

**Common Land Governance:
The evidence of commoners' and stinholders' association minute books, c.1800-1985**

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*The following text is intended as a discussion paper to accompany a powerpoint presentation and takes the form of an interim report on ongoing research, rather than a set of firm conclusions. I would welcome any comments or suggestions for developing this work further. Please do not cite or quote from the paper, as it has not been written for publication.
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1. Introduction

What, if any, local governance organisations or institutions followed the demise of manor courts on common land in England and Wales? Manorial governance through manor courts had provided a given, universal framework of management, though varying greatly in detail and effectiveness between manors (Winchester 2000; De Moor et al 2002). Many manor courts had collapsed or faded before the nineteenth century, though some struggled on into the early twentieth century (Straughton 2008).¹ What followed? On some commons, there was probably no obvious organisational structure that we can now identify. Informal meetings leave little in the way of documentary evidence, though their importance should not be underestimated. Impromptu management meetings, collective gatherings, and shepherds' meets underpinned the life and resilience of commoning communities. On some commons, however, commoners produced written records of meetings held for the management and protection of their resource. As far as I am aware, there is not a definitive list of all current commoners' associations/meetings or their surviving minute books, nor is there a list of those meetings which may have come and gone in the past two centuries, leaving records of their activities. Yet the records which are known to survive are of great historical, and I would argue, contemporary, relevance. They reveal remarkably diverse origins, purposes and structures, presenting different management models, and continuing the story of these shared landscapes. They are important but little studied documents in the history of common land, and their existence is often known only to the associations themselves.

¹ The Law of Property Act 1922 is often seen as the final break with manorial governance, though many courts had ceased to function, or had withdrawn from common land management, before this date. A handful of courts survive to this day.

In this presentation I will use minute books to explore some of the different types of recorded meetings which emerged on common land and the insights we can gain from their documentary records. I will generally use the term ‘recorded meeting’ to cover any type of association, committee or management body which kept a running record of decisions, agreements and business; and ‘minute book’ to refer to the record of decisions, agreements, and business, regardless of whether or not the meeting itself referred to these as ‘minutes’. My examples are necessarily limited and selective, mostly stemming from our project case study areas, but over the course of this project and my previous research I have become aware of the existence of several more. I cannot claim that these examples are representative, but it is becoming increasingly difficult to think of any common organisation as being representative in a meaningful sense. Indeed one of my provisional conclusions is that those commons institutions which endure are diverse and adaptive: they are often stimulated and/or influenced by external policies and national cultural contexts, but emerge as a local creation linked to the changing requirements of a specific terrain and the social-legal conditions which surround it.

2. ‘Good neighbourliness is not enough’: perspectives on associations and meetings

Before looking at selected minute books, I would like to briefly highlight the fact that the idea that the commons of England and Wales are suffering from a *lack* of effective local management bodies has been a live issue for some time, accompanied by unresolved tensions about what the ‘ideal’ form of local common land organisation might look like. To illustrate this, I’d like to cite three fairly lengthy passages from the Royal Commission on Common Land Report of 1958:

In spite of the collapse of familiar institutions and practices, of uncertainty about the law and rights, of the complications created by motor traffic and other modern developments, the commoners on many upland commons in Wales – and in England also – have worked together most successfully for the good of the land. Through voluntary associations, sometimes on a formalised and statutory basis, sometimes not, they have maintained its productiveness, and have also carried out new and extensive improvements. (RC 1958, 15, para 46).

‘Good neighbourliness’ is not enough; strong though it is said to be in the Lake District, even there a few farmers are to be found ‘who do not recognise fairly their obligations to their neighbours’, but overstock their own heafs and poach on their neighbours’. At its worst, the uncertainty about rights generates constant ill feeling. ... In general, without some form of effective control, commons seem to be as productive of ‘doubt, difficulty and parochial asperity’, as, according to one of our witnesses, are village greens. (RC 1958, 54, para 154).

We must emphasise ... that for every common on our route where the commoners have been successful in creating some form of organisation, however sketchy, there were perhaps two or more where they have failed or never tried. The present state of some of the latter commons borders on the chaotic. (RC 1958, 58, para 166).

