier evidence (in 1899) that ownership of the green was in dispute, with the parish council wanting to know if the Ecclesiastical Commissioners claimed the village green at Esh. Part of this concern for ownership was to find who was responsible for keeping the green in good order and repair.

**Leasing of Village Greens**

Durham Bishopric estates had for some time and on many of the greens it owned, suggested leasing the greens to the parish councils so they could keep them under proper control. For instance, at Newbottle, the Ecclesiastical Commissioners, on behalf of the Bishop of Durham who was Lord of the Manor, leased the green to the Parish Council in 1900. They let 'All that the village green and other waste spaces of the township of Newbottle in the manor of Houghton' for 99 years for a reserved rent of 5/-. The lease was subject to the mineral rights of the Lord and in the event of the green being required for a railway or similar. Parish Councils were often slow to take up offers such as these. For example in Esh, Durham Bishopric estates suggested granting a lease to the parish council in 1908 but it was not until 1939 that the offer was taken up. Similarly, at Evenwood in 1914, in responding to a complaint of encroachment on the green, Durham Bishopric estates

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52 From the manorial courts.
53 From 1st ed 6" OS map.
54 For the full list see Appendix 20.
55 According to the correspondence from Halmote Court, the customary court of Durham Bishopric estates, dated 1939, Esh was an ancient chapelry within the parish of Lanchester and formed a manor or reputed manor granted long ago by a Prince Bishop of Durham to be held in military service and quit rent. The Lord of the Manor in 1939 was Sir Walter Smythe whose solicitors stated the soil of the manor was not vested in him and believed it was vested in the Ecclesiastical Commissioners as Lords of the Manor of Lanchester.
stated they had at various times ( including 1895 and 1902 ) offered to grant a lease to the parish council but it had never been accepted. The Ecclesiastical Commissioners considered it desirable that the parish councils have control of the green to prevent encroachments and renewed their offer of a lease again in 1914. Transfers of control by lease from Durham Bishopric estates were, under the advice of the Ecclesiastical Commissioners, subject to the commoners' approval and the reserving of mineral rights. It was the parish councils' responsibility to pay the legal costs. Such transfers of control out of the manor sometimes met with local opposition. For example, at Heighington in 1897 where at a parish council meeting of commoners, leaseholders and free tenants, who showed loyalty to their Lord decided and unanimously that the government should remain under the Manorial Court which delayed the leasing until 1912.

The change in ownership of greens from the Lord of the Manor to the parish council was probably not generally widespread until common registration in the 1960s. It was then that most greens where ownership was unknown or unclaimed ( the majority of greens ) were passed to the parish council by the Commons Commissioners as the body with the resources best able to manage and look after the green. Evidence from earlier this century shows most greens in Hertfordshire still in private ownership. A survey of Hertfordshire greens undertaken by the county council in 1937 revealed that 47% were still owned by the Lord of the Manor, and a further 11% were privately owned but probably non-manorial. Only 5 greens (7%) were owned by the local authority.

<table>
<thead>
<tr>
<th>Number of Greens</th>
<th>Owner</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>35</td>
<td>Lord of the Manor</td>
<td>47%</td>
</tr>
<tr>
<td>25</td>
<td>Unknown</td>
<td>34%</td>
</tr>
<tr>
<td>8</td>
<td>Private, non-manorial</td>
<td>11%</td>
</tr>
<tr>
<td>5</td>
<td>Local authority</td>
<td>7%</td>
</tr>
<tr>
<td>1</td>
<td>Common holders</td>
<td>1%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>74</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: *From Hertfordshire County Council Survey, 1937*

**PRESENT OWNERSHIP**

Commons registration in the 1960s had the effect of removing much of the uncertainty concerning the ownership of greens. From ubiquitous attachment to the manor from around the 19th century back into the past, it provided the occasion for a formalisation and precipitated a great acceleration of the process of changing uncertain ownership out of the manor and into the hands of the parish councils. In practice, the owners of so many greens could not be traced that the majority of greens were put into the care of local parish councils. From past ownership of village greens by the manor, and especially since the legal abolition of the manor in 1926 and the effects of commons registration, today village greens may be owned by a wide variety of individuals, groups, companies, trusts or held publicly by local or national government and in some cases the owner is still unknown. Some greens are owned jointly. The diversity of owners can be appreciated from the following examples; one green in Lincolnshire is owned by the *Ceylon Tea Growers Association*, one in Devon belongs to *The Corporation of the Norman Lockyer Observatory of the University of Exeter*, one green in Cornwall is owned by the *Camborne-Redruth Martyrs Memorial and Church of England Trust*, several belong to the *Secretary of State for Defence* and the Queen owns
several greens in Lancashire as part of the **Duchy of Lancaster**. However, the majority of greens throughout the country are owned by the local authority, most frequently the parish council. This is likely to be an indicator of unknown or unclaimed ownership at the time of registration with the Commons Commissioners declaring ownership on the local authority best able to manage the green for the benefit of all. On a county level, of those analysed, local authorities own from 67% of greens in Somerset to 95% of greens in Derbyshire. Privately owned greens are the next most common form of ownership after local authorities in all counties analysed, ranging from 3% in Avon to 24% in Shropshire. In some counties individuals are the largest single owners of greens, often as part of large estates. The Earl of Leicester owns 8 greens in Norfolk as part of the Holkham estate, and Lord Barnard owns 6 Durham greens as part of the Raby estate.

With a number of obscure and unlikely owners of greens it would be interesting to know how they came to own them. Commercial companies such as Bloxworth Estate Ltd who own one green in Dorset may have bought the manor of which the ownership of the greens and waste was a part. The two greens in Avon owned by (different) breweries may belong to pubs built on the green. An important point regarding legal ownership of greens is s.10 of the **CRA** which states that once registration of common rights has been finalised then that is conclusive evidence of their existence, does not apply to ownership, therefore if a person is registered as the owner of a green then it is not conclusive evidence that they are the owner (although it is highly likely that they are). Clayden (1990) suggests this is because in ordinary law one can only acquire ownership by squatting (adverse possession) which requires a period of 12 years before it can be claimed that the true owner has been replaced.

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56 Of these, 76% owned by parish councils, 12% by district councils, 5% by borough councils and 2% by parish trustees. Source: counted from commons registers.
It has been noted in chapter 2.2 that commons registration in the 1960s put a definite end to many ancient common rights which, for various reasons, were not registered. Many of these had been in decline or unused long before then. This section examines the changing nature of greens in the 20th century using data from a survey of village greens in Hertfordshire in 1937.

GREENS IN THE 20th CENTURY

A survey of greens in Hertfordshire undertaken by the County Council in 1937 forms a valuable record of the condition and use of greens earlier this century. The survey lists 133 village greens, of which

- 95 Green names (71%)
- 18 Unspecific Greens (14%)
- 13 Village Greens (10%)
- 7 Other (5%)

Today there are 175 registered greens including greens registered as commons. Removing false greens such as recreation grounds and other land leaves 153 registered greens (62 VG, 91 CL), of which

- 134 Green names (87%)
- 12 Village Greens (8%)
- 7 Unspecific Greens (5%)

The two sets of figures compare well and the differences which do occur are probably more to do with the different criteria and resources used in compiling the surveys rather than any change in the greens themselves. More interestingly, there is a detailed survey of part of the surviving returns from the county survey of village greens in Hertfordshire compiled in 1937 give a unique and fairly detailed insight into the state and extent of greens at that time. The forces behind the undertaking of this survey are not totally clear but a local newspaper had reported cases of Greens passing into the hands of persons whose own interests conflicted with the preservation of the Green as an amenity for the local people (see footnote 36). The Hertfordshire Mercury reported on 24 July 1937: '...on Village Greens where common rights can not be proved to exist, there is a danger of them passing into the hands of persons who are not concerned with the preservation of the amenities of the country and the well-being of the local people. Hertfordshire County Council should seek to acquire Village Greens as public open spaces.' Another (unknown) newspaper, probably of similar date claimed that 'England needs a new Doomsday Book - of Village Greens. Thousands are scattered up and down the country and many are in danger. Hertfordshire County Council are taking a census of all Village Greens in the area.' This survey by the County Council involved sending out forms to each PC in the county and getting them to supply information on:

- Description and Situation of the Green, Owner of the Freehold and Manorial rights, Common rights, Present use and General remarks. Village Green registers were then compiled by the County Council with information under these headings, similar in appearance to the current registers of Town and Village Greens but predating them by thirty years. An important difference between the 1937 census and the later Commons Registration was that the information for the 1937 survey was supplied by the Parish Councils and it is believed likely that no confirming evidence was required or sought by the County Council and the registers relied heavily on information supplied by the Parish councils which may have varying degrees of accuracy. The Commons Registers of the 1960s, however, were compiled under statutory guidelines with an allowance of generous resources. The total area of Greens in the 1937 survey was estimated at 334.79 acres with sizes ranging from 0.02 acres at Penyfather Lane to 30 acres at Pigs Green. A number of Greens were registered in several portions, e.g. Sandon Green has 9 different parts with sizes ranging from 1.5 acres up to 22 acres. It is also noted that 59 out of the 84 registered Greens have a separate 'Green' element in the place name (see chapter 3).
Hertfordshire in 1937 giving information on use, condition and ownership. The rural districts of Hitchin, Ware, St. Albans, Welwyn, Watford and Hertford contained 74 greens.

**Uses in 1937**

<table>
<thead>
<tr>
<th>Summary</th>
<th>Actual returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 Open space</td>
<td>Open space 20</td>
</tr>
<tr>
<td>15 Unknown</td>
<td>Waste 5</td>
</tr>
<tr>
<td>14 Grazing (not def C/R)</td>
<td>Overgrown 1</td>
</tr>
<tr>
<td>10 Recreation</td>
<td>Roadside waste 1</td>
</tr>
<tr>
<td>8 Waste</td>
<td>Unknown 15</td>
</tr>
<tr>
<td>4 Public use</td>
<td>Cricket and Football 3</td>
</tr>
<tr>
<td>3 Other uses</td>
<td>Recreation/ Playground 7</td>
</tr>
<tr>
<td>(annual fair, memorial seat, material dump)</td>
<td>Rough Green 1</td>
</tr>
<tr>
<td></td>
<td>Grazing 12</td>
</tr>
<tr>
<td></td>
<td>Grazing cattle 2</td>
</tr>
<tr>
<td></td>
<td>Memorial seat 1</td>
</tr>
<tr>
<td></td>
<td>Annual fair 1</td>
</tr>
<tr>
<td></td>
<td>Material dump 1</td>
</tr>
</tbody>
</table>

**DECLINE AND LOSS OF GRAZING RIGHTS**

While the number of greens in Hertfordshire has shown little change since 1937, common rights have declined sharply - most almost certainly being lost forever at commons registration in the 1960s. Of the 74 greens in the detailed 1937 survey, 31 had common rights reported over them.

74 greens of which 31 had rights 42 %
4 unknown about rights 5 %

Today only 9 (6 %) have rights, a total extinction of rights on 22 greens, rights which probably dated from at least the Middle Ages. Only Burnham Green still has common rights which were reported in 1937 ( rights for 80 cattle with Tewin Upper Green ). Ayot Green has rights today but none were mentioned in 1937. Even in 1937 common rights had been recently declining. Tewin Lower Green was reported as being used formerly for common grazing, then for football but being overgrown by 1937. Watton Green was used for a few cattle but mainly overgrown with bushes.

**LOST GREENS**

As well as lost rights, there is evidence that many greens themselves have been lost. For instance, the modern map of Cheshire show a large number of places with green names but much fewer actual greens. This suggests that many have been lost to inclosure but determining how many lost greens there are in England is a difficult task. Without a great deal of lengthy research examining 6" maps for the whole country, the best method of finding the number of present greens is to use the village green registers compiled under the commons registration legislation of the 1960s ( see Chapter 2.2 ). Using registered greens as an indication of the present number of greens, there are several methods available to estimate the number of greens in the past. One method which can be used is the extent and distribution of
green names. Green names can be found on maps of many scales, both old and new. It is only practical, however, to use green names from maps for relatively small areas - a national compilation of this would take too long. A national compilation of green names has been done from the OS gazetteer containing 250,000 place names in Britain - a manual search through this gave a minimum number of residual greens in the past. The results of this have been mapped in Chapter 4. Matching green names (greens past) to registered greens (greens present) shows which of these green names still have greens and which have lost them. This can not be entirely representative of national lost greens, however, for two main reasons. Firstly, green names are only to be found in large numbers in certain parts of the country (see chapter 4) and so this method is not much use in areas where there are few green names such as Northamptonshire. Secondly, while it can be assumed that all places with green names once had greens, not all greens had green names so any figure obtained using this method must be a minimum figure. Using registered greens as a measure of present greens also involves difficulties for while non-greens which have been registered as greens can be removed relatively easily from the calculations, finding greens which are still there but have, for some reason, escaped registration can cause inaccuracies. The accuracy of estimations of the number of greens both past and present has been tested for Hertfordshire and London.

**London's Lost Greens**

Using three main sources to determine the number of greens in London, likely estimates of the total in the past can be compiled.

**Green Names**

Being an area where green names predominate in the type of greens found, green names can be used in finding the total number (95% of greens and commons in London which have been registered have green names). London has 34 registered commons which have green names and a total of 57 registered village greens. Removing the number of registered greens which do not contain green space (and the 5 registered greens which do not have a green name) gives a total of 61 registered greens and commons which have green names. Using two other sources for the number of green names in London gives an indication of how accurate this estimation is. Data from the OS gazetteer (see above) gives just 28 green names while a street atlas gives 72. Matching the three data sets against each other gives 117 different green names.

<table>
<thead>
<tr>
<th>Number of Greens</th>
<th>Source</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>61</td>
<td>Registered</td>
<td>52</td>
</tr>
<tr>
<td>72</td>
<td>Atlas</td>
<td>62</td>
</tr>
<tr>
<td>28</td>
<td>Gazetteer</td>
<td>24</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>117</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

These figures show the number of different green picked up through using different sources, some of which occur in more than one data set. This suggests that the number of registered green names (and in this case the number of registered greens) accounts for only half the number of green names giving a lost green index for the whole of London of 49 (0 = no lost greens, 100 = all greens lost). There is, however, evidence from other sources of many more green names. A search through some 1st edition 6" OS maps reveals 28 green names, of

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58 See chapter 4.
59 Sheets 5,9,10,15,25,11,20,14,19 - chosen as these were available.

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100
which only 16 (57\%) are represented in the three sources used in the estimation above (atlas, gazetteer and registration). Projecting this factor onto the total of 117 gives a projected total of 205 for London.

**Projections of total Green Names for London using different sources**

<table>
<thead>
<tr>
<th>Source</th>
<th>Projected Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 (25%) are registered</td>
<td>244</td>
</tr>
<tr>
<td>14 (50%) are in the atlas</td>
<td>144</td>
</tr>
<tr>
<td>6 (21%) are in the gazetteer</td>
<td>133</td>
</tr>
</tbody>
</table>

Registered greens therefore account for perhaps less than 25\% of the total green names. Taking the atlas and gazetteer as a source, the lowest estimates for the total number of green names in London is in the region of 130-140. To account for the 5\% of registered greens which are village greens but do not have a green name, this figure should be increased to 140-150. Such calculations increase the lost green index to 56-59. Taking such projections a step further provides evidence of green names being even more numerous. Ruislip in west London, a suburban parish of about 12 square miles has no registered greens and none in the gazetteer or street atlas. A local history study by Bowlt (1989) mentions 4 green names (Field End Green, Westcote, Field End Green, Eastcote, Well Green and Silver Street Green) and local knowledge of the area adds one more (Forge Green). There are then at least 5 green names in a small area where other sources have not detected any. This shows that, in London at least, there were once many more greens than the village green register suggests. The present extent of common rights (those registered under the CRA) on both common land and village greens represents only a very small proportion of the rights that once existed. For a selection of the range of present rights have a look at appendix 18.

The significance of some of these cases is that they provide examples of the workings of the law in practice, demonstrating the context of the law as a general framework of potentialities within which greens have operated allowing their nature to be evaluated, thus providing a theoretical and practical element to their study. Distress damage feasant is an ancient and complex remedy to an ancient problem which illustrates some of the anachronistic nature of greens but also of their remaining importance in some places. Like several ancient aspects to the law of greens, this has recently been simplified and to some extent codified by new legislation. The uncertainty of the ownership of many greens prior to the CRA demonstrates the way in which their use and regulation had changed from certain and determinate under the control of the manorial court, within the previous century and a half or so. Similarly, the loss of rights even between 1937 and registration in the 1960s shows both the need for registration and their popular decline.

In general, the green has not had a great effect on the morphology of many villages. With planned villages, chapter 3 shows that the green, rather than being in itself a planned structure, is, in effect, the land left between the houses in a planned settlement and in this context, even 'planned' greens take on a residual element. Once established, however, the presence of a green constricts the growth or internal development of the village unless encroachment is permitted or a decision taken to inclose the green. The inclosure of a green, therefore allows a

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60 Animals Act 1971
potential for a significant change in the morphology of a settlement, and where inclosure does not occur and the green remains, no such internal development may occur. This may either be long-term, gradual inclosure by encroachment, or more radical wholesale inclosure by agreement. The removal of a green may result in the extension of existing gardens forward onto the green, the original plan often remaining visible from the position of houses seen from a plan or the former green may be built over thus extending the cover of village buildings. In addition, partial inclosure or encroachment around the edges or on island sites will result in changing morphology. At the genesis of a residual green, however, the existing shape of the green or common around which settlement clusters will affect, to varying degrees, the morphology of the resulting settlement. To some extent, apart from their genesis, green and village have existed and developed independently of each other, controlled by different sets of factors - the green under the influence of the law, the village largely a product of chance and human whim. In practical terms today, whether or not a green survives or has been inclosed, determines the presence in the settlement of a highly valuable resource.
Chapter 3

TYPES OF GREEN

Planned Greens
Residual Greens
Common Greens
Meadow Greens
Border Greens
Forest Greens
Town Greens
Peripheral Greens
Lost Greens
Commons
Recreational Land
Other Greens

This chapter provides a working classification for the diverse types of land known as village greens. Each type is examined with reference to examples in the landscape.
Chapter 1 introduced the diverse nature of the types of land known as greens or village greens and highlighted the need for a working classification. It has been seen that there are several types of greens with different characteristics and origins. Thorpe's early classification of greens, based on the morphology of County Durham examples, into broad, street and greens of indefinite shape failed to take into account the contrasting ways in which they originated. Tavener (1957) has simply made the distinction between those greens in Hampshire which have common rights and those which have never had any while Williamson (1993) has classified Norfolk commons into high and low depending on their soils, altitude and drainage characteristics. There follows a current working classification of greens with each identified type clearly named and its features and origins described. Each type of green is discussed in relation to real examples. Figure 12 shows a classification by Roberts (1987) of integral village greens based on their physical character. The shortcomings of the varying existing classifications are addressed in the following section.

CLASSIFICATION OF GREENS

Figures 13 and 14 show the method of classification used in this study. Figure 14 shows typical theoretical plans of these types and Figure 13 shows how the different types interrelate. It has been well known for some years that medieval villages, especially in the Midlands and North of England were often planned and regulated. It follows from this that the same may apply to village greens - where there is a planned green village, there is also a planned green. The broadest division running through any useful classification of greens must be the division into planned and unplanned greens. There are, however, even at this general and nonspecific level, a number of problems introduced by such a classification. To divide all greens into planned or unplanned is to greatly oversimplify the matter as no greens are either wholly planned or wholly unplanned but lie somewhere between the two extremes. Rather it should be the degree of planning which is considered or even those which may be said to be largely planned or largely unplanned. A further problem is that many greens which contain an element of planning have been changed by subsequent natural/organic growth or have been planned on sites which had previously grown organically or have even been replanned at different times. Such a mixture often makes their analysis very difficult. Contrasting tendencies to stability and change between village sites have affected this to varying degrees. Greens which are largely unplanned must result from the residuum of other landscape features (such as commons) and for this reason they are termed residual greens.

1 For example, Roberts (1987), Sheppard (1974). Sheppard applied a technique used on the continent (for example, by Hannerberg (1959), Goransson (1958 and 1971)) of metrological analysis where the dimensions of field plots are related to fiscal assessments to prove the villages have been planned. 2 Szulc (1968) has recognised two main groups of village types in the German Rhinelands using a similar classification - those formed by evolution and regular ones located on German law. This distinction has also been applied by others in Europe, for example, Piasek (1939), Dobrowski (1931 and 1935), Tymieniecki (1949) and Kiełczyńska-Zaleska (1956). Demidowicz (1985), studying planned landscapes in north east Poland found the planned villages and fields were the result of agrarian reform based on a three-field system, nucleated villages, a precise landholding and measure and the process of manorial farming, reflecting the high amounts of seigniorial control. Goransson (1978) has related regulated villages in Sweden which he dated to the early 12th century to similar settlements in England and Dodgshon (1975) has found evidence for the Swedish solskifte method of planning in Scotland.
Figure 12. PAST CLASSIFICATION OF GREENS

INTEGRAL VILLAGE GREENS

FLAT GREEN

SLOPE GREEN

PHYSICAL CHARACTERISTICS

STREAM GREEN

MEADOW GREEN

SHAPES & SIZES

CIRCLE

IRREGULAR

TRIANGLE

Source: Roberts (1987)

Source: Roberts ex inf.
Figure 13. **TYPES OF VILLAGE GREENS**

VILLAGE GREENS

- PLANNED / SEIGNIORAL
  - INTEGRAL
    - WITHOUT CATTLE DRIFT
    - WITH CATTLE DRIFT
  - NATURAL / ORGANIC / RESIDUAL
    - MEADOW
    - COMMON
    - BORDER

*Greens may fall between these two extremes*
Figure 14. TYPES OF VILLAGE GREENS

A. PLANNED INTEGRAL GREEN

B. PERIPHERAL GREEN

C. INTEGRAL GREEN WITH CATTLE-DRIFT

D. RESIDUAL GREEN

Figure 14. TYPES OF VILLAGE GREENS
TYPES OF GREEN

WHOLLY PLANNED<------------------------>WHOLLY ACCIDENTAL

Villages may fall somewhere between the two extremes

PLANNED GREENS

While it has been noted that the present structure of none of the greens in the present landscape of England are wholly the result of planning, there are many which due to their largely planned nature can be classified as 'planned greens'. Planned greens are inevitably associated with planned settlements. Analysis of village plans has produced much evidence of elements of village planning in various parts of the country (for example, Roberts (1987), Sheppard (1974)). This may range from building a new regulated village all in one go on a greenfield site, through replanning of existing villages, to smaller scale rebuilding of village elements. This can further be complicated by natural / organic growth before or after the planned or regulated element or even replanning and realignment on a previously planned site. In many parts of the country, a green was an integral part (or sometimes a peripheral part - see below) of the planned village. When discussing a planned green it should be made clear that it was most probably not the green which was planned, but the green being the space left between the rows of houses in a planned village. The green is therefore the space left resulting from a planned settlement.

Durham can be used to illustrate areas of planned greens. Durham is an area of a large number of surviving integral village greens. Figure 17 shows a sample of 69 plans from the first edition OS 6" maps. Their shapes vary greatly and examples of broad, street and indefinite shaped greens of Thorpe (1949) can clearly be seen, with street greens the most frequent. Some of these can be seen in greater detail in Figure 15. Two features of Durham greens which come immediately to mind, and identified by Thorpe, are their large size and east-west orientation. Durham greens tend to be larger than in other parts of the country such as Norfolk or other integral planned greens of the midlands. For example, the rectangular green at Heighington measures an enormous 900' x 550', evidence of the siegnorial power involved in its foundation. Figure 18 shows the predominance of an east-west orientation of the majority of Durham greens which Thorpe identified. The reasons for this are unknown but may be along the same lines as ecclesiastical east-west orientations. Thorpe also identified the frequent presence of back lanes running behind the plots facing the green, sometimes forming a continous road around the settlement which he suggested had developed from the link up of old cart roads and drove roads leading from the ancient common fields to the farmsteads around the green. While most planned settlements are medieval in origin, some date from the post medieval period up to the 19th century (see examples in chapter 1).

From this broad method of classification into planned and unplanned greens, the greens which are not planned but which have formed and developed by organic growth have been produced from the residuum of other landscape features and for this reason they are termed residual.

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3 For a discussion of back lanes in the context of village planning, see Roberts (1990).
4 Darley (1975) gives an account of village planning and remodelling, mainly in the 18th and 19th centuries. Where landowners rebuilt their villages, they sometimes chose a to do so in an idealised, picturesque way. For example, at Somerleyton, Suffolk, and early 19th century village was laid out as cottages grouped loosely around a large green. Other notable examples include Milton Abbas (1773-86) and Cadbury's at Bourneville in Birmingham. See also Bell and Bell (1969).
Planned greens were not limited to champion areas of nucleated villages and strong agricultural communities. Planned greens may further be classified into integral village greens, where the green is in the middle of the settlement, and the less frequent peripheral greens where the green is just outside or to one edge.

**INTEGRAL VILLAGE GREENS**

Integral village greens (representing a subset of planned greens) not only have a central green within rows of houses but are also the result of a large degree of formalised planning or regulation. The distinction must be made between such greens and residual greens which now take on the appearance of an integral green due to later changes in their structure, for these types of greens were formed in very different ways. Regarding their antiquity, integral greens are generally of ancient foundation, normally pre 1300, predating the majority of residual greens. Villages with integral greens show the greatest degrees of formalised planning and regulation and their origins may in some cases be deduced by the presence of absence of a cattle drift. A cattle drift (also known as a common drove or outgang) is the land leading from a settlement and improved pasture to the unimproved grazings or wastes. These typically take on a funnel shape at one end of the village and can still be recognised in the landscape in various places today. All the greens in Figure 15 are integral village greens.

**Integral Greens with a Cattle Drift**

Similar to greens without a cattle drift, those with one also tend to be of early foundation but were normally a bit more informally structured in terms of planning and regulation. The cattle drift is clear evidence that the settlement was on the margins of improved land at the time it was planted, the cattle drift being the routeway out onto the waste. The morphology and extent of the drift was thereafter controlled by lateral development and encroachment onto the waste. See, for instance, Staindrop in Figure 15 where at the western end, three stages of cattle drifts can be seen being likely additions to the settlement originally nearer the church.

**Integral Greens without a Cattle Drift**

Many surviving integral village greens do not have cattle drifts. Sometimes this is because the cattle drift has been lost by rebuilding, inclosure, etc., but the distinction must be made between these and where the village never had an attached common drove. These villages tend to be more formalised than those without and it would seem likely that these were planned because the settlement was already surrounded by arable and meadows so a funnel-shaped drove to the common could not be possible. See, for example, Trimdon, Hett or Heighington in Figure 15.

