

Glossary on Commons (England and Wales)

Affeeror

see also: *Amercement*; also known as: *Assessor*.

The manor court officer who adjusted fines (ameracements) levied by the jury according to each offender's personal circumstances. They usually reduced the level of the fine.

Agistment

also known as: *Tack*.

The practice of letting grazing land or common pasture rights out for the use of other people's animals.

Agro-system

The combination of technical, physical and social aspects of the agricultural production process. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Amercement

The fine imposed by a manor court jury on those caught breaking the court's byelaws or orders.

Assessor

see: *Affeeror*.

Bailiff

The manor bailiff was the officer appointed by the lord to oversee and manage one or more manors.

Beastgate

see: *Stint*.

Cattlegate

see: *Stint*.

Common

see also: *Common right, Common land, Common waste*.

In England and Wales common land is land which is privately owned but which is subject to the exercise of common rights by other parties. The term covers common arable, meadow and pasture. The *Commons Registration Act 1965* also established a statutory definition.

Common arable

also known as: *Common field, Open field*.

Refers to land primarily used as arable in individual/private ownership. After the harvest and in years when the land was not being cropped, the land was subject to common rights. Common field is often referred to as open field, referring to its physical openness. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Common field

see: *Common arable*.

Common in the soil

A category of common right: the right to take products of the soil, such as stone, sand or gravel.

Common land

see also: *Common*.

Land used, managed or both by several individuals or groups. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Common meadow

Refers to land primarily used for hay production and subject to individual (private) ownership. After the hay harvest the meadow was open for common grazing. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Common pasture

Refers to grass land used for common grazing. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Common Property Resource (CPR)

Refers to a natural or man-made resource system that is sufficiently large as to make it costly (but not impossible) to exclude potential beneficiaries from obtaining benefits from its use. (*Ostrom 1991, 30*)

Common right

see also: *Common in the soil, Estovers (Right of), Pannage (Right of), Pasture (Right of), Piscary (Right of), and Turbary (Right of)*.

In England and Wales a common right is a right to certain products of another person's land. Typically, this is a right to specific categories of resources: pasture for livestock, turbary, estovers, pannage, piscary, and soil, stone or sand. The right might be attached to a specific farm, house or piece of land (a common right 'appendant' or 'appurtenant'). Alternatively, the right might be owned and transferred freely as a piece of personal property (a right held 'in gross').

Common right sans nombre

A common pasture right without number. This did not necessarily imply an unlimited right. Pasture rights might be limited to the number proportionate to the needs or grazing capacity of the household. See, for example: *Levancy and Couchancy*.

Common waste

see also: *Common*.

Refers to common land used neither for the cultivation of crops nor for the production of hay but principally for the grazing of animals or the gathering of fuel and sometimes other materials. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Common woodland

Refers to permanent woodland used for gathering wood and derived products. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Common, registered

A registered common is one which was successfully registered under the *Commons Registration Act 1965* in England and Wales. Under the terms of the *Act*, all common lands and common rights had to be registered with the local county council: only those accepted for registration would henceforth be legally classed as common. Each common was given an identifying county Common Land unit number (e.g. Eskdale Common, CL 58).

Commonable animals

Animals that can lawfully be put on a common.

Commoner

A person who has a common right over common land.

Commoners' association

also known as: *Commoners' committee*, *Commoners' meeting*.

A voluntary association established to manage common land and the exercise of common rights. Usually modern (e.g. nineteenth-twentyfirst centuries), coming after the demise of a traditional manor court. Some associations were set up to deal with the terms of the *Commons Registration Act 1965* or the introduction of agri-environment schemes in the late twentieth century. Meetings are generally held on an annual basis and follow the pattern of a standard voluntary association, with a chairperson, secretary, treasurer et cetera.

Commoners' committee

see: *Commoners' association*.

Commoners' meeting

see: *Commoners' association*.

Commonty

In Scotland, this was the shared pasture or common land above the head-dyke, which provided grazing for livestock and other essential materials such as peat and gorse.

Communal field

Refers to fields owned and farmed (as arable) collectively. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Copyhold tenure

see: *Customary tenure*.

Cow pasture

A shared pasture enclosed from the common specifically for commoners' cows. Rights to the pasture were often stinted (see: *Stint*).

Customary tenure

see also: *Freehold tenure*; also known as: *Copyhold tenure*.

Customary and copyhold were similar forms of manorial tenure. The exact terms of the tenure varied between manors, but the tenant owed a number of fines and services to the lord, and any transfer of customary land or property must be recorded by the manor court. Customary tenure often entitled the tenant to common rights over common land in the manor.