There was perhaps a degree of uncertainty or confusion as to just how organised, and how successful, common land management was at local level across England and Wales in 1958. But, as can be seen, the Royal Commission saw common land governance in general as suffering from a) a legal problem: uncertainty over rights and a lack of legal control and also, b) a social problem: a problem of interaction, a lack of co-operation and association. There seems to have been an assumption that fixing the former would solve the latter; and that 'soft' or social solutions (such as principles of 'good neighbourliness'²) would not be enough. The assumption was that all commoners needed a clear understanding of their legitimate rights and a recognisable body which governed and controlled their exercise (that, after all, was presumed to have been the role once played by manor courts). We might ask, what were the Royal Commission hoping to find, and – in the absence of manor courts – what did their ideal type of common land organisation look like? The Royal Commission comprised twelve professionals and politicians, including landscape historian W. G. Hoskins (1908-1992) and the architect of the Land Utilisation Survey of Great Britain, L. Dudley Stamp (1898-1966), each of whom would have had different ideas of what 'good' commons governance and 'good' commoners' associations or committees looked like.

In recent years, academic researchers and stakeholders have also tried to identify the components – legal, institutional and societal – which make a local commons institution capable of sustaining a resource and community. The ground-breaking but rather formulaic approach of Elinor Ostrom (1990) has given way to more nuanced and culturally sensitive approaches (as can be seen in the breadth of papers appearing on the IASC's Digital Library of the Commons). In the UK today, the development of commoners' ability to co-operate and associate with each other, with landowners, and with outside agencies, to achieve better environmental management results, has again become a national policy question, as can be seen in the provisions for voluntary statutory commons councils under the Commons Act 2006. I do not want to engage directly with the development of commons councils – that will probably be an issue for the afternoon, and there are people around the table who are contributing to that process directly. But I want to highlight the fact that the creation and maintenance of local governance institutions is of continuing importance, and often a subject of debate. It is therefore interesting to read the evidence of nineteenth- and twentieth-century recorded meetings in the light of these contemporary debates.

² A. J. L. Winchester explores changing attitudes to the principle of 'good neighbourhood' in a forthcoming paper, 'Property rights, 'good neighbourhood' and sustainability: the management of common land in England and Wales, 1235-c.1800', to be delivered at Pamplona in November 2009 and included in a forthcoming COST volume on Property Rights.

3. The Minute Books

In this section I begin with a brief report of the searches made so far for surviving minute books: it should be noted that I am merely in the preliminary stages of this process. This is followed by an outline of the nature and content of the five sets of minute books I have studied as part of the Contested Common Land Project; section 3.3 then looks in greater depth at two of these cases (Eskdale and Ingleborough) to show the kinds of evidence that these books contain.

3.1 The survival of minute books: a general overview

A preliminary list of minute books (Appendix 1) has been compiled through a variety of means. We have identified and studied five sets of minute books over the course of the Contested Common Land Project, representing recorded meetings in Eskdale (Cumbria), Ingleborough (N. Yorks), Littledale (N. Yorks), Scales Moor (N. Yorks), and Thornham (Norfolk). It is perhaps worth noting that we were not aware of the existence of these five sets of minute books when choosing the case study areas: from the historical point of view, our primary object was rather to select areas which had a reasonable quantity of manorial records. In all but one case (Thornham) the books are in private hands, and their existence has only become apparent through conversations with commoners and landowners. In each case we have sought permission to take digital photographs of the entire volume(s) for our project research, and have given a copy of the disk to the owner so that they also have a digital version of their written document.

Informal conversation led to the mention of a stinholders book for a common outside our case study area: Moughton, near Ingleborough. Preliminary searches of archives lists have also revealed occasional volumes in county archives, for example in Powys County Archives, and this process could be extended using different search terms. The reports of Commons Commissioners' enquiries into objections to registrations under the 1965 Commons Registration Act, sometimes list or refer to volumes of minute books as evidence (e.g. Backney Common in Herefordshire, and Burton Common in Dorset). Some 12,000 of these reports are available online (www.acraew.org.uk), suggesting a possibly rich seam of references to minute books, though the current whereabouts of these documents may not be known. In addition, volumes are known to survive which do not perhaps quite meet the description of 'minute book', but nevertheless point to local governance and collective activity. For example, Watermillock stinted pasture (Cumbria) produced a 'Herdsman's Book' [n.d. 19th century], and Burgh Marsh (Cumbria) had a 'stint book' in which transfers of stints were recorded [n.d. 20th century]; both of these documents are held by Cumbria Archive Service.³

³ Cumbria Record Office (Carlisle), DSO/146/1; DSO 198/6. These have not been included in the table in Appendix 1.