**PERIPHERAL GREENS**

Villages with a peripheral green are normally also of ancient foundation and may display evidence of planning. Although now surrounded by fields, the arrangement of the green reflects the former presence of the common or edge of the waste, as such a green must have once been the cattle drift of an integral green, as above. The theoretical development of a peripheral green is illustrated in Figure 16. Part (I) shows a settlement, possibly planned and planted, on the edge of unimproved land such as a common or waste. Assarts onto the waste form a cattle-drift in (II) and as the intaking of the waste is increased in (III), the useful piece of green space on the edge of the settlement is kept for grazing livestock which may then itself

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5 For example, there is evidence in Norfolk (an area normally associated with residual greens) of the green at North Elmham having been laid out in the 12th or 13th centuries where houses had been in Saxon times (Dymond 1985).
Figure 15. TYPES OF VILLAGE GREEN PLANS - INTEGRAL VILLAGE GREENS
Figure 16. PERIPHERAL GREENS

I

II

III

IV

Source: Roberts (1987)
Figure 17. VILLAGE GREEN PLANS OF COUNTY DURHAM
Figure 18. EAST-WEST ORIENTATION OF DURHAM VILLAGE GREENS
be inclosed, the endpoint being a green lane in (IV) before total destruction. Of course, settlements can be found representing all stages of this hypothesised development sequence.

RESIDUAL GREENS

Greens which are not the result of formalised planning but are formed from the presence of former elements in the landscape (such as commons or the boundaries between territories) are termed residual greens. It has been recognised that this type of green on Essex, Suffolk and Norfolk clays is associated with a distinctive form of dispersed settlement pattern.\(^6\) In such cases, it should be noted that the greens or commons on which the settlement has accreted have long been there, it is not until the settlement arrives that they actually become village greens (a term which includes settled pieces of green or common without the size and status of a nucleated village). Residual greens may be formed from pieces of common or wasteland being colonised by settlement. Such greens are typically different from planned greens in a number of ways, most obviously in that they frequently have a 'green name' and have a strong association with the woodland zones of England.\(^7\) Residual greens tend to be later formations than planned integral or peripheral greens,\(^8\) and are often in more marginal environments. A useful study of such greens has been undertaken by Warner (1987) who noticed similarities between greens on the Suffolk claylands and those in the north London suburbs, and the claylands of south east Birmingham, Norfolk, south Buckinghamshire and East Hertfordshire. He suggested that the presence of divided lordship was an important factor in their formation. Numerous freemen under divided lordship allowed a recolonisation of the claylands before 1086 with such lordship and numerous small manors a reflection of the dispersed greenside settlement pattern which largely remained (with a few desertions - and probably a few additions) until the inclosures.\(^9\)

GREEN NAMES

The use of place-name evidence in landscape history studies has long been appreciated\(^10\) and this technique can be used in the study of greens. The settlements formed around residual greens normally have the word 'green' as a secondary and separate element to their name, (for example, Pinner Green). The main element to the name may be the name of the local parish or township or centre of earlier nucleation, or may be a personal name or some landscape feature (see below). The distribution of settlements with green names (and residual greens)

\(^6\) Smith (1964).
\(^7\) See chapter 4.
\(^8\) This study shows the majority of greens names in Hertfordshire were first recorded in the 17th century (see below).
\(^9\) Warner (1987) identified a pattern of landholding and tenement formation associated with these greens; (i) Those which started out as dependent tenant farms established on the inside of ring-fence boundaries where the land was in return for plough works or other services. There were also grazing rights beyond the farm boundary which could be converted to inclosures. (ii) Those established outside the boundaries of earlier estates but still held land within the ring-fence in return for labour services and the land around the tenement formed from wasteland instead of common rights. (iii) Those well outside the older estate boundaries where extensive moorland wastes near parish boundaries had been inclosed and shared between several different manors implying the co-operation of manors. It may be that these were freemen at Domesday in more marginal claylands, particularly with late place-names. Freedom may have been from labour services with holdings too far from the manor with no share of land intermixed with the demesne. He suggests the high proportion of freemen to villains linked the colonisation of the claylands and the spawning of new holdings by older tenements and manors.
\(^10\) See, for example, Gelling (1978, 1984), Cameron (1961), Forsberg (1950), McClure (1910), Matthews (1972), Reaney (1960), Stokes (1948), Ekwall (1936)
follow distinct national patterns. In some areas such as Hertfordshire, green names form the
dominant settlement type with residual greens widespread throughout the county but in other
places such as Northamptonshire they are almost entirely absent. In general, green names are
to be found in two bands either side of the great village belt running up through central
England. They are frequent from Somerset up to Cheshire and Sussex through to Norfolk.
They tend to occur in the wood pasture zones rather than in the champion landscapes and are
generally present in areas where the nucleation of villages never occurred - landscapes of
'greens' and 'ends' where early piecemeal inclosures formed irregular field boundaries. The
distribution of green names is discussed more fully in chapter 4.  

**Types of Green Names**

Place-name evidence of green-name settlement can provide an instructive subject for study.
Their names may give clues about green colonisation and settlement history for some may
carry the names of nearby earlier settlement or be related to local personal, landscape of other
names. Using Hertfordshire as an example of densely distributed settlements with green names,
the volume of the English Place-Name Society (EPNS) survey can be used as a source of
information on both the origins of the name and the earliest known date of its recording. A
search through the EPNS volume for Hertfordshire gives 165 green names of which 108
(65%) have definite first datings, and 42 (25%) have an indication of their origins. The
research has shown that the origins of green-names take on 3 main types;

1. Those resulting from place-names, e.g. Croxley Green
2. Those named after landscape features, e.g. River Green
3. Those derived from personal names, e.g. Levens Green

Of the 42 green-names in Hertfordshire for which we have data, the majority come from
personal names.

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal</td>
<td>18</td>
<td>43%</td>
</tr>
<tr>
<td>Places</td>
<td>9</td>
<td>21%</td>
</tr>
<tr>
<td>Features</td>
<td>8</td>
<td>19%</td>
</tr>
<tr>
<td>Other</td>
<td>7</td>
<td>17%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>42</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

In regard to settlement history, the earliest dates of recordings of these names give a *terminus
ante quem* of their age. Of the 165 green-names in the Hertfordshire volume of EPNS, 108
(65%) have definite first datings, whereas for many greens named after people, there is an
assumed date from the recording of the person's name. The distribution of definite datings
ranges from 1335 to 1840 but peaks sharply in the 17th century - half the green-names were
first recorded in this century.

<table>
<thead>
<tr>
<th>Century</th>
<th>14th</th>
<th>15th</th>
<th>16th</th>
<th>17th</th>
<th>18th</th>
<th>19th</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>8</td>
<td>14</td>
<td>21</td>
<td>52</td>
<td>8</td>
<td>5</td>
<td>165</td>
</tr>
<tr>
<td>Percentage</td>
<td>7%</td>
<td>13%</td>
<td>19%</td>
<td>49%</td>
<td>7%</td>
<td>5%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Settlements with a green name may retain their area of green, or as in Daffy Green in Figure 2, the
green may have been inclosed but the name remains.

108
This does not match well with the data derived from assumed personal datings, which tend to be considerably earlier.

<table>
<thead>
<tr>
<th>Median values</th>
<th>Definite</th>
<th>Assumed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1629</td>
<td>1296</td>
</tr>
</tbody>
</table>

The range between the differences of dating by definite or assumed methods varies from 5 to an enormous 473 years with a mean of 244 years and a median of 229 years. The personal names, therefore, predate the earliest recordings of the same definite place-names by an average of over two centuries. Comparing these same greens which gave a median of assumed age, from the earliest record of personal name, of 1296 with the definite first recording of the actual place-name or green also shows a considerable difference. The median for the 18 personally named greens is 1601. The average ages of green-names can also be calculated according to the type of name (i.e. place, personal or feature, as above)

<table>
<thead>
<tr>
<th></th>
<th>Place</th>
<th>Personal</th>
<th>Feature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medians</td>
<td>1442</td>
<td>1601</td>
<td>1647</td>
</tr>
</tbody>
</table>

This shows that, on average, green-names containing a place element predate personal names by around 150 years, with greens named after landscape features about 50 years after that, although personal and feature names do both first occur in the 15th century, e.g. Potters Green 1449, Eastend Green 1420. To summarise the findings of this research of green-names in Hertfordshire, the evidence suggests that green colonisation was certainly taking place by the 14th century and probably earlier. The average figures of the 17th century may just be due to lack of earlier documentation about an existing green rather than following any real trend in settlement, and most of these greens may have already been there for several centuries. It is possible that the earliest colonisation of greens in Hertfordshire were settlements taking the name of the vill or parish or main existing settlement, followed by new settlements taking a personal name and later those named after landscape features.

To continue with the classification of village greens, it is often useful to further classify residual greens depending on the type of land out of which they were formed. Residual greens may result from colonisation of pieces of common land to form common greens, from the waste land between two territories which give border greens or from wetter, uncultivated parts of the manor in which case they are meadow greens, any of which may well expected to have a green-name. The elements of this sub-classification of residual greens into common, border and meadow greens are by no means exclusive. It is possible, and indeed fairly likely for a green to form from a piece of common land which also provides a boundary between two territories, thus being both a common green and a border green.

**COMMON GREENS**

Chapter 1 highlighted the arbitrary division between greens and commons and the possibility of a transfer in status between the two by the accretion or desertion of settlement. What separates them is that greens have had their edges colonised by settlement whereas commons have not, although the amount of settlement needed to change from a common to a green is again difficult to determine. In general, commons are more extensive and less settled than greens. The process of transformation from common to green (into a common green) is one which has occurred frequently in many parts of the country (more so in woodland than champion regions), and in some areas such as Norfolk, was the 'normal' process of settlement
development in the Middle Ages and after. Figure 26 shows that Greens may form on the edge of heaths as in Wickham heath (in effect the same as a common) or where many townships border an extensive heath, they may each use the common which develops many names relating to the nearby settlements.

The processes in the development of common greens can best be illustrated by a theoretical model, followed by some real examples. This is shown in Figure 20. Part (I) shows settlement around a church (but could also be around a hall or manor house) and also further out into the arable fields and closes with an extensive common beyond the edge of the cultivated land. The common waste provides grazing for the locals' creatures but is also a reserve of land which can be colonised to extend the arable. In part (II), some of the common has been inclosed and an increase in population has spilled out onto the edge of the common. By part (III), more of the common has been turned into closes, but a small proto-green is beginning to take shape on the edge of the common north of the church, with houses around three sides of a rectangle. Extensive further inclosure of the common in part (IV) has resulted in a green surrounded on all sides by houses. This theoretical model can be strengthened by real examples using evidence from old maps, to be seen in the examples given below. One type of residual green frequently found in many parts of the country is the green formed out of the remains of a former common. These too normally have a 'green name' appellation. In typical form today, many such greens are situated between the bifurcation of two roads, probably formed from the remains of encroachment onto a former cattle drift, as can be seen in the following example of Twickenham Green.

**Twickenham Green**

The development of a common green can be well illustrated by reference to Twickenham Green for which several early maps survive. Figure 21 shows the development of this green from the early 17th century. Modern maps of Twickenham Green show this typical pattern of a triangular green at the apex of two diverging roads where the extent of the former common and cattle drift can clearly be deduced. The best early map of the area is Glover's map of 1635. This shows the area which later became Twickenham Green as the end of the long strip of Twickenham Common, itself part of the much larger area of Hounslow Heath. Figure 19 shows its context in the surrounding areas of the heath. From prehistoric times, the area formed part of the forest of Middlesex and is thought to have become a heath (Martin 1984) when it was cleared in the Middle Ages. Twickenham Common on the south eastern edge of the heath is bounded on one side by the lands of Twickenham and on the other side by a finger shaped extension of inclosures along the River Crane which by 1635 formed the open fields of Lampton. The earliest map of the area is dated 1607. While this does not show buildings, it does show that some assarts onto the common had been undertaken for there are four small inclosures at the far end of the common which look like the gardens of houses. Glover's map of 1635 shows Twickenham Common as one extremity of Hounslow Heath and by this time, a small settlement named Heathrow (Heth-rowe) had already gathered around one end of the common. On Roque's map of 1746 the settlement of Twickenham Green is named at this end of the common. It could be possible, then, that this area acquired the

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12 See chapter 4.
13 Martin (1984). In Saxon times everyone was free to hunt there (VCH vol. 3, p.94) but the Normans introduced severe restrictions on the area when it became a royal forest called the Forest or Warren of Staines. In 1495 its area extended to a massive 4293 acres (known from an attempt to inclose it by statute). In 1227 the forest laws were lifted and the warren became free land.
14 From Glover's Map, 1635.
Figure 19. GLOVER'S MAP OF HOUNSLOW HEATH AREA, MIDDLESEX 1635
Figure 20. DEVELOPMENT OF COMMON GREENS

I

II

III

IV
Figure 21. TWICKENHAM GREEN, MIDDLESEX

- 1818 Inclosure Award
- 1894 2nd Ed. OS 6" map
- 1635 Glover
- 1746 Roque

1605

1746

1635

1818

1786

1894

1km
name Twickenham Green somewhere between 1635 and 1746, although this is far from conclusive and is likely to be earlier. There is little significant change in the settlement between these two dates although it has spread a little further along one edge of the common and there have been a couple of small island inclosures onto the common. A map of 1786 shows little further change except for some more encroachment islands onto the common, but in the main, stability has been dominant over change.

By the time of inclosure in 1819, there had been little fundamental change to the area around Twickenham Green since at least the early 17th century and possibly since the settlement first migrated there at whatever date that may have been. Some of the land around Twickenham Common was, in 1635, described on the map as 'ould fielde' arable suggesting that it was arable or open field land of some antiquity. The shape and names of other adjacent fields are evidence that they are likely to be more recent inclosures of the waste at that time. The 12 acre inclosure of Capons Close on the southern edge of the common would seem to be one of these. Indeed, the furthest inclosure along the finger of land following the River Crane and in effect separating the common from the rest of Hounslow Heath is described on the map of 1635 as 'This hath bin Enclosed but now common' which would suggest it was probably a recent inclosure which had for some reason been declared unlawful. The earlier map of 1607 clearly shows the area as part of the common not yet inclosed.

Following the parliamentary inclosure of the remains of Twickenham Common and Hounslow Heath in 1819, the present landscape soon took shape. Most of the area of the common was divided into small parcels with straight boundaries and developed as residential use. In many parliamentary inclosures of this type, this would mean the physical end of the green, although the place name would most likely survive. In this case, however, some of the common at Twickenham Green was awarded as an allotment by the Commons Commissioners. Three and a half acres was awarded as a freehold plot to the workhouse and the remainder was set aside to compensate the poor for losing their fuel rights. In practice, however, it was let out as grazing to a local farmer. In the 1860s, after the workhouse had closed, the green was sold to Twickenham Town Council for use as a public recreation ground. The green as it survives today can be seen as the direct result of an inclosure award but had historically been part of the larger Twickenham Common, itself part of the much larger Hounslow Heath and can be said to have become a green when settlement migrated there some time before the 17th century.

On the other side of the Hounslow Heath area covered by the map in Figure 19 can be seen the triangular green to the south west of Heston and the nearby North Hide Heath Common. Both of these are almost certainly common greens. On North Hide Heath was a medieval farmhouse and remained settled by only a few cottages into the early 19th century. Using Glover's map of 1635, it is possible to peel back the layers of encroachment onto the common to a time when Heston was a settlement on the common edge (Figure 22). This clearly shows that the distinctive funnel shape of the cattle-drift may also become apparent on residual greens where the settlement has not been planned or regulated. Figure 22 part (I) shows the landscape as recorded by Glover in 1635, parts (II) and (III) being extrapolations back in time to assumed landscapes. In part (I), the latest inclosure onto the heath is almost certainly the

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15 Unfortunately, the EPNS volume for Middlesex does not mention Twickenham Green.
17 VCH, Middlesex vol.3 p.87 (1962).
18 The place-name 'Heston' suggests it was founded on a heath (VCH, Middlesex vol.3 (1962) p87).
North Beaver to the south west of the open fields, and judging from its name, shape and location, the Heath Field. Removing these two latest assarts onto the heath gives an earlier landscape at (II) where the large area between the two open fields (Heston Town Field and West Field) forms a large and distinctive cattle-drift at Heston End while the North Hide Heath common still remains. Removing the later hamlet of Heston End (which must post-date Heston) and the two large common fields leads to an earlier landscape of Heston on the common edge (as its name suggests) predating the development of open field farming. While it can not be said for certain where the settlement was at this time, VCH (1962) vol.3 p.87 suggests the settlement of Heston was centred upon its church which was probably there in the late 11th century. In part (III) the remains of what was probably a former cattle-drift onto the heath can be seen above the church. An understanding of the development of these cattle-drifts and greens can be helped by reference to figure 16. Interpreting the landscape in this way somewhat changes the way in which open fields historically relate to surrounding inclosures. While it may normally be considered that the smaller, irregular fields around Heston are the result of piecemeal inclosures of the open fields, it may be that they represent the remains of an earlier and less communal farming pattern which predated the development of the open fields.

**BORDER GREENS**

As has been noted, common greens may also form the boundary between two territories\(^{19}\) in which case they may also be border greens. Border greens, however, need not always be commons, for other wastes such as heaths and marshes may be colonised to form greens. Another type of residual green - that is greens formed organically out of the residuum of some other type of landscape feature, are those formed from the remains of territorial boundaries. These are termed border greens. In common with the other type of residual greens, border greens are typically to be found in areas where a settlement pattern of hamlets and scattered farmsteads predominates, rather than one of nucleated villages, together with weak manorial structure, underdeveloped open field systems and little sense of agricultural community. They are therefore rarely to be found down the champion village belt of central England but are more frequent in the wood pasture zones on either side of the village belt (see chapter 4). Warner (1987) has made a study of this type of green in Suffolk. Figure 25 shows some typical shapes of border greens, these are in Hertfordshire in the 18th century. Figure 24 b shows part of Felversham and its adjoining parish. While it is a common rather than a green, it shows that even in champion areas such as Bedfordshire with their restricted commons, the territorial borders were often marked by strips of common land. The figure clearly shows common land from the edge of the open field strips up to the parish boundary.

To explain what is meant by a border green and how they were formed a simple hypothetical model is used as with commons greens above, and then illustrated with some examples from around the country. Figure 23 shows their theoretical development.

(I) To begin with, there is an old nucleus or administrative centre to a territory - not generally a village or large settlement cluster but maybe a hall or manorial centre or farmstead surrounded by inclosures in an agricultural unit. The space between the inclosed agricultural units is uninclosed land - in reality green space (see chapter 1). This forms the waste between the territories and as precise boundaries have probably not been formalised, they act

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\(^{19}\) Most boundaries were formalised relatively recently (see Winchester 1990) especially over common and former commons which themselves formed the boundary and are characterised by very straight present boundaries.
Figure 22. HESTON, MIDDLESEX

Source: Glover (1635)
TYPES OF GREEN

as a buffer zone of no-man's land between the separate territories which form ample common
grazing and can be eaten into by assarting if needed.

(II) and (III) As agriculture expands onto the wastes, inclosures are made up towards the
borders of the territories forming typical strips of green space or even green lanes.

(IV) From this landscape pattern of territories separated by proto-greens along their
boundaries, all that is needed to form a border green is the migration of settlement to these
greens. The possible reasons and conditions for migration are numerous and are dealt with
below. Such settlements formed around greens in this way are typically called something
'green', often associated with place-names ending in 'street' or 'end', ( for example Pinner
Green, West End or Bodham Street ).

Parish, township and manorial boundaries often follow such greens. However, moving on to
some real examples, border greens are unfortunately sometimes more difficult to identify from
the landscape than other types of residual green. Whereas, for example, common greens are
formed from relatively stable landscape features ( most commons survived at least until the
18th century and are well documented ) the land around old nuclei has generally been subject
to much change as agriculture is obviously a far more intensive use of the land than grazing on
the common wastes. Such change has been taking place from early times, well before it could
be documented on any maps. While the typical shape of some border greens and green lanes
can be clearly seen from modern or 19th century maps, deducing what has happened in the
landscape can be much more difficult, it often being necessary to rely on the pattern of
assumed ancient nuclei and field patterns.

Thwaite Common in Norfolk provides a good example of settlement around a common or
large green along a parish boundary. Figures 24 a and 24 b show the area around Thwaite
Common from Paden's map of the 1790s, the 2nd edition OS 6" map of the 1890s and the
modern OS 1:50,000 map. The two areas shown on the map in Figure 24 a are the modern
civil parishes of Erpingham and Alby with Thwaite which closely approximate to the ancient
parishes ( although there has been some amalgamation ).20 The green forms the boundary
between the parishes of Alby, Thwaite, Erpingham and Calthorpe.

By the 1790s, Erpingham, Alby and Thwaite all had isolated churches with the main focus of
settlement around Thwaite Common. These churches are all ancient in origin.21 Calthorpe had
about 8 buildings clustered around the church. If Wade-Martins (1980) is to be believed, ( see
footnote on p. 133 ) it may be assumed that former nucleations around the churches decayed at
some time in the Middle Ages and settlement shifted to the greens. Without archaeological
evidence for each site it is difficult to know for certain whether the parishes were ever
nucleated or previously had a dispersed settlement pattern. The modern OS maps in figure 24
a show that there are manorial centres around Calthorpe church and Alby church ( Manor
Farm and a Hall ). There are 3 further possible manorial centres in Alby giving a total of 4 in
Alby, 2 in Thwaite, 2 in Erpingham and 1 in Calthorpe. There is further evidence for previous
nucleation in the name of Town Green by Thwaite church on the modern map, perhaps hinting

20 This is detailed by Youngs (1980). Erpingham, which gives its name to the two hundreds of North
and South Erpingham, gained civil jurisdiction over Calthorpe ancient parish in 1935. Similarly, the union of
in 1884 of the ancient parishes of Alby and Thwaite created the present civil parish of Alby with Thwaite.
21 Bryant (1905) list their rectors which date from at least 1244 at Erpingham, 1304 at Calthorpe, 1312
at Alby and 1322 at Thwaite. Furthermore, the church fabric would suggest even earlier origins. Pevsner
(1962) finds St. Ethelbert's at Alby and St. Mary's at Erpingham mostly decorated gothic (c.1290-c.1350), St.
Margaret's at Calthorpe early English (13th century) while Thwaite church has a Norman tower.
Figure 23. DEVELOPMENT OF BORDER GREENS
Figure 24 b. BORDER GREENS
at the former presence of a nucleation around a green. With 4 halls on the edge of the common it would suggest that settlement shifted there at an early date. A visit to the area confirms its present character and landscape has changed little since Faden's time.

**MEADOW GREENS**

The third type of residual green is one which has been identified in Norfolk by Wade-Martins (1980) but may occur elsewhere. He found that settlement shifted in the Middle Ages to previously unsettled and unfarmed damper parts of the parish which had long previously been used for common grazing. Williamson's study of Norfolk gives the distinction between low commons and high commons, the high commons being on patches of poorly drained acid sands and gravels, the low commons being fens and moors in damp, low-lying areas. Taylor (1973) explains the formation of the green at Great Shelford, Cambridgeshire as the residuum of old meadowland. The two original Anglo Saxon villages were separated by a triangular area of meadowland. As both villages grew, houses were built along the edge of the meadow and the two villages eventually joined and became one settlement with a central open space forming the green. Figure 27 shows an example of a meadow green. The 16th century map of the church and green shows it on a piece of marshy land next to the River Glaven.

**OTHER TYPES OF GREEN**

**FOREST GREENS**

Rather than being strictly a type of green, forest greens refer more to their location. It is possible for all types of green to be located in a forest. The only real difference that occurs when a green is within a forest is that it becomes subject to forest law. This is discussed in chapter 2.1.

**TOWN GREENS**

Since the mid 19th century, legislation concerning village greens has expressly included town greens as well. Expansion of major cities since the 19th century has swallowed up many villages which were once separate causing many former village greens to now be in urban areas. London and Birmingham are good examples of this. See London section, chapter 2.3

**London Greens**

Chapter 2.3 has shown that the great majority of London greens are of the residual type (see p. 111) with green names. Warner (1987) highlights the similarities between many London greens and his study of Suffolk greens and mentions Wood Green, Golders Green and Norwood Green. The study of Twickenham Green shows the origins and development of a green of this type within London.

**Suburban Greens**

Nearly all the suburbs of outer London are less than 150 years old (many date from the 1920s and 30s) and most suburban landscapes are radically different from their rural predecessors. A closer look, however, reveals that this is not always the case. In Ealing, a west London suburb, many greens and common still remain and show the considerable effect that old greens and commons have on shaping the present landscape.

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22 Early medieval Ealing was probably mainly engaged in arable farming as there was a large amount of open field with comparatively small commons. (VCH, Middlesex vol 7 p. 100-172) There was a change to stock rearing in later medieval times which continued, accompanied by enclosure and by the 18th century little remained of the open fields. VCH explains how this change of agriculture produced a shortage of common grazing. A stint had become necessary by 1474 and various groups were repeatedly excluded from then
Figure 27. MEADOW GREENS

'A map of Blakeney Haven and Port of Cley 1586'

CLEY, NORFOLK 1894

Source: 2nd Ed. OS 6" 1882
COMMONS
Any useful study of village greens must include something on commons for the two are closely related. As has been seen in chapter 1 the difference between greens and commons is not always clear, but while the division between the two may be very fine, sometimes a common is unmistakable as anything else. Many greens were formed out of former commons (see above) and many present greens were once commons.

RECREATIONAL LAND
In most parts of the country, registered greens include some recreation grounds and allotments. In most cases, these have been excluded from the study as not being true greens. These are typically smallish fields owned by the parish for recreational use and may be used as football and cricket pitches or have recreational equipment such as swings or a climbing frame. Some may be relatively recent acquisitions or gifts to the parish and some may be genuine inclosure awards allotted to the parish poor to compensate for their loss of common rights. Very few recreation grounds registered as village greens now have common rights. For example, Figure 28 shows a recreation allotment in Bedfordshire which has been made out of a former village green, the remainder of the green being inclosed for exclusive use and control.