Customary tenure (continued)

Like freeholders, customary tenants were expected to attend the manor court, and may be called on to be a jury member or court officer. The *Law of Property Act 1922* abolished customary tenure, though many manors had already enfranchised their tenants before this date.

Dominium directum

(Latin)

A right to the soil of a specified area. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Dominium utile

(Latin)

A right to use the resources within a particular area. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Drift

A path for livestock. Usually an established route or path from a farm or holding to the common. 'Drift' (or 'drive') is also a term used for gathering animals together, whether to check them or take them off the common.

Enclosure

The process of ending the exercise of common use-rights over land, usually accompanied by the construction of a physical barrier around the land, or barriers becoming a permanent feature in landscapes that previously had been open for common usage during some part of the year. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Enclosure act

see: *Parliamentary enclosure*.

Enclosure award

see: *Parliamentary enclosure*.

Encroachment

An unlawful act of enclosure of, or building on, parts of a common.

Estovers (Right of)

A category of common right: the right to take wood and vegetation (such as bracken, heather, gorse, and rushes) from the common for household needs, repairs and fuel.

Freehold tenure

see also: *Customary tenure, Manor*.

In a manorial context, this is a specific form of tenure. Like customary tenants, freeholders were expected to attend the manor court and perform the role of jury member or court officer if called to do so. The freeholder usually paid the lord a nominal rent but they could dispose of the land as they wished without referring the transaction to the manor court, and they had fewer restrictions on the activities they could undertake. Their tenure often entitled them to common rights over common land in the manor.

Gait

see: *Stint*.

Game

Wild or semi-wild species hunted for food and/or sport (e.g. deer, pheasants, grouse, et cetera). The lord of the manor usually had rights to game on common land.

Gate

see: *Stint*.

Grassman

see: *Reeve*.

Grave

see: *Reeve*.

Greave

see: *Reeve*.

Grazing

see: *Pasture (Right of)*.

Grieve

see: *Reeve*.

Hayward

A manorial officer who was responsible for overseeing the making of hay.

Head-dyke

The boundary wall or earthwork separating the community's holdings and fields from the open hill grazing above.

Heaf

also known as: *Heft, Lear, Sheepwalk*.

An area of a common or hill grazing associated with the flock of a specific holding which has become acclimatised to this location. The settled flock is said to be 'heafed' or 'hefted'. The system depends on hill breeds with a strong territorial instinct, as the heaf is unfenced. Typical of upland regions of Northern and South West England, and Wales. In Wales the heaf is known as a 'sheepwalk', and in some areas has developed semi-private status.

Heft

see: *Heaf*.

Herdsmen

see also: *Reeve*.

A community officer or estate worker employed to manage cattle and sheep. Some groups of commoners/stint-holders employed their own herdsman to manage livestock on the common.

Landgrave

see: *Reeve*.

Lear

see: *Heaf*.

Levancy and Couchancy

This provided that commoners could graze as many beasts as they were able to sustain off their own resources over the winter, when grass-growth was too meagre for common grazing. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Looker

see: *Reeve*.

Lord of the manor

The owner of the manor. As owner of the soil of the manor and its commons, the lord usually had rights to minerals, stone, timber and game on common land.

Manor

see also: *Manor court*.

A landed estate, originating in feudal tenure, comprising a landowner (the 'lord of the manor') and tenants holding land by virtue of various types of freehold and customary or copyhold tenure. The classic model of an English manor comprised a manor house in the village centre, surrounded by demesne land (farmed by the lord himself) and common arable fields and meadows (shared between the lord and tenants), with the outer marginal wastes providing common pasture, fuel and materials for repair. However, in many parts of upland England and Wales, the manor took a quite different form, comprising remote hamlets and holdings without an obvious centre of power; dominated by the common wastes and with only limited arable cultivation. The lord of a manor usually had power to hold a court with jurisdiction over his tenants, and in time this power came to be seen as one of the defining features of a manor.

Manor court

'Manor court' is a general term for a number of different types of court held to protect the lord's rights and to regulate relations between tenants, including their exercise of common rights. Courts were held in the lord's name and presided over by the lord's steward, but the jury was drawn from the tenants of the manor, introducing a high degree of collective action and self-regulation. The two most common types of court were the 'court baron' and 'court leet'. The 'court baron' was the basic court, held to preserve the lord's rights and the customs of the manor, to settle agrarian disputes between tenants, and to record changes in tenancy. Some lords also had power to hold a 'court leet', which operated as an arm of royal justice, settling public order offences and minor breaches of the peace, and appointing constables.

Manorial waste

The uninclosed and unimproved land of the manor: typically, the most marginal and least productive land, such as mountain, moor, heath, or marsh. The waste land of a manor was often subject to common rights.

Minute book

see also: *Commoners' association, Stint-holders' association*.