The chronology of these different recorded meetings is particularly interesting. Most of the minute books so far discovered are twentieth century in origin. Certain of the more recent ones, like Eskdale, stem from the process or aftermath of registration under the Commons Registration Act 1965, when commoners were actively encouraged to set up meetings; or from the need for co-operative bodies or agreements for entering into agri-environment schemes. It is possible that recorded meetings appearing in the 1920s and after are a response to the Law of Property Act 1922, which signalled the final collapse of manorial governance (although the act did not prohibit lords of manors from holding courts, it abolished customary tenure, one of the primary reasons why a lord might wish to do so). But the reality is that many courts had already faded before this date, certainly as regards management of common land (Straughton 2008). Most intriguing of all, a number of minute books are nineteenth century in date: perhaps the result of an award or agreement, or of the collapse of a manor court? Why, at this time, did commoners and/or landowners choose to hold and record meetings? What local/external conditions must exist to make the setting up of a recorded meeting desirable and/or possible? Did certain types of common (e.g. stinted/unstinted) lend themselves more to the creation of recorded meetings than others?

The spatial spread of recorded meetings could also prove to be significant though no conclusions can be drawn from such a small sample. It is interesting to note the cluster of minute books associated with the Ingleton area in North Yorkshire (e.g. Ingleborough, Scales Moor, Littledale, Moughton etc.). These may stem from a number of factors: a long-term tradition of stinted pastures, acting independently of manor courts; the dominance of a single estate which instigated and facilitated meetings (e.g. as seen at Ingleborough and Littledale); and the natural spread of governance models, as one group of graziers observed and adopted the methods of their neighbours. Nevertheless, whilst graziers of the Clapham and Newby side of Ingleborough have had a recorded commoners' meeting since at least 1927, their neighbours on the Ingleton side have only convened regular meetings in the last twenty years. As this suggests, it is hard to generalise from individual cases. There are many questions to be asked, but it would require a more comprehensive national survey to answer them.

3.2 Outline of minute books viewed by the Contested Common Land Project

Five sets of minute books have been located and studied over the course of this project, coming from three of our four case study areas.⁴ No minute books are believed to exist in the Elan & Claerwen Valley (Powys) case study area, though there is a commoners association

⁴ The Eskdale Book is held by Eskdale Commoners Association; the minute books from Ingleborough and Littledale are held by Dr John Farrer of the Ingleborough Estate; the Scales Moor volumes are held by the Scales Moor Stinholders; and the Thornham book is held by Norfolk County Record Office (H. Bett. 14/6/79/28, Thornham Common Minute Book, 1924-51). I should like to extend my thanks to these associations and private individuals, and to Norfolk County Record Office, for allowing the Contested Common Land Project access to their records.

for Cwmdeuddwr Common. Most of the volumes we have seen date from the twentieth century, but one example dates from the late nineteenth century:

- **Scales Moor Stinholders (N. Yorkshire):** (1) 1884-1898 and (2) 1901-1991.
- **Littledale Gaitholders (N. Yorkshire):** 1930-1939
- **Thornham (Norfolk):** 1924-1951
- **Eskdale Commoners Association (Cumbria):** (1) 1967-1980 and (2) 1980-1995.
- **Ingleborough Fell Commoners (N. Yorkshire):** 1927-2007.