This chapter has shown that a classification of greens depending on their origins is a largely successful method in providing a working classification but terminological difficulties and problems of definition inevitably arise. The broad division into planned and unplanned greens covers two types of origins but intervening origins between these two extremes in practice account for most greens. Furthermore, origins and morphologies are often interrelated. Greens are thus the result of abstractions of common waste and pastures by planned efforts and also by accidental factors.

onwards. The shortage of grazing and value attributed to these commons probably ensured their survival into the 18th century. Roque’s map of 1770 shows numerous greens and common in Ealing, the main ones being Ealing Green, Ealing Common, Ealing Haven. Ealing Dean and Castle Bear Common to the north. Settlement was centred around Ealing and the Green with some cottages around Ealing Haven and on one side of Ealing dean with various scattered farmsteads throughout the area. The present landscape of Ealing, although it is almost entirely built up and suburbanised from the 19th century still retains a large amount of surviving greens and commons. Ealing Green, Ealing Common and most of Ealing Haven have survived, although most of Ealing Dean and all of Castle Bear Common have gone, these remaining greens providing distinctive and valuable features of the landscape.
Figure 28. RECREATIONAL ALLOTMENT

[Map of a recreational allotment area with specific markings and labels, including a scale of 75m.]
This chapter examines the national distribution of the types of green reviewed in chapter 3. This covers the greens themselves and also distributions of ownership classes, common rights and the creatures included in these rights. Some smaller scale distributions provide deeper analysis.
Having clarified the legal position of village greens and discussed the different types which are and have been present in the landscape of England, the study is completed by a description and an attempt to explain and account for their distribution. An appraisal of the distribution of selected types of green has been made possible by the construction of a national database of registered greens1 from which these various distributions have been mapped both nationally and on more local scales.2

Initial comparison of the distribution of registered greens with that of nucleated settlements produced some unexpected results. It may reasonably be expected for village greens to be found where villages are to be found but a comparison with the distribution of 19th century nucleated settlement shows no clear relationship between the distribution of villages and village greens (see Figure 32 a). While in northern England the two distributions are rather similar, with concentrations of both villages and greens to be found in the North riding, eastern Durham, towards the coast of Northumberland, and along north Cumberland and the Eden valley, in southern central England, the two distributions tend to be more dissimilar. In various parts of the country there can be found areas of dense village concentrations with few greens and areas of dense greens associated with areas without nucleated settlement. It is, therefore, clearly not a case of greens being lost from some areas more than others, hiding a former distribution once identical to that of nucleated settlement.

In moving towards an explanation of the distribution, these results posed a number of questions relating to both the quality of the data regarding its collection and its relation to past distributions, and also relating to the precise types and categories of land being mapped. It is crucial when analysing distributions of this sort to clearly understand the nature of the data and the method which has been used to collect it, together with an appreciation of the degree to which the present distribution is affected by uneven survival of past distributions due to various circumstances.

In determining the degree to which the distribution either on one hand reflects what is in the landscape or on the other is an artefact of the data, two sets of factors must be considered; the longterm factor of differing degrees of survival of greens in different areas and the shorter term factor of registration which occurred in the 1960s (which forms the data set used for this study). The longterm factor of survival is one which can greatly affect the distribution and is also something which can be very difficult to determine in its extent. Two contrasting areas of dense greens and very scarce greens, for example, may be due to greater loss in one area from 18th or 19th century parliamentary inclosures rather than there being one area where greens never developed. The important question this raises is one of the historical significance of what the data now represents. To what extent is the distribution a product of what has been destroyed? Has the destruction and loss of greens been uneven enough to significantly alter the national or local distributions? This leads to the larger question

1 See chapter 2.2
2 The database was constructed on dBase IV and contains over 4000 records each of 11 fields of data covering name of green, acreage, ownership, common rights and a national grid reference for each green.
of the extent to which land ownership has played a part in their destruction and preservation.

The shorter term factor which could affect the distribution is that of registration both in terms of data collection methods and the precise types of land which had been registered. Considering first how the data was collected, any regional variations of collection methods or intensity could have profound effects on the resulting overall distribution. The data was originally compiled in the 1960s under the **Commons Registration Act 1965** following the recommendations of the Royal Commission on Common Land (RCCL 1955-58). It was collected by local authorities at county and county borough level under statutory guidelines. The precise procedures of registration are discussed in chapter 2.2 but basically it was the responsibility of the local authority to compile and maintain a register of village greens and common land upon application by the public or other interested body. This meant there could be great regional differences in public interest in registration. For example, the late 1960s marked the early years of the popular conservation movement which may have had the effect of maximising the registration of potentially registerable land in fashionable or enlightened areas like the Cotswolds contrasting with the nearby but very conservative and in some ways underdeveloped area of England west of the River Severn. In general, it would be expected that the south of England, especially the South East would be more likely to be favourably aware of registering small pieces of (common) land in that area than the more backward North. This is not to say that many greens were not registered in the North, especially in Yorkshire and Durham. In county Durham, for example, many of the greens are very large, having survived over the years in the highly conservative environment of the estates of the Bishop and the Dean and Chapter, the greens themselves remaining such important and well known foci of the nucleated settlement and their inhabitants, they could not easily escape registration. In the more conservation-conscious South East, however, a greater degree of registration of less obviously registerable land may have occurred creating a denser distribution in these areas than the actual landscape would suggest. The degree to which this has affected the distribution is difficult to determine but it is an important factor to be aware of.

As has been seen, there are some problems to confront when analysing such distributions, and the degree to which the results are affected by artefacts of the data rather than representing what is in the landscape is a factor which must be considered when providing an explanatory interpretation. A further problem which must be added to these is the matter of eliminating false greens. Registered greens have been found to include some land which because it has been registered, is now legally village green but has not historically been a village green. For example, Berkshire has 11 registered village greens which are actually recreation grounds rather than greens. Most counties contain registered land which is not, as has been seen in chapter 1, 'green space'. It was important to eliminate these false greens which could have been clouding the real distribution. The information used to make the decision as to whether the green was a

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3 See chapter 2.2.
4 This is in some ways similar to early distributions of archaeological finds which really showed the locations of active archaeological units rather than any useful underlying distribution.
5 This study has shown that nationally, one third of registered greens are 'false greens' (see chapter 2.2).
true green or a false green was the name of the land as recorded in the register. From this data, 9 sets of green types have been noted and using these different types, selected distributions of one or more of these sets have been mapped. When discussing the relatively large number of distributions to follow, it is important to consider exactly what types of land these maps represent. Chapter 3 discussed the various types of green which can be found in the landscape and in order to produce national distributions of these, the different types identified in the last chapter had to be related to what had been registered in the 1960s. Using fictitious cases as examples, the following types of entry have been identified

<table>
<thead>
<tr>
<th>Code</th>
<th>Example</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>VGVG</td>
<td>The village green, Woodley</td>
<td>'Village Greens'</td>
</tr>
<tr>
<td>VGUG</td>
<td>The Green, Woodley</td>
<td>'Unspecific Greens'</td>
</tr>
<tr>
<td>VGGN</td>
<td>Woodley Green</td>
<td>'Green Names'</td>
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<td>GNPN</td>
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<td>'Green Name Place Names'</td>
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<tr>
<td>VGFRA</td>
<td>Woodley Recreation Allotment</td>
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<tr>
<td>VGFRG</td>
<td>Woodley Recreation Ground</td>
<td></td>
</tr>
<tr>
<td>VGF</td>
<td>Woodley Memorial Gardens</td>
<td></td>
</tr>
</tbody>
</table>

These are registered greens which contain the term 'village green' on the register. There can be little doubt that the great majority of these are what are publicly and commonly meant by the term 'village green' - areas of communal grass in the space formed by surrounding houses.

Registered as 'The Green' rather than 'village green' or 'something green'. These are probably mostly integral village greens as above.

There are registered greens with 'green' as a secondary and separate element to the place-name. It is likely, however, that while some of these refer to settlements with the 'green' element being part of the place-name, some refer to actual physical areas of grass or green. Within this set of greens, two subsets have been identified - namely VGGNC and VGGNS which refer to the relatively frequent occurrences of 'Church Green' and 'School Green'.

These three sets together (VGVG, VGUG, VGGN) are what is left when false greens have been removed from the data and for this reason these together are called 'True Greens'.

A precise match of types identified in chapter 3 with the sets selected for distribution would require and examination of a plan at a suitable scale of each of the 4,000+ greens which is clearly impractical. As with the elimination of false greens (above), the registered name has been used.

"That's Woodley and that's (pointing to the ground) Woodley Green, as you might say that's Woodley church".

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interesting as distributions in themselves, must be removed from the distribution map of true greens.

VGFLN Hunters' Patch, Woodley  'False Greens, Named Land'
VGFLU Land at Woodley  'False Greens, Unnamed Land'

These are other types of land which may or may not have a name and should also be removed from the distribution.

VGFCL The Common, Woodley

Sometimes commons are recorded in the registers of village greens. While the division between greens and commons is unclear, as has been discussed in chapter 1, commons are generally larger pieces of land over which there are or have been common rights or were manorial waste and need not be faced by houses along the edge. Some of the commons in this set are likely to be greens which have the local name 'common' and inclusion of them in the village green register may be significant in this respect. This set, however, forms a small number of the total. The separate registers for common land and village greens meant that the first 3 sets (VGVG, VGUG, and VGGN) were also duplicated in the registers of common land. These have been coded CLVG, CLUG, and CLGN. These have been added to their respective VG sets rather than treated separately.

A look at the national picture of registration shows the extent to which false greens have clouded the distributions. Nationally, 'true greens' (VGVG, VGUG, VGGN, CLVG, CLUG, and CLGN) account for only two thirds of all registered greens, the false greens being recreational and other land in roughly equal proportions.

<table>
<thead>
<tr>
<th>Types of Green</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>VGVG</td>
<td>20.4</td>
</tr>
<tr>
<td>VGUG</td>
<td>11.2</td>
</tr>
<tr>
<td>VGGN</td>
<td>17.8</td>
</tr>
<tr>
<td>VGFCL</td>
<td>1.3</td>
</tr>
<tr>
<td>VGFRA</td>
<td>2.0</td>
</tr>
<tr>
<td>VGFRG</td>
<td>5.1</td>
</tr>
<tr>
<td>VGFR</td>
<td>9.2</td>
</tr>
<tr>
<td>VGFLN</td>
<td>10.3</td>
</tr>
<tr>
<td>VGFLU</td>
<td>6.0</td>
</tr>
<tr>
<td>CLVG</td>
<td>1.4</td>
</tr>
<tr>
<td>CLUG</td>
<td>2.3</td>
</tr>
<tr>
<td>CLGN (registered as commons)</td>
<td>12.9</td>
</tr>
<tr>
<td>Other</td>
<td>0.2</td>
</tr>
</tbody>
</table>

True Greens 67 %  
False Greens 33 %

With this explanation of types of green sets and with the previously discussed caveats and reservations in mind, there now follows a description and discussion of the individual distributions themselves. Following the discussion of sources and an explanation of the different sets of greens identified, an introduction to the physical
background of England and a view of settlement and nucleations provides the necessary context for the subsequent discussion of distributions.

CONTEXT TO THE DISTRIBUTIONS

Physical Regions

England may simply be divided by its physical structure into highland and lowland zones, the highlands of the Pennines sweeping up from Derbyshire to the Scottish borders including the Lake District, together with the North Yorkshire Moors and in the south west, Devon and Cornwall with Exmoor, typically subject to high rainfall with thin infertile soils generally unsuited to intensive arable cultivation. In contrast, the rest of the country is the lowland zone with more favourable soils and climate. The major escarpments are centred around a series of related escarpments sweeping up the middle of the country from the south Dorset coast up through to East Anglia and a second series running up through the Cotswolds, East Midlands up into Yorkshire, east of the Pennines up into Durham. There is a further series of escarpments following the North and South Downs. The land between and to the east of the escarpments is characterised by chalk and limestone geology, becoming drift through northern Essex and into East Anglia. To the west of the great central escarpment are the large areas of heavy clay lands interspersed with sands and gravels, becoming drift again in the far north and west.

Landscape and Farming Types

Related to its physical structure are the different types of landscape evident within England and methods by which the land can be worked. Figures 32 a and b show landscape and farming types of England. A comparison of the physical regions of England with its landscape and farming types shows some major general similarities but with much local variation in detail. For example, the escarpments of the North and South Downs inclose an area of forest and woodpasture landscape types which corresponds to a farming type of woodpasture with stock fattening. The East Anglian drift lands, however, cover an area of both woodpasture and heathland which does not entirely represent the boundary between woodpasture and mixed farming types. Clearly, the underlying physical structure of England can partly explain its landscape and farming types, but other factors are also at work.

The View of Settlement

The subject of village greens is clearly directly linked to that of settlement. Rural settlement in England can vary in terms of nucleation from landscapes of large nucleated villages (as are found in Durham) to areas of isolated farmsteads (for instance, in parts of Devon). In between, there are settlements with varying degrees of dispersion and nucleation including smaller villages, loose strung-out villages, linked settlement clusters and hamlets. While all types of settlement normally occur in most parts of the country, there are clear regions where particular types dominate. Thorpe (1964) has produced a national map of settlement types which shows the correlation of nucleated settlement regions with champion regions with woodland zones generally associated with hamlets and isolated farmsteads. A choropleth map of mid 19th century nucleated settlement (Figure 32 a) shows villages to be concentrated in a

9 See Figure 32c.
Figure 32a. CONTEXT TO NATIONAL DISTRIBUTIONS

MID NINETEENTH CENTURY NUCLEATED SETTLEMENTS IN ENGLAND AND WALES

- Towns
- Large villages and small towns
- Villages and hamlets
- Hamlets and small villages

SETTLEMENT AND FIELD SYSTEMS: SOME KEY BOUNDARIES

- Great village belt
- Boundary of Highland/Lowland zones
- Eastern and western limits of boy- and three-field system
- Arable farming regions 1660-1750

ENGLAND: TYPES OF FARMING (after Thirsk)

- Mixed farming types
- Pasture farming types
- Open pasture
- Wood pasture

ENGLAND: DESERTED MEDIEVAL VILLAGES

Source: Roberts
Figure 32 b. CONTEXT TO NATIONAL DISTRIBUTIONS

ENGLAND: LANDSCAPE TYPES

Source: Roberts

WOODLAND IN 1086

Source: Darby (1976)
Figure 32. CONTEXT TO THE DISTRIBUTIONS

<table>
<thead>
<tr>
<th>Settlement Types</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Village settlements</td>
<td>Associated with hamlets and dispersed farms</td>
</tr>
<tr>
<td>Hamlet settlements</td>
<td>With occasional villages and many dispersed farms</td>
</tr>
<tr>
<td>Predominantly scattered homesteads</td>
<td>With occasional hamlets and villages</td>
</tr>
</tbody>
</table>

**SETTLEMENT TYPES**

Source: After Thorpe (1964)

Source: Williamson and Bellamy (1987)
Figure 32 d  CONTEXT TO THE DISTRIBUTIONS

SHILLINGS PER SQUARE MILE

<table>
<thead>
<tr>
<th></th>
<th>16 and over</th>
<th>8 - 15.9</th>
<th>under 8</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

? No Information

WEALTH ASSESSMENT 1225

Source: Dray (1976) based on Cazel (1961)

SHILLINGS PER SQUARE MILE

<table>
<thead>
<tr>
<th></th>
<th>16 and over</th>
<th>8 - 15.9</th>
<th>under 8</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

? No Information

WEALTH ASSESSMENT 1334

Source: Dray (1976) based on Willard (1915)
great band running up the middle of England and are thus associated with champion landscapes.

Linking the physical landscape with settlement and social structure, England has long been classified, with some degree of success, into a large central zone of champion landscape, flanked on each side by two woodland regions. Such obvious differences in the landscape were first recorded in the 16th century. Landscape differences were apparent by then in terms of contrasting field systems, the extent of surrounding wastes and in settlement patterns. These were the direct result of farming methods and the process and extent of inclosure, which themselves were caused by various interlinked social and political factors. Champion communities were characterised by mixed farming methods of both arable and pastoral livestock rearing and typically had 2, 3 or 4 large common or open fields which were farmed communally in strips. Woodland regions differed from this by concentrating on stock rearing with any open fields small and numerous with many individually worked closes. The arable farming system of the champion zones needed the wastes to support it - as pasture for creatures to plough the fields (and also for milk, wool and meats) and the meadows to provide hay as winter feed for these animals. The wastes in these regions were therefore highly valued and under threat from increasing arable. In woodland regions on the other hand, with their pastoral farming, the wastes were much more extensive and not threatened by erosion from the arable.

A third aspect of landscape contrasts between the two zones is that of settlement. Champion regions were typically settled with large nucleated villages surrounded by open fields with few buildings before the next village, whereas in woodland regions settlement tended to be much more dispersed. Where village did occur they were smaller and more strung-out with many hamlets and isolated farmsteads. Closely linked to these landscape differences, whether controlling them or controlled by them, are the social and political factors of manorial structure, inheritance patterns and temperament. Champion regions had not just open fields, but a system of customary agriculture. Villages acted in a communal way with a highly organised social community and strong manorial discipline. Woodland communities had less social organisation, were less communal and with many centres of settlement, manorial discipline was harder to enforce. Furthermore, stronger manorial power in champion zones was able to exert more control on inheritance procedures and enforce primogeniture whereas woodlanders were free to practice partible inheritance. Inhabitants of the two regions tended to differ in temperament with those in champion zones more civil and co-operative in outlook and those of the woodlands more stubborn, rebellious and dissenting. It is difficult to determine if this cultural difference was the result of social organisation and customary agriculture, or whether their temperaments contributed towards maintaining the different systems.

In addition to and closely related to these factors, another great shaper of the 16th century and present-day landscape was the process and extent of inclosure. In champion zones, the communal system of agriculture and strong manorial discipline made inclosure a disturbing process. Lands in the open fields were intermixed and opened for common grazing after harvest and were suited to mixed farming types. This enabled champion areas to largely resist inclosure until the 18th / early 19th centuries when whole communities were inclosed at once resulting in a redrawn
landscape of straight boundaries, new roads and small neatly hedged fields giving an 'improved' look to the landscape. Although common fields developed to a lesser extent in woodland regions, they were less suited to pastoral farming and were inclosed early and painlessly. This was a long and gradual process of piecemeal inclosure which resulted in an 'ancient' landscape of irregular field boundaries with old hedges and winding lanes. Here then is the context into which the following distributions are placed.

GNPN GREEN-NAME PLACE-NAMES

The national distribution of green-name place-names (GNPNs) in Figure 33 a. gives at first glance the most obvious and satisfying of the distribution sets. While generally present in smaller quantities in the highland zones of northern England, Devon and Cornwall, the distribution shows three major concentrations; in East Anglia and the South East, the West Midlands and along the northern Marches of Wales up into Cheshire. There is clearly a strong association between GNPNs and woodland landscapes and a strong negative correlation with champion zones. This immediately poses a number of questions concerning the relationship of this distribution with that of other facets of the woodland divide. Such questions relate to the subjects of settlement, agriculture, social and tenurial organisation and the extent of local commons and wastes.

For the first subject of this enquiry, dealing first with the matter of settlement patterns, the distribution of GNPNs is to a large extent the complement of mid-nineteenth century nucleated settlement (see Figure 32 a). The great village belt running up through the centre of the country is just where there are very few green names. In some places the division between GNPNs and the village belt is greatly demarcated - the concentration of GNPNs in the West Midlands follows very closely the edge of the village belt. On travelling east from Warwickshire where green names are densely distributed into an area where they are scarce, there is an immediate change from an area of relatively few nucleations into the dense village belt. Here, therefore there is a strong inverse relationship between GNPNs and nucleated settlement. In other areas the relationship is less strong - in much of Hampshire there are to be found neither many nucleations nor GNPNs. Going north into the highland zone, this inverse relationship weakens and seems to break down.

As has been noted, GNPNs are closely associated with woodland zones and largely absent from champion lands. That is to say, they are to be found in areas of dispersed settlement which had extensive commons and wastes in the 16th century, where pastoral farming was dominant over arable and where the social organisation tended to be less communal and the manorial discipline weaker. Similarly, GNPNs are disassociated with the characteristics of the champion zone - areas of nucleated settlement where arable farming put pressure on the surrounding wastes and commons where there was a more communal system of agriculture and where manorial discipline tended to be stronger. It is clear that these factors are all closely linked but as it is GNPNs that are being dealt with (settlements formed around former greens and commons) it is appropriate to look closely at the matter of extensive wastes. Somewhere among these differing characteristics of the two zones must be the
Figure 33 a. NATIONAL DISTRIBUTIONS

GREEN-NAME PLACE-NAMES GNPNs

Source: Mapped from OS Gazetteer of Britain
conditions which allowed or promoted settlement around existing greens, commons and wastes. It is clearly not a case of GNPNs surviving longer in the woodland zones as these are place-names rather than existing greens, for in some GNPNs the greens survive today but in many they do not.

As study of GNPNs in Hertfordshire shows that the majority of GNPNs were first recorded in the 16th century, although many were earlier. This means they are at least as old as the 16th century and possibly much older. At this time, one of the principal differences between champion and woodland zones was the extensive wastes and commons of the woodland regions and their relative scarcity in the champion. To explain this it is necessary to look at the different agricultural systems dominant in the two zones. Thirsk (1967) has described how champion lands were dominated by mixed farming - that is arable and pasture, whereas woodland zones tended to concentrate on pastoral stock-rearing alone. An arable farming community of the 16th century typically had 2, 3 or 4 large common (open) fields surrounded by wastes and commons. Pastoral farming still normally had common fields but these were of less importance and the system tended to be less developed with fields small and numerous along with many individually worked closes. With the arable farming of champion regions, the surrounding wastes were of great value as they were essential to support the arable system of growing crops. The wastes provided pasture for beasts of draught to pull the ploughs, as well as for milk, wool and meat. Similarly, meadows (on the damper lands) were needed to provide hay for winter feed and the great common fields could obviously not be used for pasturing animals while under crops.

Any extension of the arable, for example to feed an increasing population, put the remaining wastes under even greater threat, increasing their value further. In the pastoral woodland regions, the extensive wastes were not threatened by erosion from the arable and were regarded with less value. This begins to account for the general distribution of GNPNs. Where the commons were highly valued and in short supply, as in the champion zone, any colonisation or squatting settlement may have been prevented, whereas the less valued woodland commons with fewer pressures would have been less inclined to do so. It may even be possible that in these regions there was some degree of encouragement by the lordship to settle on greens and commons, possibly charging some kind of rental.

In addition, there were contrasting degrees of social organisation in the two regions. Champion zones, because of their more communal system of agriculture, heavily based on a series of rights and obligations, together with the typically nucleated settlement had much stronger manorial discipline and a more highly organised manorial and agricultural community. In woodland zones, on the other hand, as their system of agriculture was less communal and there were normally several or many centres of settlement, manorial discipline was harder to enforce. This less communal system with weaker manorial discipline found in the areas of GNPNs, would have made colonisation of patches of common, green or waste easier whether by an increase in local population or from migration from elsewhere.

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10 See chapter 3.

11 For example, Glover’s map of Twickenham area of 1635 (Figure 19) shows numerous settlements on the edge of the vast area of Hounslow Heath which could provide far more waste than those settlements could ever use.
The distribution of domesday woodland in Figure 32 b. is similar to that of GNPNs and largely the reverse of 19th century nucleations in Figure 32 a. Areas with much domesday woodland imply areas which were colonised later and these are associated with GNPNs. In areas where old woodland had been largely cleared by the time of Domesday, the more champion regions, GNPNs are rarely to be found. The explanation may lie in the contrasting landscapes and their systems of agriculture with the champion system not allowing the development of greenside settlement, a process which was more commonplace in the woodland zones.

While this may provide a reasonably convincing discussion or model of the processes involved in generating GNPNs in certain areas and not in others, this still does not explain why the areas are fundamentally different, for example why the farming types and field systems contrast in the two regions. This can not be fully explained by climate, geology, soils or Saxon colonisation and settlement etc., and evidence from various sources (e.g. EPNS) suggests the differences between champion and woodland zones lie far back into the past.

Moving on from the relatively straightforward and satisfying distribution of GNPNs, other types of green appear to have much more complex distributions. The distributions mapped in Figures 33 b and c relate to the sets identified on p. 123. It should be noted initially that there is no data for Greater London and the metropolitan counties of Merseyside, Greater Manchester and Tyne and Wear. The problems of interpreting such distributions where relative regional survival and differences in data collection may play significant parts, have been discussed earlier in the chapter.

All. There is a large main concentration in south central England and the south east which is quite clearly defined to the west by Wessex and extends south to the north of the Weald and fades out north of Suffolk and across to the Cotswolds. With the exception of the North York Moors, Yorkshire is well represented and county Durham stands out in contrast from the sparse concentrations in Northumberland. Such a distribution, however, covers a wide variety of landscape features which have been registered as village greens. Separating these out and removing false greens allows a more accurate appreciation of the distributions.

VG+UG+GN Removing false greens leaves the 'true' greens. The map in Figure 33 c shows the distribution has not changed significantly from all registered greens but certain characteristics are sharpened up. The south and central England wedge is still there and county Durham stands out more clearly from its surroundings.

GN The distribution of VGGN (registered greens with a green-name) is similar to that of GNPNs (place-names with a green-name) but less confined in the woodland zones and absent from the champion. The main absence is the Cheshire concentration. While the two distributions represent residual greens they are produced from slightly different forms of data, for the VGGN distribution represents greens which are still present in the landscape and were therefore able to be registered at commons registration, while GNPNs represent place-names which may survive after the green has disappeared. It would seem clear from the maps that Cheshire has lost many of its
Figure 33b. NATIONAL DISTRIBUTIONS
Figure 33 d. NATIONAL DISTRIBUTIONS

Pannage

Estovers

Turbary

Piscary

100 miles
Figure 33 e. NATIONAL DISTRIBUTIONS

Cattle

Horses

Sheep

Pigs

100 miles
Figure 33 f. NATIONAL DISTRIBUTIONS

Goats

Ducks

Parish Council

Other Local Authority

100 miles
residual greens which were once present as green-names. For an explanation of this distribution, see above.

**VG+UG** Removing residual greens from the distribution of true greens, leaves the nearest approximation to what may be considered integral village greens. Separating this distribution into its elements of village greens and unspecific greens show similar distributions, with 'village greens' better represented in the north with a concentration in county Durham standing out. VG and UG together are well distributed throughout England but with major concentrations in the far north - Durham, the north riding or Yorkshire and the Eden valley and also a large area in the south midlands especially around Gloucestershire and Oxfordshire.

**EXPLANATION OF DISTRIBUTIONS**

With the exception of green-name place-names, the observed distribution sets give rather unsatisfactory results. The distributions are neither distinctive, what may be expected or easily explained. On some distributions, especially VG+UG+GN (i.e. 'true' greens), county Durham clearly stands out as a major concentration formed largely by its high concentrations of VGs. This concentration is so distinct that it follows fairly closely the outline of the county. As may be expected, greens become scarcer towards the western uplands of Durham and to the south, concentrations are still fairly high into the North Riding but still with a visible break at the county boundary. While data for Tyne and Wear is missing it is likely that fairly high concentrations such as this continued up until relatively recently into southern Northumberland. This would suggest that some agency of great power was at work within Durham. A look at the map of deserted medieval villages (DMVs) in Figure 32 a. shows Durham distinct from its surroundings just as clearly. The band of DMVs up through central England from Wessex continues up to the North Riding, then followed by an almost complete lack of DMVs in Durham but plentiful again through Northumberland. In this area of England it would seem that the present distribution of village greens represents very uneven survival of what was once there. While the whole of this area (Durham, Northumberland and the North Riding) was once thick with villages (and hence village greens), Durham settlements have been largely preserved whereas those to the west and south have not remained to the same extent. This is especially clear in central and northern Northumberland and may be the result of clearing and emparking by the Duke of Northumberland in the 17th and 18th centuries. County Durham, where many of these greens still remain, was largely owned by the estates of the Bishop of Durham and the Dean and Chapter until the early 19th century. These lords exerted a strong influence of ecclesiastical conservatism over the area and as a consequence it became a very backward area with a great resistance to change and many of its greens still remain today whereas in the surrounding areas they have been inclosed.