The book in which the business and agreements (the 'minutes') of a voluntary association, such as a 'commoners' association', are recorded.

Open field

see: *Common arable*.

Opportunity costs

The cost of a particular choice measured as the cost of the next best alternative. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Pain(e)

A byelaw or order imposed by the manor court jury in order to regulate activities within a manor, including the exercise of common rights.

Pannage (Right of)

A category of common right: the right to run pigs in woodland, usually to feed on acorns and beech-mast.

Parliamentary Enclosure

The process of privatising common land and extinguishing common rights over it through a statutory act of Parliament. Before the nineteenth century, Parliamentary Enclosure was effected through individual, private acts. However, between 1801 and 1845 a concerted effort was made to facilitate enclosure in England and Wales through a series of 'General' enclosure acts, which simplified the process. The passing of an enclosure act was followed by the drafting of a legally binding enclosure award, which set out the terms of the enclosure, and listed all the beneficiaries and their allotments of land. Parliamentary enclosure usually involved the physical division of land with new hedges, fences or walls; sometimes, however, the recipients' allotments were put together to make a stinted pasture, which was still grazed communally (see: *Stint*).

Pasture (Right of)

also known as: *Grazing*.

A category of common right: the right to put livestock on common land. For rules governing the numbers of animals grazed, see *Levancy and Couchancy* and *Stint*.

Pinder

also known as: *Pounder*; see also: *Reeve*.

A manorial or community officer with powers to impound stray or trespassing livestock, shutting them in the village enclosure (the 'pound' or 'pinfold') and levying a fine for their release. Sometimes also expected to monitor stocking levels and act as a herdsman during the grazing season.

Piscary (Right of)

A category of common right: the right to take fish from waters where common rights apply.

Pounder

see: *Pinder*.

Privatisation

Refers to the transfer to individual ownership of previously collectively or communally owned land. (*De Moor, Shaw-Taylor, and Warde 2001, 261*)

Profit à prendre

A legal term which indicates a right to take some part of, or the produce of, another person's land. A term often used to define the legal nature of a common right.

Reeve

see also: *Pinder*; also known as: *Grassman, Grave, Greave, Grieve, Herdsman, Landgrave, Looker*

A manorial or community officer involved in the managing and policing of agrarian resources and common land. Terms and duties varied between manors. For example, a 'common reeve' was usually appointed to manage and police stock on the common; a 'moss reeve' would police the cutting of peat for fuel. Some manor courts appointed a number of resource-specific officers known as 'lookers': e.g. a 'hedge looker' to check that boundaries were maintained, and a 'peat looker' to regulate the taking of peat.

Sheepwalk

see: *Heaf*.

Shepherd

A community officer or estate worker employed to manage sheep. Some groups of commoners/stint-holders employed their own shepherd to manage livestock on the common.

Statutory commons council

A common land management institution established according to the terms of the *Commons Act 2006* in England and Wales.

Steward

The chief administrative officer of a manor, working for the lord and protecting his/her rights and interests. The steward usually presided over the manor court on behalf of the lord. On large estates the steward might have responsibility for multiple manors. By the sixteenth century, many stewards were trained lawyers.

Stint

also known as: *Beastgate, Cattlegate, Gate, Gait*.

A 'stint' or 'gait' is a pasture right defined as a fixed number of animals. Thus a common or pasture may be said to be 'stinted': each grazier holds a certain number of stints, and a formula adjusts their value for different livestock (e.g. one stint = one ewe with lamb, four stints = one horse, etc.). The stinting formulae vary between commons and pastures. A stint is sometimes expressed in terms of a 'beastgate' or 'cattlegate' (the right to graze one horned beast on common land), with a formula which converts the beastgate into alternative types of livestock (e.g. one beastgate = ten sheep). See also De Moor, Shaw-Taylor, and Warde (2001, 261).

Stint-holders' association

also known as: *Stint-holders' committee, Stint-holders' meeting*.

A voluntary association established to manage stinted common land or enclosed stinted pasture. Usually modern (e.g. nineteenth to twenty-first centuries), coming after the demise of a traditional manor court, or a conversion from unstinted to stinted common. Meetings are generally held on an annual basis and follow the pattern of a standard voluntary association, with a chairperson, secretary, treasurer et cetera.

Stint-holders' committee

see: *Stint-holders' association*.

Stint-holders' meeting

see: *Stint-holders' association*.

Tack

see: *Agistment*.

Turbary (Right of)

A category of common right: the right to dig or cut peat or turves from common land.

Vicinage

The right of commoners on contiguous unfenced *commons* to allow their animals to stray over the boundary without facing a penalty. Sometimes expressed as a common right '*pur cause de vicinage*'.