As might be expected, the meetings which generated these texts arose out of different social-legal conditions, were convened at different times and for different reasons, and had different operating procedures and membership rules:

The **Scales Moor (CL 272, N. Yorks)** stinholders' minute books, which are our oldest and most long-lasting example (covering the periods 1884-1898 and 1901-1991) followed on from a stinting agreement in 1842.⁵ It is not certain whether the 1884-1898 book represents a first attempt at recording annual meetings (in which case, why was there a forty-year time-lag?), or whether there was once a book in existence which covered the period between 1842 and 1884. Meetings typically involved the appointment of a salaried herdsman, reviewing of accounts, letting of the 'mole gate', and questions of repair and management, such as periods when stock must be removed, and repairs to the wash dub. As with other stinted pastures in this case study area, the role of the herdsman was critical to management and governance, and the stinholders' minute book contains the rules and conditions of his employment. After 1938 few meetings were recorded (the remainder of the book contains minutes of 1968, 1990 and 1991 only). The need to register rights under the 1965 Commons Registration Act seems to have precipitated the brief revival of recorded meetings in 1968. Although few meetings were recorded in this period, collective activity, shepherding and management continued. At a focus group held in Ingleton in 2008 by members of the Contested Common Land Project, the secretary of the Scales Moor stinholders confirmed that the rules and regulations they had developed over numerous years were still functioning well.⁶

The **Littledale (CL 473, N. Yorks)** stinted pasture book covers the brief period 1930-1939. The annual meetings seem to have been primarily instigated by the lord of the manor (the owner of the Ingleborough Estate), who also facilitated annual meetings of the Ingleborough Fell Commoners (discussed below). In 1930 there were three active graziers on Littledale and the book begins by setting out the number of stints each held. Whilst the stinholders appointed a chairperson from among themselves at the first meeting, the lord's agent seems

⁵ Scales Moor papers (private): typescript of the 1842 stinting agreement, pp. 2-4.

⁶ Scales Moor papers (private): minute books, 1884-1898, 1901-1991; M. Pieraccini, *Report of Ingleton Focus Group Meeting Held 2 September 2008*, [unpublished].

to have presided over later meetings. The main business of the meeting was to adjust stocking levels, establish rules for the common, employ a shepherd (this was later taken over by the Estate), and effect repairs to boundaries. The book reveals that the landowner paid an allowance to graziers for reducing their stints, at the rate of 3s per head for every sheep taken off, and this could possibly be a key reason for launching the meeting in 1930 (providing a vehicle for negotiating new stocking levels).⁷ It seems likely that this reduction was intended to create better conditions for grouse (a particular interest of the Farrers). Another concern for graziers and the agent was the poor condition of boundary fences and walls, which resulted in large scale trespass of animals from contiguous pastures onto Littledale, despite the efforts of a 'Patrol Shepherd'. Attendance appears to have been rather inconsistent, with signs that support was diminishing towards the end (no meetings were held in 1937 and 1938), but the small number of graziers might also have been a factor in its demise.⁸

In contrast, the **Thornham (CL 41, Norfolk)** minute book covers the period 1924-1951, and reveals the issues which occupied stint owners and reeves on low lying saltmarshes of the north Norfolk coast. Thornham had been stinted under an enclosure act of 1794 (award of 1797), and was effectively enclosed, though treated and registered as common. The Thornham act had set in place a system of annual meetings, involving the election of 'Commons Reeves' by right owners and tenants.⁹ As with Scales Moor, there is a time-lapse between the date of the award and the start date of the surviving book, and it seems possible that there was once a common reeves' book in the interim. The surviving minute book shows that by the twentieth century, the annual meeting consisted of between three and six people (it is possible that not all eligible owners chose to attend), generally chaired by the major stinthead (and lord of the manor), and that they continued to meet in the porch of Thornham Church, as directed by their award. The system of electing reeves continued until the end of this surviving volume (1951), though they were reduced in number from three to two reeves. The minute book provides evidence of controversies or confusion over rights, but there is also evidence that the meeting was aware of a need to regulate grazing. For example, in 1930, the reeves suggested, and the meeting agreed, that the opening date of the common should be the 13 May instead of 1 May, arguing that 'this Extra fortnight would make all the difference in the growth of the feed on the Common'.¹⁰ In 1951, the last entry in this minute book suggested a new impetus in stock management, when it was agreed that all cattle should be treated for warble fly before being turned onto the common, and should be tagged.¹¹ The meeting also details a range of ongoing maintenance and community issues, typical of open spaces. They discussed the removal of rubbish, manure heaps, tents and unwanted electricity poles,¹² and ordered repairs to gates, fences, roads, and culverts.¹³ Finally, the minute book

⁷ Ingleborough Estate Office, Clapham: Littledale Minute Book, 1930-1939, 25 January 1932, pp. 6-7.