Although the mechanisms are unclear, a further possible factor in accounting for the national distribution of greens is the distribution of wealth. The distribution of all registered land shows a broad general correlation with areas of higher wealth assessment in the Middle Ages (Figure 33 h). The distribution of unspecific greens (UGs) also closely follows this pattern, especially as it does not show up in the

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12 See Watts and Watts (1975).
National Distribution

The south and central England concentration of greens which cuts across any divisions of champion and woodland zones, to some extent mirrors the distribution of wealth. The assessment of 1225 shows a stronger positive correlation than the later assessment of 1334, relating to the earlier formation of this type of village green.

The many centuries elapsed since the formation of most of the greens represented in the national distributions has inevitably contributed towards the difficulties involved in their interpretation in terms of uneven survival and loss due to inclosure. The distributions may be summed up under the influence of five dominant controlling factors. Firstly there is the matter of the physical environment. There is a tendency for greens to be associated with lowland regions of mixed or specialist farming identified by Thirsk (1967) and are thus associated with areas of restricted rather than extensive commons. The noteworthy concentration in south central and eastern England may be due to relative medieval prosperity, possibly forming a source for dispossessed peasants. The remaining two factors, in some ways negative factors, are the reliability of the sources and the regional destruction of previous distributions. The possibility of uneven registration has been discussed above, and the regional differences in inclosure relate to differing chances of survival and destruction, partly being a matter of landownership. While such distributions may not be fully or even largely understood at the moment, their existence will hopefully lead to a better understanding of greens and greenside settlement and the varying regional concentrations and dispersal of greens may in time be illuminated. It is likely that further investigations into regional or more local distributions of greens will provide the most useful insights into their understanding (see Norfolk distributions below).

Common Rights

The national distributions of common rights are shown in Figures 33 c and d and the distributions of creatures of pasture in Figures 33 e and f. Rights of pasture make up the great majority of all remaining common rights. Their national distribution shows an association with the woodland zones of England but they are also present in some number in the north and south west. A possible explanation would be the extinction of rights which occurred in the process of parliamentary inclosure which was more widespread in the champion zones whereas in the woodland regions, gradual piecemeal inclosure had taken place earlier, more often by private agreement than by the reorganisation of the whole agricultural community. The significance of this distribution probably just shows where greens have disappeared rather than representing an original distribution which must have been much more widespread, their present location being largely a negative factor of survival. Rights other than pasture are present in too small numbers to draw many conclusions from the distributions, although pasture alone accounts for most of the northern and East Anglian rights, while estovers and turbary tend to show a stronger concentration in the home counties.

Creatures of Pasture

The distributions of creatures of pasture in Figures 33 e. and f. are mainly represented in too small numbers to make much sense out of the distributions. However, ducks are
to be found almost exclusively in central southern England while goats have a larger extent of similar centre. Geese are largely distributed in the north west with a small concentration in Suffolk. Pigs may be found throughout southern England extending into the south west whereas cows, horses and sheep make up the bulk of pasture rights and follow the general distribution of total pasture rights.

**OWNERSHIP**

The national distributions of selected ownership sets are shown in figures 33 f and g. It is important to note that the distribution maps of ownership show no data for Kent,\(^{13}\) in addition to the areas of missing data in the other distribution maps. The following descriptions of distributions are compared to the distribution of all greens.

**Parish Council**
The band across southern central England is still present but there are lower concentrations to the south (especially in Surrey and Hampshire). There is a further concentration in north Cumberland and the Eden valley but Durham and the north riding are underrepresented.

**Local Authority**
There is a fairly even concentration through the midlands and central England but they are absent from eastern England above East Anglia and from the far south west and north west. There is somewhat of a concentration in Durham and some very local high concentrations on the London borders of Surrey.

**Privately Owned**
The distribution is fairly dense along the East Anglian woodland belt and in Gloucestershire up through the Cotswolds to Warwickshire where it peters out but becomes widespread again in the north. Privately owned greens extend to the far south west.

**Aristocracy**
Filtering out all other greens, it is possible to get a distribution of greens owned by the aristocracy (including baronets). There is an obvious wedge from Cornwall as far as Norfolk and they then becomes plentiful again from Morecambe Bay northwards. A number of very localised concentrations are likely to be manifestations of landholding patterns in consolidated estates.

In addition to the generalised discussion of the factors affecting the national distribution of village greens, studies at a more local scale can add the necessary depth and detail to the explanation.

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\(^{13}\) Kent County Council keep their commons registers in individual files for each register unit (contrary to statutory guidelines) making it difficult to collect data on ownership.
NATIONAL DISTRIBUTION

NORFOLK GREENS

Norfolk is an area which has its own distinctive characteristics of settlement and manorial structure but also displays great contrasts within the county. Many of its landscape characteristics show contrasts between the centre and east on the one hand, and the north and west on the other. It is also an area which has had very high concentrations of greens, many of which have since been lost by parliamentary inclosure. Beginning with an overview of the county's landscape and settlement characteristics to provide the context on which to rest the regional contrasts, this can be examined under the related subjects of settlement, manorial structure and the nature of greenside settlement.

SETTLEMENT

In general, Norfolk lacks the large planned and regulated villages of the Midlands and North. Where villages do occur, they tend to be relatively small and rather strung out affairs but more often, the community was not entirely nucleated. The settlement entities are, in essence, looser linked farmsteads and linked hamlet clusters and groups. Another distinctive characteristic of Norfolk settlement was that it has tended to be mobile. Work by Wade-Martins (1980), using evidence of the distribution of pottery scatters on fieldwalking exercises, suggests that fluidity has been the norm for settlement in this area for at least a thousand years. If Wade-Martins is to be believed, Saxon and medieval settlements have been expanding, contracting and shifting their locations, for in the mid 11th century, he suggests nucleated settlement around parish churches began to dissolve and farmsteads shifted to the edges of the wastes and uncultivated lands - the commons, moors, fens, heaths and greens.

Wade-Martins has drawn some generalisations from a study of settlement history in Launditch hundred in Norfolk. He suggests that as population grew rapidly in the 10th and 11th centuries, some small farms became villages while others were formed on new sites often at crossroads or along streets and certainly not around planned village greens as he found a complete lack of pre-conquest occupation around greens. In the village of Longham, field-walking has produced archaeological evidence for the history of settlement distribution in the parish. It seems likely that late and middle Saxon settlement was around the now isolated church. During the Middle Ages, some was still around the church while the rest had moved to nearby Southall Green. In the 14th century there was almost continuous occupation along both sides of this green and very little around Kirtling Common to the east, but by the 16th century as can be seen from the plan (Figure 30), the edge of Kirtling Common had been settled. He goes on to suggest that in the 10th and 11th centuries, settlement grew around the mid-Saxon nucleus by the church, with Southall Green settled in the 12th century. With increasing accretion at this point, settlement had spilled over onto Kirtling Common by the end of the Middle Ages. As may be expected for such a settlement pattern in Norfolk, the church is on one of the highest points in the parish with the

14 In Launditch, a hundred of central west Norfolk.
15 Ford (1980) suggests that fieldwalking is useful in removing the distortions caused by aerial photography which shows up cropmarks depending on soil types but the two main problems with this method of research appeared to be the technique, ability and distribution of the fieldwalkers themselves and the quality and methods of publication. For a fuller discussion of fieldwalking techniques, see Hayfield (1980).
greens on damp, lowlying ground no doubt less suitable for cultivation. This discussion of greens, green-names and common-edge settlement illustrates some of the terminological problems in a study of greens.

It is likely that, as population increased to the early 14th century, pressure on the land was intensified creating more demand for land. These greens and commons were probably used for communal grazing by the time of the conquest, he suggests, although not settled until the 12th century. In Launditch hundred, gradual movement to the greens from higher sites in the 12th and 13th centuries may have been the result of better drainage from the accretive digging of ditches and drier conditions but it would also seem likely that with intensified arable farming in the parish, these uncultivated greens became even more important as a means of grazing for livestock, especially draught animals and possibly use as hay meadows but this does not fully explain the need for settlement around the green.

Isolated Churches
One clear manifestation of this shifting pattern of settlement is the presence of isolated churches in the landscape. The distribution of these are shown in Figure 34 a. While in some parts of the country, isolated churches are the result of depopulation or settlement desertion, it would seem that most of Norfolk's isolated churches are not due to depopulation but to population migration within the parish or vill / township. There is, however, the possibility that the churches have always been isolated or were located next to the manorial centre - a hall, farm or manor house, their presence being a continuous feature in the landscape, for in a parish of scattered settlement, the church can not be the centre of nucleation. Attached to the details of settlement is the deeper and more subtle matter of the organisation of the manor, the economy and society.

MANORIAL STRUCTURE
Many writers have demonstrated the great contrasts in the regional impact of manorial discipline and organisation and in Norfolk the Lordship tended to be relatively weak and relaxed. This pattern of a mobile, shifting settlement lacking any large nucleations, is a reflection of weak manorial structure. Postgate (1973) has described how manors in Norfolk in the Middle Ages were small and rarely coincided with vills / townships with most places containing more than one manor. Furthermore, the landholding structure was made highly complex by large amounts of subinfeudation. There was little reduction in the number of independent lordships before the 17th century, when there was a trend towards the amalgamation of estates leading to a reduction in the

16 See Beresford and Hurst (1971).
17 In addition to those given by Wade-Martins (1980), Dymond (1985) gives some examples of isolated churches resulting from settlement drift. For instance, at West Dereham, the settlement spread from around the church down the hill to leave the church isolated. At Caldecote, shifting settlement had isolated the church by the thirteenth century. He suggests that older settlement sites were centred on streets and cross-roads on comparatively high land, whereas medieval sites were frequently around greens or commons often on the lower and wetter lands of the parish.
18 For example, Kosminsky (1956), Campbell (1986).
19 See also Douglas (1927).
20 Blake (1952) has shown that only 23 % (163 out of 695) townships in Norfolk were held by a single Lord, the rest being divided among several Lords.
21 Campbell (1986).
Figure 34a. NORFOLK DISTRIBUTIONS

GEOLOGY Source: Darby (1976)

SOILS Source: Darby (1976)


RELIEF Source: Darby (1976)


GREEN NAMES 1790s

COMMON EDGE SETTLEMENT 1790s

GREEN NAMES and COMMON EDGE 1790s
DOMESDAY POPULATION
Source: Darby (1976)

MIDNORFOLK

GOODSAND

BREDLAND

GREENSAND

LOAM

GREENSAND

LOAM

BROADLAND

WEAK ZONE

SOUTH NORFOLK

NEW NORFOLK REGIONS
Source: Darby (1976)

GREENS AND COMMONS 1790s
Source: After Stamp (1962)
based on Faden (1797)

Figure 34 b. NORFOLK DISTRIBUTIONS
Figure 34c. NORFOLK DISTRIBUTIONS

- OS GREEN NAMES
- REGISTERED GREEN NAMES
- ALL REGISTERED GREENS AND GREEN NAMES
- REGISTERED VILLAGE GREENS (VG+UG)
  GREENS REGISTERED AS COMMONS

Source: Mapped from national database and OS Gazetteer
number of independently owned manors.\textsuperscript{22} The weak manorial structure of the area was therefore clearly reflected in the dispersed settlement pattern which leads to the question posed by Campbell (1986 p. 225) as to what extent did manorialism shape or was shaped by local conditions? Norfolk tended to be less rigidly feudalised than more champion areas such as the Midlands\textsuperscript{23} and there was a higher proportion of freemen to villeins.\textsuperscript{24} Gray (1912) attributed the large numbers of freemen and small, numerous manors to the Danish occupation, but Campbell (1986) suggests that other factors were as important, namely the demographic and economic vitality of the region in Saxon times may have prevented the development of the full manorial system or may have led to its early breakdown by continuous subinfeudation. The importance of manorial structure and its effect on settlement patterns is its connection with field systems and hence the landscape. With this weak lordship came little sense of community farming compared to the strong champion regions of the Midlands and a lack of full development of the open fields.\textsuperscript{25}

\textbf{GREENSIDE SETTLEMENT}

Such shifting settlement, possibly from previous semi-nucleations (as suggested by Wade-Martins) to the edge of greens and commons became widespread throughout most of Norfolk. Williamson (1993) notes that greenside settlement was an essential and ubiquitous feature of the settlement pattern, although this has since been obscured by parliamentary inclosures of the 18th and 19th centuries when many greens and commons were destroyed. Wade-Martins (1980) suggests that movement of population to the greens and their focus for settlement did not occur until the 12th century or later. By the end of the 13th century, he found that in Launditch hundred there were twice as many settlements built around greens as along streets. Williamson (1993) has made the distinction between high and low commons, the low commons being fens and moors on damp low-lying areas, the high commons patches of poorly drained acid sands and gravels. Both types were land of low agricultural quality which was difficult to cultivate and therefore little used until it became necessary. 18th and 19th century accretion of squatting settlements around these greens and commons added to and intensified the older patterns of dispersal. The morphological structure of such commons with their settlement was typically convex or concave outlines linked by 'chains', much of which formed the borders between territories (see vicinage, chapter 2.1, border greens, chapter 3), the commons of adjacent parishes often abutting.

The precise reasons why Norfolk contained so much greenside settlement of this kind is not totally clear, but the process can be considered in terms of factors actively encouraging migration, such as a shortage of grazing, and underlying factors which allowed it, such as weak lordship. It has been suggested,\textsuperscript{26} that green colonisation was

\textsuperscript{22} Postgate (1973) p 306. Blomefield (1805) has given an account of the disappearance of eight independent manors in South Erpingham hundred between 1600 and 1650. By 1650, 71% of vills/townships in Norfolk and Suffolk contained only one manor. See appendix 20.

\textsuperscript{23} See Douglas (1927) p. 64.

\textsuperscript{24} Commonly more than half the population of a township was free.

\textsuperscript{25} Williamson (1993). Evidence of manorial power does, however, show in the many large churches even in small parishes. While probably simple wooden structures when first established in late Saxon/early Norman times, most of the present great building date from 13th/14th century rebuildings, see Pevsner (1962).

\textsuperscript{26} For example, Dymond (1985).
encouraged by a shortage of grazing land, in which demographic factors would have been involved. A rise in population led to a reduction in the amount of spare land, together with an increase in cultivation and ploughing beasts which increased the importance of common grazing and the usefulness of staking a claim to a dwindling resource by moving there. An increase in the Lord's demesne land would have further enhanced any land shortage making greenside settlement even more attractive. Williamson (1993) has shown, however, that greenside settlement was equally frequent where there was no shortage of grazing land. On the other hand, increasing population had to go somewhere, and if there was no room for expansion around existing semi-nucleations or if the settlement was already more dispersed, commons and greens may have provided the easiest route with the weak lordship being unable to prevent it. There is also the possibility that the wet commons became better drained in the later Middle Ages by open ditches, helped by a drier climate making them more suitable for colonisation. Williamson (1993) suggests that the initial stages of green colonisation may be associated with the division of land between free heirs, together with an active market in peasant land left little incentive not to drift to the commons. Fieldwalking archaeology has shown, however, that the first migrations tended to be just back from the common edge rather than actually on them which would suggest that these were being established on sites on the periphery of existing arable between the commons.

**REGIONAL CONTRASTS**

A further unique feature of Norfolk which has had an indirect effect on the landscape is its geographical location. Norfolk, for better or worse, was on the important trade routes to the Low counties. The growth in trade of agricultural produce formed the basis of its regional economy from the Middle Ages onwards. This commercial agriculture resulted in increasing local specialisation and it was the development of regional specialisations which had an important effect on the formation of local field systems and hence the landscape. In the 14th century, the boom in wool exports and the local cloth industry provided employment for the urban population which stimulated the local market in meat and corn. Together with this, the large number of freeholders in the region who prospered in the 16th and 17th centuries by the rising prices of agricultural produce, led to an intensification of commercial agriculture and engrossment of estates by capitalist farmers. These yeoman farmers, used to freehold tenure without the burdens of customary labour services tended to be keen to take up the new farming methods such as new crops and rotation systems which were introduced from the continent and systematically applied in the 18th century by great landowners such as Coke of Norfolk (the Earl of Leicester) which transformed the agricultural landscape.

Different parts of the county responded to the needs of local specialisation in different ways broadly forming contrasting agricultural systems and landscapes. A division in many of the county's characteristics can be found between the north and west, and the centre and east. Allison (1957 p. 12-14) has termed these the sheep-corn region to the north and west and the woodpasture region to the centre and east. Postgate (1973 p.

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29 Postgate (1973) p. 284.
31 See Parker (1975).
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322) explains how the sheep-corn region was characterised in the 16th century by open arable fields with extensive heaths whereas the woodpasture zone had open fields but with less extensive heaths and more woodland. This meant that the woodpasture region with fertile boulder clay was suited to grassland with an economy based on dairying and mixed arable, while the sheep-corn region with its less fertile soils was more suited to extensive arable cultivation relying on sheep manure (before crop rotations were introduced) to grow barley.

Similar regional contrasts also existed in the manorial structure. While it has been noted that Norfolk manors tended to be small and numerous, there was a tendency for manors to be smaller in the woodpasture region. Williamson (1993 p. 164) has mapped this element of manorial structure which shows areas of the woodpasture region have concentrations of higher numbers of manor per vill. While the centre and east of the county had more lordships in the Middle Ages, the disappearance of independent manors in the 17th century was more marked in that region than in the north and west where the lands of various manors were more intermingled. That is not to say powerful lords did not exist in the Middle Ages, although these, however, tended to be more frequent in the sheep-corn region.

A further regional contrast is the method and process of migration of settlement to greenside locations. Williamson (1993) has noted that in the west, migration tended to be the overflow from nucleations, which remained essentially nucleated, whereas in the east, wholesale migration was more frequent, the greenside settlement perhaps being the result of the break up of nucleations (possibly hamlets rather than villages) leaving isolated churches which are more frequent in this area. The reasons given for this are both environmental and tenurial. He suggests that in the east, commons tended to be in damper areas allowing a good water supply for new settlement whereas in the north and west, the commons were situated on dry interfluves making larger settlements more marginal. Also, the weaker lordship to the east somehow encouraged migration to the commons, although the mechanism is unclear. The initial stages of migration may have been associated with the division of land between free heirs, and powerful lords may have had bonded tenants who lived close to the manorial centre with less opportunity or incentive to move away. One possible reason worth considering is that overspill could have been the result of a shortage of grazing whereas denucleation could have been the product of active clearing by the Lord.

An important result of the increase in commercialisation and regional specialisation from the Middle Ages onwards was the spread of piecemeal inclosure (see chapter 2.3). The rate of inclosure was far from even across the county and other facets of the regional contrasts which had developed over the years determined the rate at which this occurred. This depended on the field systems and agricultural arrangements which were adopted and contrasting manorial structures. In the woodpasture region to the centre and east of the county, the disappearance of independent manors in the 16th century was accompanied by the engrossment of tenant strips which facilitated

32 See also Thirsk (1967).
33 Campbell (1986 p.228) has shown there to be nearly twice as many lordships in the east as in the west and their average area and taxable wealth to be half of that in the west.
34 See Postgate (1973) p. 323.
inclosure, whereas in the sheep-corn region the complex landholding structure and intermingling of land of various manors was an obstacle to inclosure. Postgate (1973 p. 307) also suggests that the large number of yeoman farmers in the woodpasture zone, used to freehold tenure without the burdens of customary labour services were keen to take up new farming methods further aiding the inclosure of arable to pasture.

The methods of farming in the two regions also affected the spread of inclosure. Postgate (1973 p. 323) explains how the pastoral arrangements by which sheep and arable farming were integrated in the sheep-corn region were not conducive to inclosure. In this area, the presence of a number of petty manors each with the privilege of independent sheep foldage contrasted with the woodpasture system where there was a greater reliance on cattle and inclosure could more easily be undertaken. For these reasons, the open fields survived more often in parts of the north and west until parliamentary inclosure than in the centre and east where many had been inclosed and converted to pasture by the mid 17th century.

In summary, coming out of the medieval period, increasing commercialisation and specialisation in agriculture was met with different responses to the north and west, and centre and east of Norfolk where different soils were better suited to certain forms of agriculture. This has manifested itself in regional contrasts in the physical and socio-economic landscape. To the north and west, the sheep-corn region had extensive arable based on barley with the help of sheep manure, extensive heaths, less weak lordship with the intermingling of lands of various manors and where a lack of piecemeal inclosure allowed many of the open fields to survive until parliamentary inclosure in the 18th and 19th centuries. The woodpasture regions to the centre and east, on the other hand, had a more fertile soil which was suited to dairying and mixed arable, less extensive heaths, weaker lordship and where piecemeal inclosure had converted much of the open fields to pasture by the mid 17th century. Such a division in the landscape, therefore, being the spatial assemblages of its socio-economic characteristics.

It would seem therefore, that the catalyst of regional contrasts (more likely highlighting and accentuating existing differences) was trade, commercialisation of agriculture and regional specialisations with the contrasts in specialisation being

Sheep foldage or foldcourse was where the Lord had the right to graze his sheep over the tenants' open field strips from harvest to the next sowing and on fallow land in the summer. Wade-Martins (1984) p. 51-52 explains that while the manure was beneficial to the crops, the landowners increased their sheep and the tenants were only allowed a few. There is evidence of abuse of the foldcourse system from 16th century court rolls. The period of sheep grazing lengthened and the tenants' sheep were excluded. The tenants retaliated by consolidating strips and exchanging and fencing the land to keep out the Lord's sheep. The system gradually collapsed and the introduction of turnips in the 17th century finally finished it.

It may be incorrect to assume that areas which underwent parliamentary inclosure had little earlier piecemeal inclosure. The inclosure Acts sometimes had only marginal effects. Parker (1975) has shown that on Coke's Norfolk estates, Castleacre and Tittleshall had no inclosure Acts but had open fields strips in the 18th century, whereas Fulmodestone had inclosure Acts but no strips in the 18th century. Drawn on a scale of 1" to 1 mile, greens are commons appear to have been accurately mapped (Barringer 1977 p. 13). For example, Castleacre and Tittleshall had no inclosure Acts but had open field strips in the 18th century whereas Fulmodestone had inclosure Acts but no 18th century strips.
accounted for partly by soil types. It is the examination of these contrasts in relation to greens which can lead to a better understanding of greenside settlement as regional specialisation has had an effect on the formation of local field systems. It is likely that such a division in many of the county's landscape, physical and tenurial characteristics has been responsible for the present distribution of greens.

How does this fit in with the distribution of greens? Figures 34 a, b and c show the county distributions of greens and some possible controlling factors. As may be expected from the results of the national distribution of GNPNs, green names in Norfolk are more frequent in the woodland zones to the centre and east and less common in the champion regions to the north and west. Within the woodland zones, there is a broad negative correlation between green-name place-names (GNPNs) and isolated churches and also with weaker manorial structure. GNPNs are to be found in areas of stronger manors with few isolated churches such as South and Mid Norfolk. There are very few green names in areas of weak manors and isolated churches. In these circumstances of strong manors, increasing population was pushed to the fringes as it could not get a foothold in the old improved land because of the inheritance practice of primogeniture associated with strong lordship. The regions of Norfolk identified by Darby (1976) can be used as a context to an examination of the distribution of greens but these regions have been slightly modified, see Figure 34 b.

In the champion zones of Norfolk (Goodsand, Greensand and Breckland), GNPNs tend to be either in very low concentration or non-existent in 1790 and today. These areas were characterised by very low amounts of Domesday woodland and a stronger manorial structure. While having fewer green names than the woodland regions, the champion zone has more village greens especially in the Goodsand region and in Breckland. Breckland had the highest concentration of true planned village greens but no green names. The area has very few, if any, isolated churches, stronger manorial structure and is characterised by low population densities both at Domesday and evidenced by low levels of 19th century nucleation and dispersion and also low amounts of Domesday woodland. There is some evidence that there may be some 18th / 19th century planted, planned villages in this area which may account for the surviving village greens.

The less champion areas to the centre and east (Mid Norfolk, Loam Region, Weak Zone, South Norfolk and Broadlands) have more green names and greenside settlement and are characterised by high levels of dispersion and low nucleation. There are, however, within the woodpasture zone, variations in Domesday woodland, manorial structure and the extent of isolated churches which probably account for the variation in distribution. It is in these areas that green names and common edge settlement developed to the greatest extent and their present distribution probably largely represents the unevenness of their survival. Data from Faden's map of Norfolk published in 1797 provides a data source for the survival of greens and common in the late 18th century. The map in Figure 34 a shows little change in the number of GNPNs (although there is some loss from the Loam region) with the exception of the weak zone. South and Mid Norfolk had the highest concentrations of GNPNs in 1790s and today and both areas had stronger manors and low numbers of isolated churches nevertheless differed in their cover of Domesday woodland, for while South
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Norfolk had low amounts of woodland, Mid Norfolk had the highest concentrations of Domesday woodland.

Whereas in the Loam Region and Broadlands, both areas have high numbers of isolated churches, the concentration of greens and landscape characteristics are somewhat different. Broadlands had low density Domesday woodland, a weak manorial structure and a medium amount of green names with little change since 1790s, whereas the Loam Region had high Domesday woodland, stronger manorial structure and low amounts of green names, although there were a few more in the 1790s. Present examination of the distribution of surviving greens in Norfolk identifies a further zone from those of Darby which has been called the ‘weak zone’. This zone is characterised today by its very low amount of surviving green names and and also by some of its socio-economic characteristics, all of which clearly demarcate and define the zone, i.e it is an area which contrasts strongly with its neighbouring zones in various ways, where the manorial structure in the Middle Ages was very weak and there is now a large number of isolated churches and an exceedingly dispersed settlement pattern. Today, the zone is devoid of green names but in the 1790s contained far more. It appears that a process has been operating which has removed the green-names and, presumably, the settlement associated with these, perhaps first appearing in the vicinity of Norwich where in the 1790s there were already few green-names near the city. This zone show more common edge settlement in th 1790s than GNPNs but that too was disappering around Norwich. The precise processes of the removal of green-names from this zone is uncertain but may have something to do with changes in farming methods. The consolidation of estates and farm amalgamation in the 19th century often caused the disappearance of cottages as tenants were removed from the land to make way for more extensive sheep grazing. Such a process could be responsible for this change in the landscape of greens.

For an explanation of the distribution, it is necessary to examine the process and spread of inclosure. Warner (1987) notes that Dymond (1980) has suggested that the surviving residual greens of East Anglia escaped 19th century inclosure by the opposition of smallholders to parliamentary inclosure together with a lack of powerful lords at a local level. Early work by Gonner (1912) and Slater (1907) has shown that longer term piecemeal inclosure had more effect in the centre and east of the county whereas in the more champion north and west, piecemeal inclosure was largely resisted by its stronger manorial structure and communal system of agriculture until early 19th century parliamentray inclosures which had more effect in these areas. Parker (1975, p.43) has shown, however, that it may be incorrect to assume that an abundance of late 18th / early 19th century inclosure implies that there was little earlier piecemeal inclosure. Small landowners were bought out both before and after inclosure and the subsequent Acts sometimes had marginal effects.

The regional study of Norfolk greens has further developed the explanantion of green distribution, techniques which may be applied to the national map. It has been shown that the factors of Domesday woodland and manorial structure are important in determining the distribution of Norfolk greens. Clearly, more work is needed on the subject both at national and more local scales.
Chapter 5

CONCLUSIONS

Greens Past
Greens Present
Greens Future

The questions developed and answered by this thesis are concluded within the context of these three headings.
The intentions of this research, as stated in chapter 1, were threefold; to provide a clarification of the legal status regarding village greens, the construction of a working classification of greens and an analysis of their national distribution. These themes were examined within the context of a study in historical geography, broadly encompassing these aspects from the direction of greens past, greens present and greens future. Following an introductory chapter which set a context for the study and subject matter, and introduced some of its terminological difficulties, the next three chapters (2.1, 2.2 and 2.3) dealt with the law of greens and the following two (3 and 4) covered their classification and national distribution. The results of these discussions may be summarised as follows;

**LAW OF GREENS**

The law relating to common land has ancient roots in common law and manorial law deriving from before the Norman conquest. With the notable exception of the Statute of Merton in 1236, and with some slight effects from Westminster II in 1285 and a further act in 1549, it has been little affected by Acts of Parliament until the nineteenth century. This very long period of gestation, together with its application and development within a wide variety of local circumstances, has meant that it has gradually become very complex and in some senses outdated. Village greens fall within this convoluted legal framework. The uncertainties about the nature and extent of many greens and commons by the mid 20th century led to a Royal Commission on Common Land, which ran from 1955 to 1958, from which came new legislation initiating their formal registration. Commons registration had the effect of fixing - until new legislation, if it ever occurs (and this is not likely in the foreseeable future) - the extent and number of legally recognised greens and commons at late 1960s levels. Thus while broadly in the 'present' (i.e. within the last 30 years compared to the many previous centuries of the existence of greens) their study is increasingly becoming a matter of 'greens past'. The registers are, however, not totally rigid as a few wrongly registered greens were removed from the registers under the Common Land (Rectification of Registers) Act 1989 but this was only in very limited circumstances and there is still scope for further corrections of the registers both in terms of land which should have been registered and was overlooked and land which was registered and should not have been. There are, however, no firm plans for this to be done. Where the ownership of common land was unknown (this does not apply to village greens) parliament left a condition for future legislation to dispose of their ownership in some way but this also has yet to be fulfilled. The long life of many greens was ended by the physical processes and legal changes associated with the inclosure movements of the 18th and 19th centuries, although their names sometimes persist on the modern map. Of those which survived inclosure, their ancient common rights were lost forever by failure to register them in the 1960s, although the open space may still be subject to legal protection and status. Of course, in practical terms, many of the ancient common rights had long fallen into disuse and abeyance.

The database constructed to provide national distribution maps contains information on the size, location, and common rights for each of the 4000+ registered greens and includes a smaller number of greens which have been registered as commons still in existence in England. This can be used to provide an almost unlimited number of further national or regional distributions, queries or reports. Furthermore it can be
developed and extended to include lost greens or greens which have not been registered or can be put to a variety of other purposes. The distributions considered in this study have shown that regional inconsistencies of data collection, together with regionally uneven survival have perhaps significantly altered the extent of present greens revealed by the distribution map. The matter is complicated, however, by the negative factors of uneven registration and destruction by inclosure.

Explanation of greens can be approached in two ways: residual greens, often associated with a 'green' place-name are linked with woodland zones and their extensive commons (Figure 33a) and, like the law relating to them, are the product of many centuries of development. Like scattered farmsteads and hamlets, they are part of the fabric of these ancient landscapes, and in their varied fortunes, involving survival and destruction, inclosure and suburban infilling, constriction and careful preservation, a host of processes can be seen at work. In contrast, it seems likely that on a national scale village greens (Figure 33c, VG + UG) show a clear tendency to be associated with lowland areas of mixed or specialist farming in the 16th century - regions with restricted rather than extensive commons, and concentrate in what Roberts had termed the 'great village belt' (Figure 32a). The regional study of Norfolk, with its mixture of champion and woodland landscapes has revealed the complexity of the factors underlying the national distributions, and has highlighted the association of residual greens with high levels of Domesday woodland and less weak manorial structure, while village greens again, at this detailed level of resolution, show an in situ correspondence with champion landscapes. In short, true village greens and residual greens have complementary distributions.

GREENS PAST
Historically, greens are the product of three categories of force, creative, destructive and preservative. Turning to the most basic question with which this study began: What are greens? The very confusions of law, of classification and of terminology described earlier lie close to the heart of the matter: greens are specialised abstractions from common pastures and have a close association, be this deliberate of accidental, with settlement. This association can be of two sorts - those circumstances in which green and settlement which have been deliberately planned - seen in the green villages of Durham - and those which are the result of a more random set of processes, seen in the varied fortunes of the residual greens. Here piecemeal colonisation and encroachment as a result of population increases have been powerful formative factors. It is abundantly clear that the landscape features now known collectively as village greens have been formed in a variety of ways. As the physical processes of abstraction have continued, so the general common rights over the common pasture have been adapted and limited. In the Middle Ages and after, greens provided very useful grazing, and the lists of beasts grazed, commonable - cows, sheep and sometimes horses, and uncommonable - geese, ducks, goats, chickens, and, rarely, pigs - points to their importance within traditional farming systems. Where local economies were based on arable farming, classically within the champion mixed farming zones, wastes and commons (including greens) were highly valued as a source of grazing. Where economies were more pastoral, greens were part of a broader nexus of grazing lands, embracing large areas of commons and wood pastures.
Destructive forces on greens come under the general heading of inclosure and may consist of inclosure as it is generally known (either piecemeal or holistically by Parliamentary inclosure) or by the more subtle processes of encroachment, urbanisation and suburbanisation. The physical end to the long history of many greens came when they were fenced and redistributed and allotted to private ownership and possession by Parliamentary inclosure. Where greens survived inclosures, a large number of common rights were lost at commons registration in the 1960s by failing to register them or being unable to prove ownership of the rights.

Commons registration in the 1960s was an attempt to both determine the true extent of all commons and greens in England and Wales and also to preserve and protect them against destructive forces. As such, it forms a datum line across both time and space, for the greens which are now preserved are those of the present and the future.

**GREENS PRESENT**

It is clear that the extent of common rights on greens is now only a very small fraction of those present in former centuries, indeed many greens and commons no longer have any rights at all. Many do, however, especially in the case of integral village greens, provide the focus for the village centre and a considerable recreational and scenic resource. Chapter 4 has shown that greens are to be found throughout the country but that different types of greens have certain concentrations. Their present distribution is often as much a matter of their survival as a representation of their former existence, the main factors determining their survival being regional differences in the extent of inclosure and matters of uneven registration. This study had used registered greens as an approximation to greens present (greens still in existence today). While it has been possible to remove false greens (land which has been registered as village green but is of no historical significance) from the set of registered greens, it should be noted that some greens exist but have not been registered. While in legal terms, a very few greens have recently been 'created' (i.e. registered and thus afforded legal recognition and protection) creation is not a current force acting on greens present and so the present forces determining their welfare should be considered in terms of preservation and destruction.

**GREENS FUTURE**

The future of village greens would seem largely to be a matter of preservation rather than destruction. Where they form the centre of a historic or picturesque village they are likely to be well preserved by the locals and guarded against destruction. Despite their great frequency and widespread national distribution, greens have attracted very little serious attention. The remaining greens form a large and underused resource which is waiting to be exploited. The owners of registered village greens and commons have the right to use them for grazing as long as they do not interfere with the rights of commoners. The majority of registered greens and many commons have no common rights still in existence which provides a huge resource of grazing which most owners do not seem to be aware of and certainly do not exercise. This is particularly so with parish councils who now own the majority of registered greens and provides for many of them a large resource which they could use at any time now or in the future.
CONCLUSIONS

In conclusion, a summary of the contribution of this thesis to the field of greens, rural settlement and historical geography forms a relevant epilogue to the study. Foremost, it has highlighted the importance of greens in the landscape in a wide variety of contexts and circumstances as a limited and finite resource which must be sympathetically managed. They form a scenic and aesthetic attraction in the context of settlement, often with an architectural backdrop and enhanced landscapes as open spaces. They form a practical use for the community, in modern times as a recreational resource in a broad sense to include walking, sitting &c. and also developing problems such as access, parking of vehicles, siting of lampposts, bustops, running of cables &c. for which byelaw control has been introduced, and in past times as common grazing with its associated problems of overgrazing and encroachment, dealt with by manorial law. They form an ecological / biological reserve in being amongst the only fertile land in England which has never been ploughed or treated with inorganic fertilisers and chemical pesticides. They also display integrative qualities by frequently providing the centre for settlement and the focus of place.

More specifically, this thesis provides a useful study of the legal framework of greens and commons, focusing on village greens in a way which has not been done before - the most in-depth study ever produced. It provides a working classification to the understanding of the subtle and diverse variations of greens. It contains a statement that touches on the generality of greens at the national scale, drawing together the basic records which exist and the work of others, providing distributions which may be of even greater use in the future as understanding of the landscape increases. It contains a pointer to what research needs to be done in a number of counties by presenting one sample county which illustrates some of the difficulties and complexities involves. Furthermore, the resulting database and appendices provide a reference work for others. The study thus forms a foundation for work in historical geography on place-names and the meanings of a 'green' element to the name and raises questions on their management practices relating to local economic bases. In practical terms, it points to a valuable resource which is both finite and worthy of careful management. The absence of local studies relating to the present status and management of greens such as exists in the Netherlands is disquieting. In this, the study presents a challenge.

FURTHER RESEARCH

A limited study of this nature has inevitably assembled implications for further research. The chapters on the law of greens give a fairly comprehensive clarification of their legal status from a practical point of view. There is scope for further work on the subject from a more theoretical viewpoint and concerning the historical origins of legal customs and practices. The section on disputes in chapter 2.3 gives just a brief sample of the many and various disputes which may occur on and regarding greens. The working classification of greens in chapter 3 will inevitably change by being refined and improved as the corpus of knowledge on their origins is improved, as this study has followed on from previous classifications which had become unsatisfactory. It would seem likely that it is from the analysis and explanation of distributions of greens, both local and regional as well as national that the best contributions to their understanding and hence an understanding of rural settlement will come. For this aim the national database of greens constructed for this study may prove invaluable.
APPENDICES

1. Glossary
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GLOSSARY

ANIMALS FERAE NATURAE
A legal term for wild animals but is also a common right to take such creatures from the common.

COMMON IN THE SOIL
The right to take minerals from the common. It may include gravel, sand or building stone.

COMMON LAND
Legally, land registered under the Commons Registration Act 1965 as common land, i.e. land with common rights or waste of the manor.
Historically, land normally owned by the Lord of the Manor but subject to common rights by the inhabitants of the locality.

COMMONS REGISTRATION
The Commons Registration Act 1965 attempted to compile a once and for all register of all common land and town and village greens in England and Wales (with a very few exceptions). Most registration took place in the late 1960s. The registers are now the definitive documents on the existence of common land. Common rights and ownership were also registered.

ESTOVERS
The right to take certain products of the land for specific uses. E.g. timber to repair houses, branches to repair fences, carts, hedges etc. Often divided by these uses into housebote, fencebote, wainbote, firebote, hedgebote, carbote.

FRUCTUS NATURALES
Wild plants and fruits, as opposed to farmed crops which are fructus naturales.

TURBARY
The right to dig and take away peat or turf from the common.

PANNAGE
The right for pigs to eat beech mast and acorns which fall to the ground in the common wood.

PASTURE
The most important right on both commons and village greens, pasture is the right to graze creatures on grass and certain other fructus naturales.

PISCARY
The right to take fish from the common stream or pond.
STATUTE OF MERTON
An Act of Parliament passed in 1236 which gave the Lord of the Manor the right to approve (inclose) the green or common provided he left sufficient common for the commoners.

VILLAGE GREEN
Legally, land registered under the Common Registration Act 1965 as a town or village green i.e. land used for legal sports and pastimes by the inhabitants of the locality. Historically, it included some places of recreation but was normally land subject to common rights (mainly grazing) i.e. common land within a settlement.
ABBREVIATIONS

All ER  All England Law Reports, 1936-current
Anst.  Anstruther's Reports, Exchequer, 3 vols 1792-1797
Atk  Atkyn's Reports, Chancery, 3 vols 1736-1754
Benl.  Benloe's Reports, King's Bench, 1 vol 1530-1627
Burr.  Burrow's Reports, King's Bench, 5 vols 1756-1772
ChD  Law Reports, Chancery Division, 45 vols, 1875-1890
CLY  Common Law Yearbook
Co. Rep.  Coke's Reports, 13 parts 1572-1616
CRA  Commons Registration Act, 1965
CRO  County Records Office
Cro. Jac.  Croke's Reports temp James I, King's Bench + Common Pleas, 1603-1625
Dig.  English and Empire Digest
DPP  Director of Public Prosecutions
DU P+D  Durham University department of Paleography and Diplomatic Records Office
EG  Estates Gazette
ER  English Reports
Freem.  Freeman's Reports, Chancery, King's Bench + Common Pleas, 1660-1706
Gouldsb.  Gouldsborough's Reports, Queen's Bench and King's Bench, 1 vol 1574-1601
HLC  Clark's Reports, House of Lords, 11 vols, 1847-1866
H+N  Hurlstone and Norman's Reports, Exchequer, 7 vols 1856-1862
Keb.  Keble's Reports, 3 vols 1661-1677
Ld. Raym.  Lord Raymond's Reports, King's Bench and Common Pleas, 3 vols 1694-1732
LGR  Local Government Reports
Lib. Ass.  Liber Assissarium, Yearbooks, 1-51 Edw. III
LPA  Law of Property Acts, 1922 + 1925
Leon.  Leonard's Reports, King's Bench, Common Pleas + Exchequer, 1552-1819
M+W  Meeson and Welsby's Reports, Exchequer, 16 vols 1836-1847
Mod. Rep.  Modern Reports, 12 vols 1669-1755
P+CR  Planning and Compensation Reports, 1949-current
PHA  Public Health Acts, 187
QBD  Queen's Bench Division
Saund.  William's Notes to Saund's Reports, King's Bench, 2 vols 1666-1673
SI  Statutory Instrument
SR+O  Statutory Rules and Orders
Taunt.  Taunton's Reports, Common Pleas, 8 vols 1807-1819
Term. Rep.  Term Reports, 8 vols 1785-1800
TR  Taxation Reports
Vent.  Ventris' Reports, King's Bench + Common Pleas, 2 vols 1668-1691
Vern.  Vernon's Reports, Chancery, 2 vols 1680-1719
APPENDICES

WLR  Weekly Law Reports
WR   Weekly Reporter, 54 vols 1852-1906
YB   Yearbooks
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## Creature Equivalents

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<tr>
<td><strong>Avon</strong></td>
<td>1 cow = 1 horse</td>
</tr>
<tr>
<td><strong>Bedfordshire</strong></td>
<td>1 cow = 2.5 sheep/ 1.5 sheep</td>
</tr>
<tr>
<td><strong>Berkshire</strong></td>
<td>1 cow = 1 sheep</td>
</tr>
<tr>
<td><strong>Cornwall</strong></td>
<td>1 cow = 1 pony = 5 sheep</td>
</tr>
<tr>
<td><strong>Devon</strong></td>
<td>1 cow = 1 pony = 0.5 sheep</td>
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<tr>
<td></td>
<td>1 cow = 0.5 horse = 6 sheep = 12 lambs</td>
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<td><strong>Dorset</strong></td>
<td>1 pig = 1 donkey</td>
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<tr>
<td><strong>Essex</strong></td>
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</tr>
<tr>
<td></td>
<td>1 horse = 6 sheep</td>
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<tr>
<td></td>
<td>1 donkey = 2.5 sheep</td>
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<td></td>
<td>1 horse = 1 pony</td>
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<td>1 goat = 1 horse</td>
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<td>1 horse = 1 pony</td>
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<td></td>
<td>1 beast &lt;1 year = 2 beasts &gt;1 year (..)</td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>= 50 hens = 10 goats</td>
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<tr>
<td></td>
<td>1 horse = 1 pony = 1 donkey</td>
</tr>
<tr>
<td></td>
<td>1 cow = 4 sheep = 0.5 horse = 1 goose</td>
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<th>Cow:Horse</th>
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<th>Goose:Sheep</th>
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Source: Calculated from commons registers
Part of the Statute of Merton, 1236, known under the Short Titles Act as the Commons Act, 1236, was repealed under the Statute Law Revision Act, 1953. It is important as it was the first statutory interference in common land.

'Also because many great men of England...have complained that they cannot make their Profit of the residue of their Manors, as of Wastes, Woods and [common] Pastures, whereas the same Feofees have sufficient Pasture, as much as belongeth to their Tenants; it is thus provided and granted, That whenever such Feoffees do bring an Assise of Novel disseisin for their Common of Pasture, and it is acknowledged before the Justices, that they have as much Pasture as sufficeth to their Tenements, and that they have free Ingress and Egress from their tenements into the pasture, then let them be contented therewith;...

The action of an Assize of Novel Disseisin was abolished by the Real Property Limitation Act 1883 (repealed).
AN ACT FOR INCLOSING LANDS IN THE PARISHES OF NORTHILL AND SANDY
20 Geo. III, 1780

BE IT ENACTED That the said Open and Common Fields, Meadows, Commonable Lands, and Commons (except certain Pieces or Parcels of Common or Waste Ground, called Beeston Green, Thorncott Green, Ickwell Green, Northill Green, and Upper Caldecott Green) shall...be divided, det out, and allotted...

AND BE IT FURTHER ENACTED by the Authority aforesaid, That nothing in this Act contained shall prejudice, lessen or defeat the Right, Title, or Interest of any Lord or Lords, Lady or Ladies, of the Manor or Manors, or reputed Manor or Manors, Lordship or Lordships, within the jurisdiction or Limits whereof the said Lands or Grounds intended to be divided or inclosed...are situate, lying and being....
Appendix 7

THE MANOR OF BEESTON THORNCOTT AND HATCH IN THE COUNTY OF BEDFORD

The General Court Baron of Godfrey Thornton Esquire Lord of the Manor aforesaid there held in and for the said Manor on Monday the twenty first day of June in the sixteenth year of the reign of our Sovereign Lady Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland Queen Defender of the Faith and in the year of our Lord One thousand eight hundred and fifty two Before William Thomas Chapman Gentleman Steward there

Orders and Bye Laws made at this Court

FIRST It is ordered and agreed that no person or persons shall put or keep any sheep upon Beeston Green Thorncott Green or Hatch Green or upon any of the common greens or waste lands within this Manor upon pain of forfeiting to the Lord of the Manor for every sheep 6d And to the common drivers 2d

AND it is Ordered and agreed that no Farmer or Cottager shall be allowed to keep upon the Common Greens or Waste Lands within the Manor more than one Horse or Mule or Ass or one Cow for every Farm House or Cottage and no more than one sow and her litter of pigs during the time such Pigs suck and afterwards one Sow and four pigs or instead thereof five Store Hogs upon pain to forfeit to the Lord of the Manor for every offence in over stocking contrary to this order 1s. And to the Common drivers 6d

ALSO that no Hogs or Sows or Pigs (except sucking pigs) shall be turned upon the Common Greens within this Manor without being first rung upon pain of forfeiting to the Lord of the Manor for every offence for each Hog sow or pig so turned on 6d. And to the Common drivers 3d

AND it is Ordered that no geese shall be kept upon the said Common Greens or waste Lands.

ALSO it is Ordered and agreed that no stallion or Ridgel shall be turned upon the said Greens or waste lands.

ALSO it is Ordered that no Farmer or Cottager shall let their Common rights to any person or persons except to such persons who live or reside within the said Manor upon pain of forfeiting to the Lord of the Manor for every offence 5s. And to the Common drivers 2s 6d

AND it is Ordered that no person who is a Lodger or person occupying a Cottage without a Right of Common attached thereto shall be at liberty to hire more than two common rights and if any person as aforesaid shall stock more than two Commons he shall forfeit to the Lord of the Manor 5s And to the Common drivers 2s 6d
IT is Ordered and agreed that no person shall dig or take gravel from any or either of the Commons and that every person so offending shall forfeit to the Lord of the Manor 10s

AND it is Ordered and agreed that no person shall use any of the Greens or Waste Lands within the Manor for the use of drying Onions Onion seed or any other seed upon pain of forfeiture to the Lord of the Manor for every offence 5s and to the Common drivers 1s

AND it is Ordered and agreed that no person shall turn any Horse Mule Ass Cow or pigs on either of the Greens or waste Lands within the said Manor between the hours of Nine oclock at night or four oclock in the morning on pain of forfeiting for each offence 6d and to the Common drivers 4d

Source: Beds CRO CRT Northill 8
Appendix 8

LIST OF STATUTES

Administration of Justice Act, 1977
An Act Concerning the Improvement of Commons and Waste Grounds (3+4 Edw. VI c.3 (1549))
Ancient Monuments and Archaeological Areas Act, 1978
Animals Act, 1971
Caravan Sites and Control of Development Act, 1960
Civil Procedure Act Repeal Act 1879
Commonable Rights Compensation Act, 1882
Commons Act, 1236 (Statute of Merton, 1236, repealed)
Commons Act, 1285 (Statute of Westminster II)
Commons Act, 1876
Commons Act, 1879
Commons Act, 1899
Commons Act, 1908
Commons (Expenses) Act, 1878
Common Land (Rectification of Registers) Act, 1989
Commons Registration Act, 1965
Hill Farming Act, 1946
Inclosure Act, 1773
Inclosure Act, 1845
Inclosure Act, 1846
Inclosure Act, 1847
Inclosure Act, 1848
Inclosure Act, 1849
Inclosure Act, 1852
Inclosure Act, 1854
Inclosure Act, 1857
Inclosure Act, 1859
Inclosure and Drainage (Rates) Act, 1883
Inclosure Commissioners Act, 1851
Inclosure etc., Expenses Act, 1868
Land Registry Act 1925
Land Registry Act 1936
Land Registry Act 1966
Law of Commons Amendment Act, 1893
Law of Property Act 1922
Law of Property Act, 1925
Litter Act, 1983
Mental Health Act 1959
Metropolitan Commons Act 1866
Metropolitan Commons Act 1878
Metropolitan Commons Act 1898
Metropolitan Commons Amendment Act 1869
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New Parishes Measure, 1943
Prescriptions Act, 1832
Real Property Limitation Act, 1883 (repealed)
Refuse Disposal (Amenity) Act, 1978
Settled Land Act 1925
Short Titles Act 1896
Statute Law Revision Act, 1953
Statute Law Revision (Substituted Enactments) Act, 1876
Wildlife and Countryside Act, 1981
Appendix 9

STATUTORY INSTRUMENTS

SI 1965/2000 The Commons Registration Act 1965 (Commencement No. 1) Order 1965
SI 1965/2001 The Commons Registration (Exempted Land) Regulations 1965
SI 1966/96 The Commons Rules 1966
SI 1966/971 The Commons Registration Act 1965 (Commencement No. 2) Order 1966
SI 1966/972 The Commons Registration (Publicity) Regulations 1966
SI 1966/1470 The Commons Registration (Time Limits Order) 1966
SI 1966/1471 The Commons Registration (General) Regulations 1966
SI 1968/658 The Commons Registration (General) (Amendment) Regulations 1968
SI 1968/989 The Commons Registration (Objections and Maps) Regulations 1968
SI 1969/1843 The Commons Registration (New Land) Regulations 1969
SI 1970/383 The Commons Registration (Time Limits) (Amendment) Order 1970
SI 1970/384 The Commons Registration (Objections and Maps) (Amendment)
SI 1966/1470 The Commons Registration (Time Limits) Regulations 1970
SI 1970/1371 The Commons Registration (Finality of Undisputed Registrations) Regulations 1970
SI 1971/1727 Commons Commissioners Regulations 1971
SI 1972/437 The Commons Registration (Disposal of Disputed Registrations) Regulations 1972
SI 1973/815 The Commons Registration (Second Period References) Regulations 1973
SI 1982/209 The Commons (Schemes) Regulations 1982
SI 1982/667 The Commons (Schemes) (Welsh Forms) Regulations 1982
SI 1989/2167 The Commons Registration (General) (Amendment) Regulations 1989
SI 1990/311 The Common Land (Rectification of Registers) Regulations 1990

Statutory Instruments refered to in the text

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LIST OF CASES

Alfred F. Beckett v. Lyons (1967) Ch 449 at 482
Allgood v. Gibson (1876) 34 LT 883; 25 WR 60
Anderson v. Bostock (1976) 3 WLR 590; 1 All ER 560
Anon (1221) 2 Co. Inst. at p.85; 11 Dig. 23
Anon (1459) YB 37 Hen 6. fo.34, pl.20; 11 Dig
Anon (1489) YB 5 Hen 7. fo 7, pl.15; 11 Dig
Anon (1549) Benl. 80; 123 ER 61
Anon (1563) 72 ER 431 French
Anon (1577) 4 Leon. 41; 74 ER 716; 11 Dig. 43
Arlett v. Ellis (1827) KB 294; 7 Barn + Cress. 360
Arnold v. Dodd (1977) 1 All ER 505
Attorney General v. Antrobus (1902) 2 ChD 188
Attorney General v. Hanmer (1858) 27 LJ Ch 837, 840
Attorney General v. Reynolds (1911) 2 KB 886
Attorney General v. Tomline (1880) 15 ChD 150
Barnestone v. Gale (1649) 82 ER 655
Baxendale v. Instow Parish Council (1981) 2 All ER 620
Bellew v. Langdon (1601) Cro. Eliz. 876; 78 ER 1100, 11 Dig. 26
Bennett v. Reeve (1740) 125 ER 1144; Willes 227
Benson v. Chester (1799) 8 Term Rep 396; 101 ER 1453
Bland v. Lipscombe (1854) 119 ER 263
Bishop of Chichester and Strodwick's Case (1613) 78 ER 136
Borough of Christchurch v. Milligan (1977) 3 All ER 509
Box Parish Council v. Lacey (1979) 1 All ER 113; The Times 26 May 1978
Bromfield v. Kirber (1707) 11 Mod Rep 72
Bruges et al v. Curwin et al (1706) 23 ER 974
Cape v Scott (1874) 9 QB 269
CEGB v. Clwyd County Council (1976) 1 All ER 251
Chicheley v. --- (1658) 145 ER 409
Chilton v. London Corporation (1878) 26 WR 627; 11 Dig. 23
Clayton v. Horsey 1 Roll Abr. 106 pl. 19
Cooke v. Amey Gravel Co. Ltd. (1972) 3 All ER 579
Corpus Christi College, Oxford v. Gloucestershire County Council (1982) 3 All ER 995
Cooper v. Marshall (1757) KB 300
Costard and Wingfield's Case (1593) 2 Leo. 44
Cowlam v. Slack (1812) KB 583
Creach v. Wilmot (1752) 2 Taunt. 160; 127 ER 1038
Davies v. Davies (1974) CLY 316; 3 WLR 607
Davies v. Williams and 18 others (1851) 117 ER 988
De Bello Campo v. St. Andrews (Dean) (1351) 25 Lib. Ass. fo.116, pl.8; 11 Dig.
Delabeere v. Beddingfield (1689) 23 ER 676
### DECISIONS IN LEGAL CASES

<table>
<thead>
<tr>
<th>Followed</th>
<th>Court bound by a decision where the material facts are the same.</th>
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<tbody>
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<td>Applied</td>
<td>Applies principle of previous decision where the facts are materially different.</td>
</tr>
<tr>
<td>Approved</td>
<td>Applies a previous decision in an inferior court in unrelated proceedings.</td>
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<tr>
<td>Distinguished</td>
<td>Need not follow a previous case by which it is otherwise bound as there are some salient differences.</td>
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<td>Considered</td>
<td>Considers a previous decision but does not follow, apply etc.</td>
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<td>Disapproved</td>
<td>Disagrees with a previous decision but need not overrule the previous case (for example a case at the same jurisdiction level).</td>
</tr>
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<td>Overruled</td>
<td>Decides a ruling in an inferior court in unrelated proceedings is wrong.</td>
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</table>

Source: *All England Law Reports Consolidated Tables and Index 1936-1992* vol. 1

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## Commons Registration Time Series

### 1966
- **1 January**: Agreement for one authority to register land in 2 areas.\(^1\)
- **1 October**: Exclusion of registration.\(^2\)
- **30 November**: Publicity for applications of exemption orders.\(^3\)

### 1967
- **2 January**: Local authority publicity for the period and manner of registration.\(^4\)

### 1968
- **30 June**: Last date for publication notices of registrations made before 1 July 1968.\(^5\)
- **1 July**: Start of second registration period.\(^6\)
- **15 August**: Objection forms available.\(^7\)
- **30 September**: Last date for issue of publication notices of registrations made before 1 July 1968.\(^8\)

### 1970
- **1 January**: Start of first objection period for registrations made before 1 July 1968.\(^9\)
- **2 May**: Appointing of commons commissioners and assessors by the Lord Chancellor. Appeals on points of law begin.\(^10\)
- **2 January**: Last date for applications of registrations.\(^11\)
- **25 March**: Period of registration under CRA s. 4 extended to 31 July 1970.\(^12\)

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1. CRA s 2(2), SI 1965/2000
2. CRA s 11, SI 1965/2000
3. SI 1965/2001
4. CRA s 4(7), SI 1966/971
5. SI 1966/972
6. SI 1966/971
7. CRA s 1(2), SI 1966/1470
8. SI 1966/1471
9. SI 1966/1471, £5 fee SI s.8(2)
10. SI 1968/989
11. SI 1968/989 s.3
12. SI 1968/989 s.4
13. CRA ss.17+18, SI 1966/971
14. SI 1966/1470
15. SI 1969/1843 s.3(1)
16. SI 1970/383
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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</table>
| 31 March   | End of 3 year period where land and rights cease to exist if not registered.  
| 30 April   | Last date for issue of publication notices of registrations made after 30 June 1968.  
| 1 May      | Start of second objection period - for registrations made after 30 June 1968.  
| 30 September | End of first objection period - for registrations made before 1 July 1968.  

**1971**

1 January  Earliest date for hearings by the Commons Commissioners.  

**1972**

30 April  End of second objection period - for registrations made after 30 June 1968.  

**1973**

31 July  Last date for objection or withdrawal for second period registrations (made after 30 June 1968), otherwise to the Commons Commissioners.  

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17 CRA s.1(2), SI 1966/1470
18 SI 1969/989 s.3
19 SI 1968/989 s.4
20 SI 1968/989 s.4
21 SI 1968/989
22 SI 1968/989 s.4
23 SI 1973/815

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Appendix 12

DECISIONS OF THE COMMONS COMMISSIONERS

BEDFORDSHIRE
Harrold Green, Harold (1/D/6)

BERKSHIRE
Mill Green, Wargrave (202/D/95-96)

BUCKINGHAMSHIRE
Bury Field, Newport Pagnell, Milton Keynes Borough, (203/D/7-8)
The Pond by Little Moseley Lodge, Hughenden (203/D/33)

CORNWALL
Higher Predannack Downs, Mullion, (No.2) (206/D/492)
Lizard Downs and Clay Pits, Landewednack (206/D/540-2)
Cheesewring Common, Henwood Common and Longstone Downs, St. Cleer (206/D/4-13)

DERBYSHIRE
land near Hilltop and Alton Parish Quarry, Ashover, Chesterfield RD (8/D/7-8)

DEVON
Walkhampton Common, West Devon (209/D/289-91)
The Triangle, Doddiscombleigh (9/D/5)
Buckfastleigh Moor, South Hams (209/D/406)
Beaford Moor, Torridge (209/D/149)
Lustleigh Cleave (No.1) (209/D/114-130)
Spitchwick Commons, Widecombe-in-the-Moor (No.1) (209/D/102)
Crosses Hole Watering Plot, Clayhidon (9/D/3)

DORSET
655 Acres at Portland (No.1) (210/D/190-210)
Waste Ground on Custard Hill, Gussage All Saints (210/D/317)
The Village Green, Shillingstone (10/D/21)

DURHAM
Shincliffe, Durham

HAMPSHIRE
Medstead Village Green, East Hampshire (214/D/113)
Kingston North Common, Ringwood (No.1) (214/D/203)
The Village Green, Amport (14/D/5)

HUMBERSIDE
Crowle Waste, Boothferry District (24/D/17-47)

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KENT
River Common, Dover (19/D/9)
The Downs, Herne Bay (219/D/2)
Rodmersham Green, Swale District (219/D/19-22)
Wilgate Green, Throwley, Swale District (219/D/23-29)

LANCASHIRE
The Green, Wrea Green, Ribby with Wrea, Fylde RD (20/D/4; 20/U/5-7)
Newton Fell, newton in Bowland (220/D/326-327)
Gleaston Green, Aldingham, North Lonsdale RD (20/D/3)

LINCOLNSHIRE
Bridgend Common, Donnington, Holland (22/D/1)

LONDON
Chiselhurst and St. Paul's Cray Commons, Bromley (59/D/9-10)

NORFOLK
Land to the West of Geldeston Lodge, Geldeston (No.2) (25/D/11)
Lord's Waste, Winterton-on-Sea (25/D/12)
The Greens, Burnham Market (225/D/34)
Runton Half Year Lands (25/D/34-78)
Bodham Common (25/U/6)
Etling Green, East Dereham (No.1) (25/U/2)

NORTHAMPTONSHIRE
Devon Ox Green, Kilby, Daventry District (26/D/30-31)

SOMERSET
The Pound, Compton Dando, Bathavon RD (32/D/19)
Wick Moor, Stogursey (232/D/19-48)

STAFFORDSHIRE
Penn Common, Wombourne (233/D/1-4)

SUFFOLK
Hurst Fen, Holywell Row, Mildenhall, West Suffolk (35/D/12-13)
Rush Green, Harleston (234/D/84)
Land in North Street, Hundon, West Suffolk (35/D/6-8)

SURREY
Brookwood Lye, Woking (No.1) (236/D/148)

WEST MIDLANDS
Kings Norton Village Green, Birmingham (64/D/1)

WILTSHIRE
Box Hill Common (241/D/56-60)
YORKSHIRE
The Black Allotment, Muker, North Yorkshire (No 1) (268/D/84)
The Village Green and Hargill, Redmire (268/D/250)
Thorn Moors or Waste, Doncaster (269/D/1-13)

WALES
Gwaun Cae Gurwen, part of Penlle Rfedwen and part of Mynydd Uchaf (278/D/11-14; 15-102)
Twm Barlwmm Common, Risca and Rogerstone (273/D/106-107)
Cefn Hirgoed and Hirwaun Common (275/D/79-80)
Mynydd Preseli (272/D/967-1042)
Black Mountain, Dinefwr, Dyfed (272/D/441-777)
Abergwesyn Hill, Llanfihangel (276/D/800-823)
Waste Land of the Manor of Croythin, Cwmrherdol, Dyfed (272/D/889)
Gallows Point, Beaumaris, Ynys Mon Borough Council (274/D/209)
Dee Marsh Saltings, Flint (52/D/3-4)
The Watering Place, Rallt Wyllt, Talybont, Caerhun (50/D/18-19)
Appendix 13

MANAGEMENT OF COMMONS

Commons managed under the Commons Act 1899 are governed by the Commons (Schemes) Regulations 1982 (SI 1982/209), revoking the Commons Regulations 1935 (SR+O 1935/840). The following is taken from the schedule that accompanies the regulations details what actions the local authority may take to manage the commons.

A council may....

- Execute works of drainage, raising, levelling or other works for protection and improvement of the common.
- Prevent accidents by fencing quarry, pit, stream or similar.
- Preserve the turf, shrubs, trees, plants and grass - may fence for short periods to revive these and plant trees and shrubs for shelter or ornament.
- Put seats on the common.
- Light the common.
- Otherwise improve it as a place for exercise and recreation.

Council may not....

- Vary or alter the natural features of the common.
- Interfere with free access.
- Erect shelter, pavilion, drinking fountain or other building without the consent of persons entitled to the soil and the Secretary of State for the Environment or Wales.

Council may make byelaws covering....

- Unlawful digging or taking turf, sods, gravel, sand, clay or other substance, cutting, felling or injuring gorse, heather, timber, other tree, shrub, brushwood, other plants.
- Removal or displacement of seats, shelters, pavilions, drinking fountains, fences, notice-boards, other council works.
- Unlawful killing, molesting or intentionally disturbing any animal, bird or fish, hunting, shooting, fishing or setting traps or nets or laying of snares.
- Unlawful driving of motor vehicle or cycle, carriage, cart, caravan, truck or other vehicle (including aircraft) except in accident.
- Flying of model aircraft driven by combustible substances.
- Taking off or landing of any glider or aircraft.
- Flying of glider or aircraft to cause undue interference with enjoyment of the common by persons lawfully on it.
- Show, exhibition, swing, roundabout or the like on the common.

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24 SR+O stands for the statutory rules and orders which preceded statutory instruments.
25 The Secretary uses the same considerations as the Commons Act 1876 for application under the Inclosure Acts 1845-1882.
Appendix 14

**Hertfordshire Green Names**

Hertfordshire Greens listed by EPNS with earliest recorded dates

<table>
<thead>
<tr>
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Source: *EPNS volume, Hertfordshire*
# Record Office References

## Maps

### Berkshire

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APPENDICES

Hertingfordbury 1732 D/EP P7
Hertingfordbury 1738 D/EP T229
Hertingfordbury 1773 D/EP P12
Hitchin 1771 D/EHa P1
Hoddesdon 1792 B.1444
Kelshall 1749 D/EB 650. E1
Lilley 1658 D/ER P9
Layston 1744 54835
Leeds 1797 D/EP T 4964
Knebworth 1731 47259
Therfield 1725 D/P 107/29/2
Sarratt early 18th c. 29288
Sawbridgeworth early 19th c. 56318-56326
Standen 1778 43754
Tewin 1803-4 D/EP T 2400 D
Welwyn 1866-70 D/P119
Westmill 1785 76829
Weston 1822 26885
Wheathampstead 1623 D/ELw P1
Wheathampstead 1827 D/EGd (C Add)/P1

Norfolk
Blakeney Haven and Port of Cley 1586

Middlesex
Twickenham Green Inclosure Award 1819
Twickenham/ Isleworth 1786 A map of the manor of Isleworth/
Sion.... belonging to the Duke of Northumberland

OTHER

Hertfordshire
AH 915 Grant of common rights at Ashridge, 1285
HLC 35/2 Town Planning Committee Minute Book, 1937

Durham
Du P+D Halmote Presentments and Proclamations Box 4, Easington Division

Berkshire
CPC 28 18/1 Byelaws
## Village Green Database Codes

### GREEN CODE

**Registered Village Greens**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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**Registered Common Land**

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**Private**

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Local Authority

LAPC   Parish Council
LAPM   Parish Meeting
LACY   City Council
LARDC  Rural District Council
LAUDC  Urban District Council
LADC   District Council
LABC   Borough Council
LACC   County Council

BO     Borough
CY     City

GOV    Government Department
CRO    Crown Estate Commissioners
TR     Trustees
OC     Official Custodian for Charities
CC     Church Commissioners
EC     Ecclesiastical
E      Educational
R      Rector of Therfield
M      Merton College, Oxford

S9     Protection under Commons Registration Act 1965 s. 9
LR     Registered under the Land Registry Acts 1925-1966

COM    Commercial
NT     National Trust

Ceylon Tea Growers Association

RIGHTS CODE

Rights

P      Pasture
Pa     Pannage
E      Estovers
T      Turbarry
Pi     Piscary
CS     Common in the Soil
Creatures

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## Owners of Village Greens

### Local Authority

**County Councils**
- Buckinghamshire
- Essex
- Gloucestershire
- Hampshire
- Hertfordshire
- Staffordshire
- West Sussex

**City Councils**
- Peterborough
- Bristol
- Plymouth

**Borough Councils**
- Windsor and Maidenhead Royal
- Newbury
- Macclesfield
- Crewe and Nantwich
- Ellesmere Port and Neston
- Halton
- Restormel
- High Peak
- Chesterfield
- Saffron Waldon
- Chelmsford
- Thurrock
- Colchester
- Basingstoke and Deane
- Aldershot
- Fareham
- Lympington
- Watford
- Ribble Valley
- Tamworth
- St. Edmundsbury
- Elmbridge
- Spelthorne
- Rugby
- Nuneaton and Bedworth

**District Councils**
- Northavon
- Woodspring
- Newbury
- South Cambridgeshire
- Huntingdon
- South Lakeland
- Eden
- South Derbyshire
- West Derbyshire
- Lewes
- Epping Forest
- Basildon
- Braintree
- Tending
- Cotswold
- East Hampshire
- New Forest
- Petersfield
- Hart
- Welwyn Hatfield
- West Lancashire
- Ribble Valley
- Harborough
- East Lindsey
- Great Yarmouth
- West Norfolk
- Breckland
- Daventry
- Mansfield
- Newark
- West Oxfordshire
- Cherwell
- Vale
- Vale of White Horse
- Yeovil
- Cannock Chase
- Staffordshire
- Suffolk Coastal
- Waveney
- Forest Heath
Crawley
Redditch

**TOWN COUNCILS**
Leighton Linslade
Thatcham
Buckingham
Marlow
Ramsey
Knutsford
Lynton and Lynmouth
Bovey Tracey
Dorchester
Hailsham
Uckfield
West Mersea
Frinton and Walton
Chipping Campden
Lydney
Nailsworth
Wotton-under-Edge
Petersfield
New Milton
Wintworth
Fakenham
Didcot
Sudbury
Waveley
Kenilworth
Burgess Hill
Marlborough

**RURAL DISTRICT COUNCILS**
Tandridge
Mole Valley
Stratford on Avon
Stratford
Horsham
Adur
Mid Sussex
Bradfield
Dorchester
Charley
Lexden and Winstree
Braintree
Basingstoke
Hemel Hempstead
Hertford
Lunesdale
Oakham
Uppingham
Ketton
Breckland
Daventry
Ploughley
Chard
Chanctonbury
Chichester
Evesham

**URBAN DISTRICT COUNCILS**
Bletchley
Wolverton
Sandbach
Knutsford
Runcorn
Matlock
Dronfield
Sidmouth
Brentwood
Thurrock
Benfleet
Frinton and Walton
Harlow
Brightlingsea
Thurrock and South Ockendon
Havant and Waterloo

APPENDICES
Fareham
Farnborough
Stevenage
Bushey
Hinckley
Wymondham
Moreton Thame
Halesworth
Caterham and Warlingham
Sunbury-on-Thames
Walton and Weybridge
Cuckfield

Crosby Ravensworth Local Council

PRIVATELY OWNED

DUKES
Beaufort
Lancaster (HM Queen)
Cornwall
Rutland
Northumberland
Norfolk
Buckcleugh/ Duchess of Devonshire
(Chatsworth Settlement)

MARQUESSES
Camden *
Abergaveney
Lothan
Salisbury
Cholmondley
Hertford

EARLS
Lonsdale
Iddesleigh
Malmsbury
Leicester
Spencer *
Bessborough
Coventry

MARQUESSES
Camden *
Abergaveney
Lothan
Salisbury
Cholmondley
Hertford

VIScounts
Falmouth *
Weymouth **
Ridley - as Allendale Settled Estates

BARONS
Buckhurst **
Petre
Rayleigh
Porchester **
Irwin **
Clitheroe
John Chomondley **
Cranworth
Leigh
Heytesbury of Westover

* No 'of' e.g. Earl Spencer
COMMERCIAL

Imperial Brewery and Leisure
West Country Breweries
Greenall Whitley + Co. Ltd.
Scottish and Newcastle Breweries Ltd.
Ansells Properties Ltd.
Yatendon Estates Ltd.
Jordans Village Ltd.
Frith Hill Riding Centre Ltd.
Penrice House Ltd.
Corlands Minerals Ltd.
Lloys Bank Ltd.
Mears Martinstown Developments Ltd.
J. Gard (Builders) ltd.
W. Wyatt Ltd.
Tudor Rose Farm Ltd.
Sea Front Holdings Ltd.
Coutts + Co.
Gapa Properties Ltd.
Knebworth Tenants Ltd.
Bridgestock Ltd.
Ceylon Tea Growers Association Ltd.
Allendale Settled Estates
Harbour Fishermans Society Ltd.
Period and Country Houses Ltd.
H. Cawston + Sons Ltd.
Goodwood Estate Co. Ltd.
Blydon Model Dairies Ltd.
Ashdown and General Land Co. Ltd.
Redditch Development Corporation
Valid Farms Ltd.

TRUSTS  Trustees of....

Somerset Trust (Badmonton)
Hauxton Town Lands Charity
Charity known as The Green in the parish of Barrington
Coveney Village Hall
Milton (Peterborough) Estates Co.
The Community of the Holy Family
Crewe Unsettled Estate
Camborne-Redruth Martyrs Memorial and Church of England Trust*
Gleaston Recreational Charity Trust
Chatsworth Settlement
Heads Nook Village Institute
Charity known as Manaton Green
Roborough Estate
Henry Smith's Charity
Ham and Stone Green
Huntley Recreation Ground Charity
Charity Lands
Darby Green and Frogmore Social Club
Public Trustees *
Hoddesdon Trustees *
Exton Estate
Lyndon Estate
Town Lands Charity
Inclosure Award Trust of 1816
Charity known as the Fuel Allotment, Garboldisham
Brede Woodland Trust
Benhall Lodge Estate
Bristol Resettled Estates
Cowdray Trust Ltd. *
Dickinson Trust Ltd. *
Leconfield Estate
Charity called the Midland Recreation Ground
VW Yorke 1964 Variation Arrangement Trust
Croome Estate Trust *
Acton and Cole Community Trust *
* Not 'trustees of'

EDUCATIONAL

Newcastle University
Warden and Scholars of the House or College (commonly called Merton College) of Scholars in the University of Oxford
Warden and Scholars Clerks of St. Mary's College of Winchester
All Souls College, Oxford

MAYOR, ALDERMEN AND BURGESSES OF THE BOROUGH OF...

Wokingham
Bournemouth
Harwich
Gosport
Stamford
Wallingford
Worthing
Evesham
Mayor, Aldermen and Citizens of the City of Southampton
Chamberlains, Common Council and Freemen of the Borough of Alnwick
PUBLIC UTILITIES AND OTHERS

National Trust
Runcorn District Water Board
North Western Water Authority
Minister for Transport
Crown Estate Commissioners
Crouch Harbour Authority
Secretary of State for Defence
Smallburgh Internal Drainage Board
The Boys Brigade
Wessex Water Authority
Ministry of Agriculture, Fisheries and Food
Commonwealth War Graves Commission
Church Commissioners
Parish Trustees
Official Custodian for Charities
Corporation of the Norman Lockyer Observatory of the University of Exeter
Incumbent for the time being of the Benefice of St. Mary and St. Michael
J. Payne's Marriage Settlement
Bledington Village Hall Committee
Letchworth Garden City Corporation
Conservators of Therfield Heaths and Greens
Rector of Therfield
Representative Body of the Parish
British Gas
National Coal Board
Adderbury Green Association
Oxford Diocesan Board of Finance
Incumbent for the time being of the Benefice of St. James, Abinger
Shoreham Port Authority
Vicar of Redditch
Parish Meeting
Appendix 18

**COMMON RIGHTS ON VILLAGE GREENS**

The following counties have no registered common rights over village greens:

- CAMBRIDGESHIRE
- CHESHIRE
- CLEVELAND
- DERBYSHIRE
- HAMPSHIRE
- HERTFORDSHIRE
- HUMBERSIDE
- LEICESTERSHIRE
- LINCOLNSHIRE
- NORFOLK
- NORTHAMPTONSHIRE
- SHROPSHIRE
- SOMERSET

They may, however, have common rights over village greens which have been registered as commons. The following counties do have rights over village greens:

**AVON**
Common rights on 2 greens, both have rights of pasture.
1 green has right of estovers and common in the soil.
Total of 16 cattle, 8 horses, 30 sheep and 6 animals.

**BEDFORDSHIRE**
Pasture rights on 3 greens.
Total of 52 cattle, 13 horses, 50 sheep and 45 pigs.

**BERKSHIRE**
Pasture rights on 2 greens.
Total of 201 cattle, 61 sheep, 1 right of estovers.

**BUCKINGHAMSHIRE**
Pasture rights on 1 green.
Total of 60 cattle (one right in gross), 25 sheep, 20 pigs, 10 geese and 30 ducks.

**CORNWALL**
Common rights on 2 greens, both have pasture. Right of estovers on 1 green.
Total of 44 cattle, 15 horses, 75 sheep, 16 pigs and 6 goats.
CUMBRIA
Common rights on 9 greens, 8 have rights of pasture. 1 green has right of turbary, 2 greens have right of common in the soil and use of kiln. Total of 965 cattle, 620 horses, 7501 sheep and 14 geese.

DEVON
Common rights on 7 greens, all have rights of pasture. 3 greens have rights of turbary, 2 greens have rights of estovers, piscary, common in the soil and shooting. Total of 340 cattle, 80 horses, 1326 sheep and 22 animals.

DORSET
Pasture rights on 1 green.
1 cow, 1 pig or 1 donkey.

DURHAM
Common rights on 2 greens, both have rights of pasture. 1 green has estovers. Total of 2393.5 cattle, 149.5 horses, 2393.5 sheep and 2990 geese.

EAST SUSSEX
Pasture rights on 1 green.
20 cattle.

ESSEX
Common rights on 11 greens, all have rights of pasture. 2 greens have rights to cut hay, and there are 4 rights of turbary on 3 greens, one of which also has right of estovers. Total of 122 cattle, 13 horses, 7 other animals, 96 sheep, 4 goats, 48 geese and 24 ducks.

GLOUCESTERSHIRE
Common rights on 7 greens, all have rights of pasture (1 right in gross). 1 green has rights of estovers, turbary and pannage. Total of 292 cattle, 96 horses, 1295 sheep, 63 goats and 20 animals.

HEREFORDSHIRE
Common rights on 2 greens, both have rights of pasture, 1 green has estovers, turbary and piscary. Total of 78 cattle, 14 horses and 121 sheep.

KENT
Pasture rights on 3 greens. Total of 16 cattle, 68 sheep and 8 horses.

LANCASHIRE
Pasture rights on 2 greens. Total of 10 cattle, 3 horses and 10 sheep.

NOTTINGHAMSHIRE
Pasture rights on 1 green (1 right in gross). 53 rights of estovers and turbary.
Total of 159 cattle and 70 animals.

**NORTHUMBERLAND**
Common rights on 3 greens, 2 have rights of pasture. 1 green has right of estovers and turbary. Total of 80 cattle, 6 horses, 124 sheep and 48 geese.

**OXFORDSHIRE**
Pasture rights on 2 greens.
Total of 69 cattle, 55 horses, 286 sheep, 22 pigs and 34 animals.

**STAFFORDSHIRE**
Pasture right on 1 green.
Total of 6 beef cattle and bullocks.

**SUFFOLK**
Pasture rights on 10 greens.
Total of 267 cattle, 62.5 horses, 401 sheep, 21 goats, 187 geese, 100 hens.

**SURREY**
Common rights on 4 greens, all have rights of pasture. 1 green has right of pannage for 40 hogs.
Total of 17 cattle, 13 horses, 88 sheep, 3 beasts and 1 goat.

**WARWICKSHIRE**
Common rights on 4 greens (3 in gross), 1 right to mow.
Total of 21 cattle, 8 horses, 85 sheep, 4 goats, 12 ducks, 17 geese.

**WEST SUSSEX**
Common rights on 1 green. 1 right to estovers and turbary.
Total of 23 cattle and 10 sheep.

**WILTSHIRE**
Common rights of pasture, turbary and estovers on 1 green.
Total of 115 cattle, 19 horses, 5 sheep, 53 geese, 14 goats, 96 fowls and 36 ducks.

**WORCESTERSHIRE**
Pasture rights on 1 green.
27 sheep.

**NORTH YORKSHIRE**
Common rights on 12 greens, all have rights of pasture, one has right of turbary, piscary, estovers and pannage. Total of 127 cattle, 85 horses, 73 sheep, 75 animals, 7 pigs, 11 goats, 105 geese, 62 ducks and 12 hens.
# DETAILS OF COMMON RIGHTS ON VILLAGE GREENS

## AVON

**VG, Iron Acton**
- Court Fm: 6 horses or cattle
- Green Cottage: 2 horses
- Sheep Ho Fm: 10 cattle and 30 sheep, estovers, right to dig and take away stone

**Wick G, Sutton Wick**
- Orchard Cottage: 3 animals
- Weeks Green Fm: 3 animals

## BEDFORDSHIRE

**Whipsnade G**
- Hill Fm: 10 cows and other common rights comprised in the Lordship of the Manor of Whipsnade
- Chute Fm: 4 stints, EACH of 1 cow or 2.5 sheep
  - 12th May to 12 Nov for cows and 12 Nov to Christmas for sheep. Stints may be increased in number by common arrangement with other stint holders.
  - Village gates should be kept closed during cow grazing.
- Swallow Spring: 1 stint of 1 cow or 1.5 sheep, dates as above
- Chiltern Cott: 1 cow
- Blythswood: 1 cow
- Whipsnade park: 4 stints, EACH 1 cow or 1.5 sheep, dates as above. Increase by arrangement
- Chapel Fm: 2 cows
- The Orchard: 1 cow
- The Oaks: 1 cow
- The Old Rectory: 3 stints, EACH 1 cow or 2.5 sheep, dates as above, increase by arrangement
- Land south of No. 3 Windmill Cottages: 2 horses or 2 cows or 2 sheep full year
- Dell Fm: 4 stints, EACH 1 cow and 2.5 sheep, dates as above
- Chequers Inn: 2 stints, EACH 1 cow and 2.5 sheep, dates as above

## Ickwell G

- The Old Ho: 3 cows
- Colemoreham Farmhouse: 2 rights, EACH 1 horse or 1 cow
- Home Fm: 2 cows and 8 sheep

## Beeston G, Sandy

- 31+33 Beeston G: 1 cow, 1 horse and 5 hogs
Land on which No. 22 once stood

<table>
<thead>
<tr>
<th>Land on which No. 22 once stood</th>
<th>1 cow, 1 horse and 5 hogs</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 more rights</td>
<td>EACH 1 cow, 1 horse and 5 hogs</td>
</tr>
</tbody>
</table>

**BERKSHIRE**

*Cricket Green, Cookham Dean*

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Woodland Fm</td>
<td>100 cattle, estovers</td>
</tr>
<tr>
<td>Land</td>
<td>30 cattle</td>
</tr>
<tr>
<td>Land</td>
<td>6 cattle or 6 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>5 cattle or 5 sheep</td>
</tr>
<tr>
<td>White Place Fm</td>
<td>50 cattle and 50 sheep</td>
</tr>
<tr>
<td>Land at Godfrey's Orchard, Readings Orchard</td>
<td></td>
</tr>
<tr>
<td>The Noole</td>
<td>10 cattle</td>
</tr>
</tbody>
</table>

**BUCKINGHAMSHIRE**

*Church End Green*

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manor Fm</td>
<td>60 cattle, 20 sheep and 20 pigs</td>
</tr>
<tr>
<td>S. Clarke (GROSS)</td>
<td>10 geese and 5 lambs, 30 ducks on pond</td>
</tr>
</tbody>
</table>

**CORNWALL**

*Downinney VG*

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>12 cattle or 12 ponies or 60 sheep</td>
</tr>
<tr>
<td>Downinney Fm</td>
<td>12 cattle, 10 sheep and 2 pigs</td>
</tr>
<tr>
<td>Colhay Ho</td>
<td>10 cattle, 5 sheep and 2 sows</td>
</tr>
</tbody>
</table>

*Recreation Allotment, St. Eval*

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downhill Cotts</td>
<td>10 cattle, 3 horses, 6 goats and 12 pigs and to take tree loppings or gorse, furze, bushes or underwood</td>
</tr>
</tbody>
</table>

**CUMBRIA**

*Hilton Village Green*

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>45 stints (1 sheep including follower = 1 stint, 1 cattle = 5 stints)</td>
</tr>
<tr>
<td>Land</td>
<td>40 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>4 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>190 stints (as above, plus 1 horse = 7 stints)</td>
</tr>
<tr>
<td>Land</td>
<td>Stints (as above)</td>
</tr>
<tr>
<td>Cottages and Land</td>
<td>75 stints</td>
</tr>
<tr>
<td>Land</td>
<td>34 stints</td>
</tr>
<tr>
<td>Land</td>
<td>3 ewes and followers or cattle or horses on basis of 1 cattle = 5 ewes and followers, 1 horse = 7 ewes and followers</td>
</tr>
</tbody>
</table>

*Murton Village Green (+ CL 26)*

<table>
<thead>
<tr>
<th>Landmark</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>40 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>25 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>50 sheep and 1 horse</td>
</tr>
<tr>
<td>Land</td>
<td>10 sheep and 1 horse</td>
</tr>
<tr>
<td>Land</td>
<td>20 sheep and 10 horses</td>
</tr>
<tr>
<td>Land</td>
<td>188</td>
</tr>
<tr>
<td>Land</td>
<td>200 sheep and 3 horses</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Land</td>
<td>50 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>1360 stints (1 stint = 1 sheep and follower, 1 hogg = 1 stint, 1 cattle = 5 stints and turbary)</td>
</tr>
<tr>
<td>Land</td>
<td>60 ewes/hoggs and followers or 15 horses and followers, and turbary</td>
</tr>
<tr>
<td>Land</td>
<td>10 ewes and followers, 5 hoggs and followers and 10 horses and followers</td>
</tr>
<tr>
<td>Harbour Flatt Fm</td>
<td>2000 sheep and turbary</td>
</tr>
<tr>
<td>Land</td>
<td>25 sheep and 5 horses</td>
</tr>
<tr>
<td>Murton Ho Fm</td>
<td>136 sheep and 1 horse</td>
</tr>
<tr>
<td>Land</td>
<td>22 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>6 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>72 sheep and 1 horse</td>
</tr>
<tr>
<td>Land</td>
<td>8 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>6 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>14 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>18 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>60 sheep</td>
</tr>
<tr>
<td>Land</td>
<td>6 sheep</td>
</tr>
<tr>
<td>Bridge End Fm</td>
<td>52 sheep and 2 horses</td>
</tr>
</tbody>
</table>

**The Green, Milburn**

<table>
<thead>
<tr>
<th>Milburn House Fm</th>
<th>200 cattle or 200 horses or 1000 sheep or cattle, horses and sheep together to a limit of 1000 gates, each cattle or horse = 5 gates, 1 sheep = 1 gate. (a) Limited to non-commercial animals, (b) Right held for the benefit of inhabitants of the village generally to be administered by the Parish Council, (c) Rights not to be exercised by trustees personally for the benefit of their own lands so long as grazing enjoyed by the inhabitants.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kirk Ho Fm</td>
<td>85 cattle or 85 horses or 425 sheep or 425 gates (as above)</td>
</tr>
<tr>
<td>Land</td>
<td>2 cattle or 2 horses or 10 sheep or 10 gates</td>
</tr>
<tr>
<td>Fell Lane, Milburn</td>
<td>200 cattle or 200 horses or 1000 sheep or 1000 gates (as above)</td>
</tr>
<tr>
<td>Milburn Ho Fm</td>
<td>85 cattle or 85 horses or 425 sheep or 425 gates (as above)</td>
</tr>
</tbody>
</table>

**Stainton-with-Adgarley Village Green, Urswick**

| Stainton Green Fm          | 20 cattle Stainton Hall Fm 12 cattle                                          |

**Stoneknow Village Green, Scaleby**

| J. Graham (GROSS)          | 6 geese and their goslings and 30 cattle                                      |

**Walton Village Green**

| Land                      | 2 cattle and 8 geese                                                         |

**Recreation Allotment, Mungrisedale**

| Commoners of the parish   | Use kiln on the village green and to quarry gravel from Beckside Recreation Ground 189 |
**Mungrisedale Village Green**

Commoners of the parish

Use kiln on the village green and to quarry gravel from Beckside Recreation Ground

**DEVON**

**VG, Ashwater**

Land at Manor

2 ponies

Denbury G

Denbury Manor

1 pony

Lores Fm

20 cattle

**Sticklepath Bowling Green**

Chantrys Cott

16 bullocks, 3 ponies and sheep, estovers, and piscary

Ball Fm

25 cattle, 100 sheep sand+gravel, estovers, piscary

Greenhill Fm

50 cattle, 200 sheep stone+gravel, estoversturbary, piscary, shooting

Cleave

6 cattle or ponies or sheep, gravel, sand+stones estovers, turbary, piscary shooting

Staples, Sticklepath

estovers, turbary, piscary shooting

Finch Foundry

1 horse or equivalent, sand gravel and stone, estovers turbary, piscary, shooting

Western Carnall Mills

1 horse or equivalent, gravel and stone, estovers turbary, piscary, shooting

**VG, Stamford Courtenay**

Chantrys Cottage

} AS ABOVE

Ball Fm

} AS ABOVE

Greenhill Fm

Cleave Mills

} AS ABOVE

**VG, Sourton**

Land at Sutherland

2 ponies, turbary

Fordham Fm

22 stock units ( NFU scale )

**Part Valley of the Rocks, Lynton**

100 cattle or 50 horses or sheep over 1 year ( 2 under 1 year counting sheep )

**The G, Chilsworthy**

Fair Acres

6 cattle and 20 sheep

**DORSET**

**Pamphill G and Little Pamphill G**

Vine Inn

1 cow ( with or without calf following ) and 1 or donkey

**DURHAM**

**Haughton-le-Skerne VG**

Herbage and estovers and all other rights customarily held in the Manor of Bondgate with Darlington

**Recreation Allotment, Bowes**

W. Watson (gross)

30 sheep or cattle gaits

E. Addison (gross)

58 stints

Trustees of Bowes and Romaldkirk Charity Estates (gross)

190
20 sheep stints. Cattle gait - one right of common is one sheep stint - 1 sheep or ewe with unweaned lamb, one 3 year old or upward cow or beast, or one and a half 2 year old cow or beast or 10 geese = 8 sheep stints; or, 1 horse or mare with unweaned foal not exceeding 6 months = 16 sheep stints.

J. Dent (gross) 81 sheep stints or cattle gaits
Boldron parish meeting (gross) One and a half sheep stints or cattle gaits
W. Watson / J. Etty / J. Cooke-Hurle / F. Milbank (gross)
441 and a half stints

Dove Hall
25 stints

L. Raine (gross) 176 and a half stints
R. Turnbull (gross) 2 and a half stints
F. Kipling (gross) 5 and three quarter stints

Vicar of Bowes parish (gross) 3 stints

Straud Foot
35 and a half stints

East Stoneykeld
16 stints

East Stoneykeld Fm
109 and a half stints

West Stoneykeld Fm
295 stints

P. + D. Oliver (gross) 6 and a half stints

J. Maughan (gross) 6 stints
J. Fenwick (gross) 94 stints
L. Raine (gross) 6 and a half stints

R. Hutchinson (gross) 39 and a half stints

S. Rodwell (gross) 169 and one sixth stints

R. Hutchinson (gross) 429 stints

L. Raine (gross) 10 stints
L. Raine (gross) 10 stints
L. Raine (gross) 114 stints
M. Spooner (gross) 250 stints

EAST SUSSEX

Village Green, Hartfield
Land
10 cattle

Vine
10 cattle

ESSEX

Brick Kiln Green and Lower Green
Land
1 animal

Matching Green
House
6 animals

Wingates
2 cows and ponies, turbary

Parsonage Green
Parsonage Fm
Cut, make or cart Hay

Great Bentley Village Green
New May House
12 cattle, 30 sheep, 4 horses, 24 geese and 24 ducks
191
**APPENDICES**

**The Green, Hanham**
Former part of glebe
6 sheep or 1 cow or bullock in lieu of 5 sheep, or 1 horse in lieu or 6 sheep, or 1 donkey in lieu of 2.5 sheep Salmon, Hatches, Sudbury and Bullers Fms 20 cattle, estovers turbary

**The Village Green, Wickham St. Paul**
Park Fm
10 cattle and 60 sheep

**Parsonage Downs, Great Dunmow**
Parsonage Fm
25 cows

**Forry's Green, Sible Hedingham**
Pepper's, Webb's and other Fms
10 cattle

**Fordham Heath, Eight Ash Green**
Gordons
1 horse or pony and 1 cow and 2 goats, turbary
Heathside Fm
40 cattle
Gordons
1 horse or pony and 1 cow and 2 goats, turbary

**Parsonage Green, Broomfield**
Parsonage Fm
Cut, make or cart hay

**Hatfield Heath and Lea Green**
Heath View
2 ponies and 12 geese
Little Eden
12 geese, 3 ponies and 2 donkeys (over part)

**GLOUCESTERSHIRE**

**The G, High Strut**
Longwood Fm
6 cattle and 12 ewes with lambs
Slades Fm
25 cattle and 50 ewes with lambs April to October

**Calcotts G**
Lower Morcroft
10 cattle and 20 sheep

**Rosamunds G**
H. Clifford
6 cattle, 12 sheep and 2 horses
Kempsey Ho
20 animals
Frampton Ct
25 cattle or 50 sheep

**Kilcot G**
Oakleigh
10 cattle, 1 sheep, 2 goats or horses, estovers, turbary and pannage
Woodlands
3 cows and 6 sheep

**The G, Twyning**
V. Halling
4 cows, 2 horses and 20 sheep
2 tithes
20 cows, 8 horses and 120 sheep
11 tithes
72.5 cows, 29 horses and 435 sheep
1 tithe
15 cows, 6 horses and 90 sheep
Half Acres
20 cows, 8 horses and 120 sheep
Fleet Fm
42.5 cows, 17 horses and 255 sheep
3 tithes
10 cows, 4 horses and 60 sheep, also 4 cows, 2 horses and 17.5 sheep
G. Halling
4 cows, 2 horses and 17.5 sheep

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APPENDICES

The G, King's Stanley

The Knapp
Middleyard
Peakland Elm Fm

3 cows, 3 horses and 20 goats
3 cattle, 2 horses or ponies and 5 goats
3 yearling cattle, 2 horses or ponies and 5 goats

The Borough, King's Stanley

The Knapp
Middleyard
Peakland Elm Fm

3 cows, 3 horses and 20 goats
3 cattle, 2 horses or ponies and 5 goats
3 yearling cattle, 2 horses or ponies and 5 goats

HEREFORDSHIRE

Pernbridge VG

Bridge Ho
The Green
Land
The Bargates
New Mill Fm
Middle Brook
Bearwood Fm

1 pony and 4 cows
20 sheep, 18 cattle, estovers and turbary
20 sheep, 18 cattle, estovers and turbary
2 cows, 6 sheep, piscary
6 cows and 4 horses, ponies or donkeys, piscary
8 cattle and 30 sheep
6 ponies or cattle
10 cattle and 20 sheep after hay harvest

Castle Green, Longton

Land

6 cattle, 25 sheep and 2 ponies

KENT

VG 22

Tye House

2 neat cattle and 4 sheep

VG 82

Manor of Bayham

60 sheep, 12 cows and 6 horses

VG 23

Tye House

2 head of neat cattle and 14 sheep, 1st Mar to 30th Nov

LANCASHIRE

Worston VG

Brogdel Fm

3 horses and 10 sheep

Melling G

Town End Fm

10 cattle

NORTHUMBERLAND

Slaggyford Village Green, Knaresdale

Temperance Fm

Tyneview Fm

4 cattle, 6 sheep, 24 fowls including geese, access to spring and to water livestock at spring
4 cattle, 6 sheep, 24 fowls including geese, access to spring and to water livestock at spring

Broadmead, Slaggyford and Intake Fms

30 sheep and 8 cattle

Wall Village Green

Land

West Fm

1 horse or 10 sheep or 20 cows or 5 calves
1 horse or 10 sheep or 20 cows or 5 calves
193
APPENDICES

Garden Ho  2 horses or 4 cows or 6 sheep
North Fm  20 cows or 2 horses or 50 sheep

**Longhorsley Town Green**

- Muckley Fm  Estovers and turbary
- Inhabitants of township of Longhorsley  Estovers and turbary
- Stonehaven  6 sheep

**NORTHUMBERLAND**

- Longhorsley Town Green
  - Muckley Fm  Estovers and turbary
  - Inhabitants of township of Longhorsley  Estovers and turbary
  - Stonehaven  6 sheep

- **NOTTINGHAMSHIRE**
  - The Common, Scrooby
    - D. Dunstan  70 beasts while crossing the common or Mill Green daily 8 am to 10 am and 3 pm to 5 pm
    - Various inhabitants of the parish of Scrooby at the time of the award (1809)
      - 53 persons eligible to graze cattle, right to lop trees and bushes, right to take turf and the right to graze 3 cows per person

- **OXFORDSHIRE**
  - The G, Marsh Boldon
    - College Fm  2 farms, EACH 11 common rights, EACH 2 cows or 1 horse or 5 sheep or 1 pig
    - College Fm  25 cattle, 40 sheep with lambs

- The G, Tetsworth
  - Tetsworth Sports and Social Club (GROSS)
    - 12 May to 14th Nov 34 beasts over 1 year of age or 70 beasts under 1 year, 14th Nov to 14th Feb 33 horses or 136 sheep

- **STAFFORDSHIRE**
  - Baulaston VG
    - Highfield Ho  6 beef cattle and bullocks

- **SUFFOLK**
  - Harleston Green
    - Green Fm  12 cows or other cattle
  - Old Chapel Green, Wenhaston
    - Blackheath Fm  4 horses and 20 cattle
    - Blackheath Fm  2 cows, 2 horses and 2 donkeys
  - The Green, Wenhaston
    - Blackheath Fm  4 horses and 20 cattle
    - Blackheath Fm  4 horses and 20 cattle
  - Thorney Green, Stowupland
    - Mill House  3 horses and 6 cattle and 10 sheep or goats and 50 geese or hens
    - Pooles Fm  16 cows and 3 horses
    - Walnut Tree Fm  10 cows and 50 sheep
    - Crowstone  3 horses
    - Green Fm  30 cattle

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Ford Cottage
4 horses or 5 cattle or 10 sheep (or goats) or 50 geese (or hens)

The Green, Long Melford
Dorset Cottage
1 horse or pony or donkey or similar beast of burden
Park View
2 donkeys and 12 geese
Old Bakery
1 pony
Land and Buildings
1 cow and 1 horse
Ruses's Butchers Shop
1 cow and 1 horse
Greenways
1 cow and 1 horse

Brook Green, Welnetham
Land
20 sheep, 2 horses or ponies, 2 cows and 6 geese

Depden Green, Lawshall
Coblands Fm
2 cattle
Depden Hall Fm
84 head of stock (over part)
Popes Fm
3 cattle or 12 sheep or 1.5 horses or 3 geese
Ashfield Green Fm
4 cattle or 2 horses or 16 sheep
Pratts Fm
4 cattle or 2 horses or 16 sheep
Grove Fm
4 beasts (cattle) or 16 sheep or 2 horses

The Green, Hawstead
Bryers Fm
25 sheep, 6 cattle, 12 geese
Fyletts Manor Fm
170 sheep, 24 cattle
2 plots
6 horses or 6 ponies, 20 sheep, 24 geese, and 6 meat stock
Land
20 sheep, 2 horses or ponies, 2 cows and 6 geese

Pound Green, Hawstead
2 plots
6 horses or ponies, 20 sheep, 24 geese and 6 meat stock

The Green, Hawstead
Manor or Lordship of Hawkeden
9 head of horse or neat stock 13th May to 31st March next following
Crestlands Fm
2 head or horse or neat stock

SURREY
Ripley Green
Dunsborough Ho
53 sheep or 17 cows and 28 sheep or 8 horses and 5 sheep

Abinger Marsh Green, Abinger Hammer
Aberdeen Ho
3 horses and 1 goat

Abinger Hatch Green, Abinger
Abinger Manor Cottage
2 horses, pannage for 40 hogs, estovers

Forest Green, Abinger
Wickland Fm
3 beasts
WARWICKSHIRE

**Village Green, Warmington**

L. James (GROSS)  
5 sheep, 2 goats, 1 cow, 1 calf, 1 pony, 2 yearling ponies, 1 horse, 12 ducks and 12 geese

**The Green, Sutton under Brailes**

A. Shepard (GROSS)  
6 cattle or 20 sheep and to mow

**The Green, Upper Quainton**

J. Hiatt (GROSS)  
12 cattle and 60 sheep

House on the Green  
1 donkey, 1 milk cow and 3 geese

Marcot Cottage  
2 goats, 2 geese and 1 donkey

**Land at Wimpstone, Whitchurch**

Old Forge  
2 ponies

WEST SUSSEX

**Heyshott Green**

Upper Cranmore  
20 cows

Cobdens  
10 sheep and 3 cattle, cut, dig and take turf, to cut and take fire-bote

WILTSHIRE

**Poulshot G**

Field  
6 cattle and 3 horses or ponies

Hochgurgl  
2 cows, 6 geese and 2 horses or donkeys

Green Fm  
5 cattle, 5 horses, 5 sheep and 5 geese

Higher G Fm  
20 cattle

Each of 6 properties edging the green  
1 horse, pony or donkey, 2 heifers, 2 goats, 10 fowls, 6 ducks, 4 geese and attendant goslings, right to take herbage, turf, and tree lopings.

Lower G Fm  
18 cows, 2 horses or ponies, 6 geese, 2 goats

Breastlands  
3 cows, 1 horse, 36 fowls and 12 geese

Dukes Fm  
40 cattle, that is to say 30 milking cows and 10 grazers, sunrise to sunset

Other land defined  
9 cows, sunrise to sunset

WORCESTERSHIRE

**Bushley Green**

Land  
20 sheep

Land  
7 sheep

NORTH YORKSHIRE

**VGs and Waste Lands, Upper Poppleton**

Mode Fm  
10 cattle

**The Common or the Green, and Moor End, Nun Monkton**

Forge Ho  
4 animals

Alice Hawthorn Inn and Garth  
4 animals

Lane End Ho  
2 animals

White Swan Ho  
2 beasts

Rosemary Cott  
2 beasts

196
<table>
<thead>
<tr>
<th>Location</th>
<th>Animals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hatch End</td>
<td>2 animals</td>
</tr>
<tr>
<td>Bart Ho</td>
<td>2 animals</td>
</tr>
<tr>
<td>Rose Cott</td>
<td>2 animals</td>
</tr>
<tr>
<td>Plum Tree Cott</td>
<td>2 animals</td>
</tr>
<tr>
<td>Apple Tree Fm</td>
<td>2 animals</td>
</tr>
<tr>
<td>Cundall's Fm</td>
<td>2 animals</td>
</tr>
<tr>
<td>Church Ho</td>
<td>2 animals</td>
</tr>
<tr>
<td>Croft Ho</td>
<td>2 animals</td>
</tr>
<tr>
<td>West Ho</td>
<td>2 animals</td>
</tr>
<tr>
<td>Leeds Garth</td>
<td>4 animals</td>
</tr>
<tr>
<td>Smithy Cott</td>
<td>4 animals</td>
</tr>
<tr>
<td>The Green</td>
<td>4 animals</td>
</tr>
<tr>
<td>Tesseyman's Cott</td>
<td>4 animals</td>
</tr>
<tr>
<td>Batman Fm</td>
<td>7 animals</td>
</tr>
<tr>
<td>Ebor Ho</td>
<td>2 beasts</td>
</tr>
<tr>
<td>Green Ridge</td>
<td>2 beasts</td>
</tr>
<tr>
<td>Shrubbery Cott</td>
<td>6 beasts</td>
</tr>
<tr>
<td>The Presbetary</td>
<td>4 beasts</td>
</tr>
<tr>
<td>The School Ho</td>
<td>3 animals</td>
</tr>
</tbody>
</table>

**Chapel Green, Apleton Roebuck**

<table>
<thead>
<tr>
<th>Location</th>
<th>Animals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridge View</td>
<td>2 beasts</td>
</tr>
</tbody>
</table>

**VG, Low Worsall**

<table>
<thead>
<tr>
<th>Location</th>
<th>Animals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worsall Hall</td>
<td>1 cow</td>
</tr>
<tr>
<td>No. 4 The Green</td>
<td>1 cow</td>
</tr>
<tr>
<td>Green Cott</td>
<td>1 animal</td>
</tr>
</tbody>
</table>

**VG, Newby**

<table>
<thead>
<tr>
<th>Location</th>
<th>Animals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steinmoor</td>
<td>2 goats or 1 pony</td>
</tr>
<tr>
<td>Long Field Ho</td>
<td>1 horse or 1 pony</td>
</tr>
<tr>
<td>Long Fm</td>
<td>12 cattle and 1 pony</td>
</tr>
<tr>
<td>White Ho</td>
<td>Estovers, cut and take away peat, take fish, pannage, 4 horses or ponies and 6 sheep, 2 cows, 2 goats, 12 hens and 12 geese and 12 ducks</td>
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<tr>
<td>Ash Close</td>
<td>2 horses or 2 heifers or 2 bullocks or 6 sheep</td>
</tr>
<tr>
<td>Villa Fm</td>
<td>10 cattle and 1 horse</td>
</tr>
<tr>
<td>Croft Ho</td>
<td>1 horse</td>
</tr>
<tr>
<td>East View</td>
<td>1 horse and 1 goat</td>
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**VG, Sheriff Hutton**

<table>
<thead>
<tr>
<th>Location</th>
<th>Animals</th>
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</thead>
<tbody>
<tr>
<td>Castle Hill Ho</td>
<td>2 horses</td>
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**VG, Fearby**

<table>
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<tr>
<td>Elm Tree Fm</td>
<td>20 sheep and 15 cattle and 10 geese</td>
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**VG, Sandhutton**

<table>
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<tr>
<td>Greens Fm</td>
<td>15 adult cattle and 5 young</td>
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**VG, Thornton Watlass**

<table>
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<tbody>
<tr>
<td>Longhurst</td>
<td>15 cows</td>
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**Fadmoor G**

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<th>Animals</th>
</tr>
</thead>
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<tr>
<td>Waingate Fm</td>
<td>2 cows, 8 sheep and 3 pigs</td>
</tr>
<tr>
<td>The Green</td>
<td>2 cows or 8 sheep</td>
</tr>
<tr>
<td>Fadmoor Fm</td>
<td>2 cows and 5 sheep</td>
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</tbody>
</table>

197
Westfield
Wengate Orchard
Beech Villa
Old Post Office
Chesnut Ho
Plough Inn
Wengate
Laburnum Cott

VG and Water End, Brompton
46 Water End
53 Water End
Pear Tree Ho Fm
37, 39 and 41 Water End

West Burton VG
One horse to ... Croft Ho, 1 Galloway Ho, Blackbut Cott, Greenhill Cott, East View, Morpeth View, Waterfall Villas, Cote Fm, Temple Ho, Hestholm, Cherry Tree Cott, Wensleydale Cott, Windy Ridge, School Ho, The Flat, Moody Ho, Mill Ho, West Burton Ho, Green Gables, Langdale, Ayton Ho, Jesmond Cott, The General Stores and Ho, Breewood, Grange Fm, Finsbury Ho, Ashington Fm, Hall Garth Cott, Fox and Hounds, Thistlebout, Ivy Cott, Bolton Ho, Hestholme, End Ho, Long Farthings, Fell View, The Baild, Green View, The Mount, 2 Galloway Ho, Rose Cott, Mount Pleasant, Ryders Fm, Green Bank, Smithson Cott, Well Cott, Haw Fm, Edgerley Fm, Kentucky Fm, East View, The Post Office, Kendal Ho, Moorside, The Mill, Carlton Garth, Gardners Cott, 2 Hestholme, Colwyn Ho, Pendinnis, Glen Royd, Land and Workshop, Galloway Rise, 1-3 Inglenook, 2 Mount Pleasant, Town Head Fm, Council Houses, Reeth Cott, Balck Bull Cott, South View, Galloway Ho, The Grange

Source: Calculated from commons registers
APPENDICES

Appendix 19

MANORIAL LORDS IN HOLT HUNDRED, NORFOLK 1845

BALE
BLAKENEY
BODHAM
BRININGHAM
BRINTON
BRISTON

CLEY-NEXT-THE-SEA
EDGEFIELD
GLANDFORD-WITH-BAYFIELD
HEMPSTEAD
HOLT

HUNWORTH
KELLING
MORSTON
SALTHOUSE
SAXLINGHAM
SHARRINGTON
STODY
SWANTON NOVERS
THORNAGE
WEYBOURNE
WIVETON

L. Jones, Bt.
Lord Calthorpe
J. Mott
On the part of Thornage: Lord Hastings;
Briningham Chosells: Lord Suffield
Lord Hastings
Briston Hall, Melliors, Chosells: R. Copeman; Briston Mautbois: W. Bulwer;
Mikelhall, Loundhall: J. Holley;
Thornage-exparte-Briston: Lord Hastings
W. Hardy
Edgefield-with-Ellingham: J. Marcon;
Edgefield Bacons: J. Frere
E. Best
Hempstead, Netherhall, Losehall: H. Gurney
Lord Suffield
M. Girdlestone
Lord Townshend
M. Girdlestone
Sir R. Jodrell
Sir R. Jodrell
Lord Suffield
Lord Hastings
Lord Hastings
Earl of Orford
G. Best

Source: White (1845)
# NORFOLK REGIONS

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<th>Zone</th>
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<tr>
<td><strong>Domeday Woodland</strong></td>
<td>VL</td>
<td>VL</td>
<td>L</td>
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<tr>
<td><strong>Domeday Pop density</strong></td>
<td>M</td>
<td>L</td>
<td>H</td>
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<tr>
<td><strong>Manorial Structure</strong></td>
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<td>M</td>
<td>W</td>
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<td><strong>Isolated Churches</strong></td>
<td>L</td>
<td>VL</td>
<td>M</td>
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<tr>
<td><strong>Present GNPNs</strong></td>
<td>VL</td>
<td>-</td>
<td>-</td>
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<tr>
<td><strong>Surviving VGs</strong></td>
<td>M</td>
<td>H</td>
<td>L</td>
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<tr>
<td><strong>Nucleation</strong></td>
<td>M</td>
<td>L</td>
<td>M</td>
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<td><strong>Dispersion</strong></td>
<td>L</td>
<td>L</td>
<td>H</td>
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<tr>
<td><strong>GNPNs and Common Edge 1790</strong></td>
<td>L</td>
<td>-</td>
<td>VL</td>
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<tr>
<td><strong>GNPNs 1790</strong></td>
<td>VL</td>
<td>-</td>
<td>L</td>
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<tr>
<td><strong>Common Edge Settlement 1790</strong></td>
<td>VL</td>
<td>-</td>
<td>L</td>
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**Key:**
- **L** = Low
- **VL** = Very Low
- **M** = Medium
- **W** = Weak
- **H** = High
- **VH** = Very High

*Source: Adapted from Darby (1976)*
ORIGIN AND EXTINGUISHMENT OF RIGHTS

A further useful and interesting area of study is the way in which common rights came to originate and the conditions under which they can be extinguished. There are a number of ways in which this may have occurred and it is still possible for rights to be extinguished and new rights to be granted. They may originate by a specific grant or be prescribed for by long-user and may be extinguished by ways including by statute or due to exhaustion of the product. The following are legal ways in which common rights have originated. It should be noted, however, that many common rights and commons are of great antiquity and developed long before the advent of the national law and can still come into existence today.

ORIGIN

Privilege
A Lord's grant of arable land had rights of pasture on the waste attached by common law. All appendant rights (see above) were created by privilege with no special grant or prescription necessary. The creation of new rights in this way has been obsolete since the statute of Quia Emptores, 1290 which prevented the creation of new manors and therefore no new rights can be created in this way in modern times.

Grant or Prescription
Appurtenant rights (see above) are not a natural incident to the holding of manorial land but are rights obtained by a special grant from the Lord or by long user (prescription). Where prescription is gained by long user of tenants, the right may become established in favour of the owner. For example, on a Welsh common from at least 1884, successive tenants on a farm had grazed sheep. Long user by the tenants gave the right to the owners of the fee simple of the farm.

Custom
Copyhold tenants of the manor had long had the customary appurtenant rights to graze their creatures on the wastes. Upon enfranchisement of copyhold tenure in 1926 customary rights of common were not lost but retained by custom and became true common rights.

Award
Redistribution by inclosure. Chapter 2.3 explains one of the effects of parliamentary inclosure was sometimes that common rights were extinguished on common land which was inclosed and some of the rights redistributed to other pieces of land.

EXTINGUISHMENT

Non-use of the profit is not grounds for extinguishing the right. In Bishop of Chichester and Strodwick's Case (1613) the court decided that non-use or negligence of boughs in a case of estovers did not extinguish a custom where the tenants were entitled to the branches when the Lord felled trees. Evidence of abandonment, however, may extinguish the right. On a

26 Re Abergwesyn Hill, Llanfihangel (Attorney General v Tomline (1880) distinguished).
27 Law of Property Act 1926
common quarry in Derbyshire, the right to take stone had not been exercised for many years and the failure to object to the development of the land for agricultural purposes on a long-term basis was evidence of abandonment of the right. Similarly, on a Lincolnshire common, non-exercise of common rights for over 40 years was taken to be evidence of abandonment.

Unity of ownership and possession
Common rights can only exist over land belonging to another person. If a commoner purchases the common or green which has common rights, those rights are extinguished. The purchase of the whole common by the commoner (unity of ownership and possession of the whole) always extinguishes the common rights. Where only part of the common is purchased, however, the amount of extinguishment depends on the annexation of the rights. Where there is a right of common appurtenant and the commoner buys part of the land, the resultant part is entitled to common rights but where the right is appurtenant, the right is extinguished over the whole land.

Severance
Rights are extinguished in this way when land to which rights are attached is sold and the rights are expressly excluded from the transfer.

Release
The rights holder may singly release his rights (for example, by deed) or holders may collectively agree between them.

Exhaustion of the product
Harris and Ryan (1967) state that if land is permanently incapable of yielding the product claimed under a right of common, it follows that no valid right ever existed or a right which previously existed has been lost by extinguishment and is true whether it is due to natural circumstances or human agency. They give the example of Ely (Dean and Chapter) v. Warren (1741) where a marsh was drained in such a way that peat could no longer be cut and removed a right of turbary.

Inclosure
Under ancient common law and from the 13th century under statute law (Merton 1236 and Westminster II, 1286 (Commons Act, 1286)), the Lord of the Manor had the right to inclose the commons providing a sufficiency was left for the commoners. Where such commons and greens were legally inclosed, the common rights would have been extinguished over that land. Where a common was inclosed outside the law, after time it became legal under common law, for in Silway v. Compton (1681) it was decided that a common that had been inclosed for 30 years shall not afterwards be thrown open. Where an inclosure award has extinguished common rights, the courts will uphold such awards today, if unchallenged at the time. In 600 acres of Crowle Waste, Humberside, the inclosure award was challenged as invalid in Fisons Re Land near Hilltop and Alton Parish Quarry, Ashover, Chesterfield RD, Derbyshire

28 Re Bridgend Common, Donnington, Lincolnshire (Parts of Holland)
29 Tyrringham's Case (1584)
30 White v Taylor (1967)
Horticulture v Bunting (1976), because of non-compliance with detailed provisions of Crowle Inclosure Act 1813. Under the Inclosure Act 1801, the requirements of the provisions were directory only and not mandatory and the rights were held to be extinguished.

Failure to register
In CEGB v. Clwyd County Council (1976) common rights were extinguished by failure to register within the prescribed period.

For a fuller explanation of these matters, see Harris and Ryan (1967), p 71-82.
Figure 30. GREENS IN LONGHAM, NORFOLK

Source: Holkham archives
Appendix 22

LIST OF REGISTERED GREENS
<table>
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<tr>
<th>AVON</th>
<th>County</th>
<th>Green</th>
<th>Code</th>
<th>Area (ha)</th>
<th>Grid Ref.</th>
<th>Owner</th>
<th>Owner Code</th>
<th>Rights</th>
<th>Creatures</th>
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AVON LANDS inc. SMARTS GREEN, COLTS GREEN VPP06 0.000 751238 PARISH COUNCIL LAPC

TOTAL OF 79 REGISTERED GREENS 42 TRUE GREENS

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TOTAL OF 59 REGISTERED GREENS 53 TRUE GREENS
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**TOTAL OF 116 REGISTERED GREENS 72 TRUE GREENS**

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**TOTAL OF 5 REGISTERED GREENS 2 TRUE GREENS**

**CAMBRIDGESHIRE**

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TOTAL OF 27 REGISTERED GREENS + 21 TRUE GREENS

| CLEVELAND  | VILLAGE FORD  | WOLVISTON  | VGFN  | 0.000  | 465523 | E. MONA  | 5   |
| CLEVELAND  | LAND AT MARSEY-BY-THE-SEA  | VGFN  | 0.000  | 465522 | SANDHILL-ON-Tees BOROUGH COUNCIL | LANC  |
| CLEVELAND  | NORTON GREEN  | STOCKTON  | VGFN  | 0.000  | 464521 | COUNCIL | LANC  |
| CLEVELAND  | SHOTTON VILLAGE GREEN  | HARTLEPOOL  | VGFN  | 0.000  | 460532 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | THORNLEY VILLAGE GREEN  | VGFN  | 0.000  | 465522 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | TOWN HOOK  | HARTLEPOOL  | VGFN  | 0.000  | 465522 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | THE STRAY  | RUNCORN  | VGFN  | 0.000  | 461334 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | ELLINGHAM GREEN  | RUNCORN  | VGFN  | 0.000  | 464523 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | COFEN BROW GREEN  | VGFN  | 0.000  | 464524 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | HICKS VILLAGE  | RUNCORN  | VGFN  | 0.000  | 464532 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | EDGEBLICHE GREEN  | RUNCORN  | VGFN  | 0.000  | 465532 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | THE GREEN or RECREATION FIELD  | MOORSIDE  | VGFN  | 0.000  | 465554 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | TOWN CROSS or CROSS BISHOP  | VGFN  | 0.000  | 465553 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | THE GREEN  | RUNCORN  | VGFN  | 0.000  | 465522 | MAYOR, ALDERMAN & BURGESS  | BO  |
| CLEVELAND  | THE GREEN  | ASHLEY  | VGFN  | 0.000  | 465512 | STOCKTON RURAL DISTRICT COUNCIL | LANC  |
| CLEVELAND  | VILLAGE GREEN  | WOLVISTON  | VGFN  | 0.000  | 466524 | PARISH COUNCIL | LANC  |
| CLEVELAND  | VILLAGE GREEN  | CARLTON  | VGFN  | 0.000  | 466524 | PARISH COUNCIL | LANC  |
| CLEVELAND  | VILLAGE GREEN  | NEWTON BISHOP  | VGFN  | 0.000  | 466524 | STOCKTON RURAL DISTRICT COUNCIL | LANC  |
| CLEVELAND  | VILLAGE GREEN  | WOLVISTON  | VGFN  | 0.000  | 466532 | PARISH COUNCIL | LANC  |

213
DEVONSHIRE ROLLING GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE FATHLETSTOCK TOWN
DEVONSHIRE TIP JASIN
DEVONSHIRE LAFORD GREEN
DEVONSHIRE TIP GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE LANG AT AMFORD
DEVONSHIRE PARANOMIC PLEASURE GROUND
DEVONSHIRE THE MOON
DEVONSHIRE TOWN MILL
DEVONSHIRE CROSS TINE
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE THE GREEN AND VILLAGE PUMP + WELLL
DEVONSHIRE MERCHAM CROSS GREEN
DEVONSHIRE MEAVY GREEN
DEVONSHIRE VILLAGE GREEN, COKERIDGE
DEVONSHIRE CUNCSILL GREEN
DEVONSHIRE TOR GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN AND THE COUNTRIDGE
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
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DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN, OXEN
DEVONSHIRE RECREATION FIELD
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE CHURCHEND HAMES
DEVONSHIRE ASCOMBE
DEVONSHIRE EXTENSION OF VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN AND THE MILL
DEVONSHIRE TIP SQUARE AT THE TOWN PLACE
DEVONSHIRE LEIGHTON GREEN
DEVONSHIRE MAHER GREEN
DEVONSHIRE VICK JASIN
DEVONSHIRE RAFORD GREEN
DEVONSHIRE EXTENSION OF VILLAGE GREEN
DEVONSHIRE CUNOPOL
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE LEMON
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE CHAINES GREEN
DEVONSHIRE LEMON
DEVONSHIRE LEMON
DEVONSHIRE FIDDLE / FENNAM GREEN
DEVONSHIRE WHITEFORD GREEN
DEVONSHIRE THE GREEN
DEVONSHIRE JOSANT GREEN + CORNISH
DEVONSHIRE TIP GREEN
DEVONSHIRE VILLAGE GREEN
DEVONSHIRE COCKLETON GREEN + CORNISH +
DEVONSHIRE CHURCHEND GREEN
DEVONSHIRE THE GREEN
DEVONSHIRE WILLIAM GREEN
DEVONSHIRE SCOTTOCK
DEVONSHIRE COCKLETON GREEN + CORNISH +
DEVONSHIRE JOSANT GREEN
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DEVONSHIRE VILLAGE GREEN

TOTAL OF 94 REGISTERED GREENS | 75 TOWN GREENS
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DORSET

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**TOTAL OF 222 REGISTERED GREENS**

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**TOTAL OF 157 REGISTERED GREENS TO TRUE GREENS**
HERTFORDSHIRE

HERTFORDSHIRE COUNTY COUNCIL/LAPC

TOTAL OF 52 REGISTERED GREENS 38 TRUE GREENS

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TOTAL OF 43 REGISTERED GREENS 24 TRUE GREENS

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LEEDS VILLAGE GREEN RAWDON
LEEDS VILLAGE GREEN THORNTON
LEEDS LAND AT SHAWWILL LEEDS
LEEDS THE GARDEN RAWDON
LEEDS SILVERHIDE GARDEN RAWDON
LEEDS VILLAGE GREEN COLLINGHAM
LEEDS VILLAGE GREEN LINTON
LEEDS NORTHFLEY LANE VILLAGE LINTON

TOTAL OF 11 REGISTERED GREENS 8 TRUE GREENS

LEICESTERSHIRE

LEICESTERSHIRE STAMP CROSSES BADEMOON
LEICESTERSHIRE GREEN LAKE NAPOLEON
LEICESTERSHIRE LAND AT BARRINGTON RAWDON
LEICESTERSHIRE CHECKWICK GREEN RAWDON
LEICESTERSHIRE MASH GREEN RAWDON
LEICESTERSHIRE RECREATION GROUND RAWDON
LEICESTERSHIRE MAIN GREEN RAWDON
LEICESTERSHIRE THE GREEN BADEMOON
LEICESTERSHIRE MILL LAKE COTTEDMORE
LEICESTERSHIRE MAIN GREEN EXTON
LEICESTERSHIRE LAND AT NEWFIELD ROAD EXTON
LEICESTERSHIRE OLD SCHOOL YARD EXTON
LEICESTERSHIRE LAND AT EXTON EXTON
LEICESTERSHIRE LAND AT EXTON EXTON
LEICESTERSHIRE THE SQUARE LANDWORTHY
LEICESTERSHIRE LAND BY PUMPING STATION LANDWORTHY
LEICESTERSHIRE THE GREEN LINDSARTON
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LEICESTERSHIRE THE GREEN LINDSARTON
LEICESTERSHIRE THE GREEN LINDSARTON
LEICESTERSHIRE THE GREEN LINDSARTON
LEICESTERSHIRE THE GREEN LINDSARTON

TOTAL OF 246 REGISTERED GREENS 150 TRUE GREENS

TOTAL OF 43 REGISTERED GREENS 24 TRUE GREENS

TOTAL OF 11 REGISTERED GREENS 8 TRUE GREENS

TOTAL OF 246 REGISTERED GREENS 150 TRUE GREENS
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**Total of 179 Registered Greens 119 True Greens**

**Northamptonshire**

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| Oxfordshire | The Greenway | West Inscomb | VSG | 441190 | PARISH COUNCIL |
| Oxfordshire | Village Green | Colden | VSG | 437319 | NATIONAL TRUST |

250
TOTAL OF 168 REGISTERED GREENS

OXFORDSHIRE
- DELLY GREEN
  - HALEY
  - CLUN
  - PROTECTION UNDER SECTION 9 89
- THE GREEN
  - HARMOUGH
  - CLUN
  - OXDE OF HARMOUGH 99
- VILLAGE GREEN
  - HAWKES
  - CLUN
  - 442249
  - PROTECTION UNDER SECTION 9 85
- THE GREEN
  - LOWER BETCH
  - CLUN
  - 449224
- LOCKERNAING GREEN
  - NETTLEBEE
  - CLUN
  - 442238
  - LORD CAMPBELL OF EDINB V. PEB 2 MS4
- COWMARSH GREEN
  - NORTH LEIGH
  - CLUN
  - 439311
  - PARISH COUNCIL LAC
- EYotts GREEN
  - BORTHERFIELD SAYS
  - CLUN
  - 471282
  - T. BOXER D. PPR9
- COOLEY GREEN
  - WYCOMBE
  - CLUN
  - 406940
  - J. ALLEN PARISH COUNCIL PADC
- THE GREEN
  - UPTONTON
  - CLUN
  - 436289
  - J. LONELY P
- THE GAIN
  - WEST ADEBURY
  - CLUN
  - 446429
  - PROTECTION UNDER SECTION 9 89
- WOODEATON VILLAGE GREEN
  - CLUN
  - 432211
  - OXFORDSHIRE COUNTY COUNCIL LACC

TOTAL OF 148 REGISTERED GREENS

ROCHDALE
- CRUISETHAW COMMON
  - ROCHDALE
  - VOCL
  - 293413
  - MAYOR, ALDERMEN + BURGHESES OF NO THE BOROUGH OF ROCHDALE
- MEADOW BOTTOMS
  - BRADLEY
  - VOFLN
  - 392615
  - BURGH OF ROCHDALE OCM

TOTAL OF 4 REGISTERED GREENS

ROTHERRHAM
- STONE GREEN
  - HAFTBY
  - VOACU
  - 452090
  - ROTHERHAM DISTRICT COUNCIL LAC
- ASTON GREEN
  - ASTON GREEN
  - VOGA
  - 452381
  - ROTHERRHAM BOROUGH COUNCIL LAC
- LINDSEY COMMON RECREATION
  - ASTON
  - VOGAP
  - 441381
  - PARISH COUNCIL LAC
- WEDDLE GREEN
  - WALTON
  - VOJVU
  - 441782
  - PARISH COUNCIL LAC
- THE GREEN
  - NORTH ASTON
  - VOJUG
  - 452384
  - PARISH COUNCIL LAC

TOTAL OF 6 REGISTERED GREENS

SOLIHULL
- VILLAGE GREEN
  - NERSENDWELL
  - VOVPD
  - 442478
- VILLAGE GREEN
  - RICKERMAN
  - VOVPD
  - 442492
  - PARISH COUNCIL LAC
- THE GREEN
  - MARRING GREEN
  - VOJUG
  - 442493
  - PARISH COUNCIL LAC
- THE GREEN
  - MERIDEN
  - VOVPD
  - 442492
  - PARISH COUNCIL LAC
- THE FORD
  - RICKERMAN
  - VOJUG
  - 442493
  - PARISH COUNCIL LAC
- LAND
  - HOOLEY HEATH
  - VOJUJ
  - 411573
  - METROPOLITAN BOROUGH OF LAC

TOTAL OF 6 REGISTERED GREENS

SOMERSET
- VILLAGE GREEN
  - CORSE ST. NICHOLAS
  - VOGPD
  - 392122
  - PARISH COUNCIL LAC
- THE LAMB
  - CORSE ST. NICHOLAS
  - VOGPD
  - 392122
  - PARISH COUNCIL LAC
- VILLAGE GREEN
  - SWANSTAIR
  - VOGPD
  - 321119
  - PARISH COUNCIL LAC
- PLANTON GREEN
  - FITMINGSTOR
  - VOGPD
  - 321119
  - B. BERNER
- THE GREEN
  - KENWICK
  - VOAPG
  - 356122
  - C. MEFFITT P
- THE GREEN
  - LONG HUTTON
  - VOGPD
  - 443341
  - PARISH COUNCIL LAC
- THE GREEN AND THE BATH
  - WOOLAVINGTON
  - VOGPD
  - 373554
  - PARISH COUNCIL LAC
- FAULHAM VILLAGE GREEN
  - HENDDINGTON
  - VOGPD
  - 321212
  - NATIONAL TRUST NF
- TELL GREEN
  - VOGPD
  - 321212
  - PARISH COUNCIL LAC
- VILLAGE GREEN AND THE
  - NORTH CURRY
  - VOVPD
  - 321212
  - PARISH COUNCIL LAC
- COMMON COMMON
  - OTTERHAMPTON
  - VBGPL
  - 396413
  - PARISH COUNCIL LAC
- VILLAGE GREEN
  - MANOR MAGRA
  - VOGPD
  - 396413
  - PARISH COUNCIL LAC
- VILLAGE PLAYGROUND
  - WYNWOOD
  - VOPG
  - 321212
  - CHAIG RURAL DISTRICT COUNCIL LAC
- VILLAGE GREEN
  - TINNINGHALL
  - VOVPD
  - 465212
  - PARISH COUNCIL LAC
- FAIR AND MARKET GREEN
  - CHECCHOR
  - VOGPD
  - 346512
  - PARISH COUNCIL LAC
- LAND AT KINGSTON
  - VOGPD
  - 315122
  - PARISH COUNCIL LAC
- BOWLING GREEN
  - ROCHDALE
  - VOJUG
  - 315141
  - L. HOOD P

252
TOTAL OF 27 REGISTERED GREENS: 12 TRUE GREENS

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| STAFFORDSHIRE | VILLAGE GREEN | | |
| STAFFORDSHIRE | HORNWOOD PARK | HORNWOOD |
| STAFFORDSHIRE | VILLAGE GREENS | BASIN |
| STAFFORDSHIRE | LAND AT MISTLETON ON SOYE | | |
| STAFFORDSHIRE | THE GREEN | WITTON |
| STAFFORDSHIRE | VILLAGE GREEN | HOLLIMSDON |
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| STAFFORDSHIRE | RECREATION ALLOTMENTS | ALMEGAH |
| STAFFORDSHIRE | ETTINGTON HILL RECREATION GROUND | | |
| STAFFORDSHIRE | RECREATION ALLOTMENTS | BREW |

| STAFFORDSHIRE | BASSETST VILLAGE GREEN | DRANTON BASSETT |
| STAFFORDSHIRE | WYCHWOOD VILLAGE GREEN | WYCHWOOD |
| STAFFORDSHIRE | THE GREEN | WOODEN |
| STAFFORDSHIRE | WADDEWALL VILLAGE GREEN | | |
| STAFFORDSHIRE | GALLOWS GREEN | | |
| STAFFORDSHIRE | VILLAGE GREEN | HERFORD |
| STAFFORDSHIRE | THE GREEN | CHESLEY DAV |

TOTAL OF 48 REGISTERED GREENS: 37 TRUE GREENS

STOCKPORT

254
| Suffolk | Market Rasen |宁县 | Sense | 0.000 | 612666 | Parish Council | LAD- |
| Suffolk | Market Rasen Area |宁县 | Sense | 0.000 | 615269 | Parish Council | LAC- |
| Suffolk | Church Rasen |宁县 | Sense | 0.000 | 605260 | Parish Council | LAC- |
| Suffolk | Nettleham |宁县 | Sense | 0.000 | 602037 | Parish Council | LAC- |
| Suffolk | Horncastle |宁县 | Sense | 0.000 | 852476 | Waveney District Council | LAC- |
| Suffolk | St Edmund's Green |宁县 | Sense | 0.000 | 850277 | Waveney District Council | LAC- |
| Suffolk | Barrowby Green |宁县 | Sense | 0.000 | 850278 | Waveney District Council | LAC- |
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| Suffolk | Booth Green and Unp Hill |宁县 | Sense | 0.000 | 647271 | Waveney District Council | LAC- |
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<td>County Green</td>
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<td>The Green and Ford</td>
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**TOTAL OF 95 REGISTERED GREENS**

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<td><strong>THE MOSS</strong></td>
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<td>Tony Ford</td>
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<td>Tameside</td>
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**TOTAL OF 3 REGISTERED GREENS**

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**TOTAL OF 4 REGISTERED GREENS**

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<td>The Green</td>
<td><strong>STOUGHTON</strong></td>
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<td><strong>SANDHURST</strong></td>
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<td>Warwickshire</td>
<td>Upper Nibles Green and others</td>
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<td>Warwickshire</td>
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<td><strong>HINCHFORD HILL</strong></td>
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**TOTAL OF 3 REGISTERED GREENS**
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<th>Village/Location 2</th>
<th>Area (ac)</th>
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**TOTAL OF 196 REGISTERED GREENS: 72 TRUE GREENS**

**Wigan**

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**TOTAL OF 2 REGISTERED GREENS: 1 TRUE GREEN**

**Wilts**

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<th>Village/Location 1</th>
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<th>Area (ac)</th>
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<tbody>
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<td>Site of Village Pond</td>
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**TOTAL OF 0 REGISTERED GREENS: 0 TRUE GREENS**

265
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<p>| TOTAL OF 70 REGISTERED GREENS | 53 THIS GREENS |</p>
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Total of 224 Registered Greens: 174 Parish Council Greens.