⁸ Ingleborough Estate Office, Clapham: Littledale Minute Book, 1930-1939.

⁹ Norfolk Record Office [hereafter NRO], PC 9/1-2, Thornham enclosure award and map, 1797.

¹⁰ NRO H. Bett, 14/6/79/28, Thornham Common Minute Book, 1924-51, 9 June 1930.

¹¹ *Ibid.*, 14 (12?) May 1951.

¹² *Ibid.*, for example, minutes of 18 February 1925, 24 May 1926, 28 May 1928, 20 May 1929, 8 May 1939, 13(18?) February 1940.

reveals the impact of requisitioning during the Second World War: areas of common land were taken over, and occasionally damaged, by the military, and the stint owners requested payment of rent and expenses for repairs.¹⁴ The meeting seems to have petered out in recent years: grazing rights are no longer exercised, and common land issues are generally referred to the Parish Council.¹⁵

Two minute books exist for the **Eskdale Commoners Association (CL 58, Cumbria)**, covering the periods 1967-1980 and 1980-1995. The association, which is still active today, was founded by a group of Eskdale commoners in 1967 primarily as preparation for registration of rights under the Commons Registration Act 1965. A previous attempt to launch an association in 1945 had run out of steam, probably through a lack of grass roots support (Straughton 2008), but the 1967 body developed into a lasting institution, moving beyond its original function. Membership of the 1967 association was voluntary and open to anyone claiming rights ‘on the Fells and other land’ in Eskdale, Miterdale and Wasdalehead, within the Parish of Eskdale.¹⁶ Observers with interests in the land or farms in the valley were also in attendance from time to time, such as representatives of the Leconfield Estates (which still owned the soil up to 1979, when landownership was transferred to The National Trust), Forestry Commission, The National Trust and the NFU. The voluntary nature of membership meant that it did not necessarily cover all common graziers on the fell, and the definition of ‘commoner’ was clarified in 1980, followed by a new set of operational rules (effectively a constitution) written in 1982. Members elect a chairperson, secretary and treasurer from among themselves. Further details are given in section 3.3 below.

The minute book for the **Ingleborough (CL 208, N. Yorks)** commoners covers the period 1927-2007. It is not certain when the organisation was set up: the start date of 1927 would seem logical, but there is also an indication that it might have been formed around the year 1907.¹⁷ The Ingleborough Fell body has responsibility for the east/south-east side of Ingleborough Fell in the manors of Newby and Clapham, now comprising Clapham Bents, Newby Moss and Simon Fell on the Common Land Register (CL 208), and belonging to the Ingleborough Estate. This area is distinct from ‘Ingleborough Common’ which is a separate CL unit (CL 134) belonging to the manor of Ingleton, on the south-western side of Ingleborough, and therefore not covered by this body. The minute book makes occasional references to Newby Moor (CL 137), so it is possible that matters arising on that common were referred to the Ingleborough meeting. The commoners elect a chairman from among themselves and vote on management decisions, but the Clapham Estate has traditionally facilitated the meeting: the Farrers’ agents/stewards (or the lord himself) are usually present and in recent years, meetings have often been held at the Estate Office. Interestingly, this

¹³ Ibid., for example, minutes of 24 May 1926, 28 May 1928, 8 May 1939, 2 June 1941, 17 May 1948.

¹⁴ Ibid., for example, minutes of 29 (?) May 1942, 14 June 1943.

¹⁵ Noted in Rural Planning Services, *The Future of Rural Common Land: A Report for the Department of the Environment*, (May 1985), pp. 46, 68-9.

¹⁶ Eskdale Commoners Association Papers (private): minute book, 1967-1980, 14 February 1967.

¹⁷ See Ingleborough Estate Office, Clapham: Ingleborough Fell minute book, 1927-2007, 6 March 1931.

minute book provides an annual listing of the number of sheep turned out by commoners between 1928 and 2001. However, the figures should be treated with some care, as they do not necessarily include all graziers who were active on the common (see the issue of membership, below), and the numbers seem to generally comprise a record of the number graziers were *intending* to turn on the fell in the coming season, so that an appropriate shepherding fee and wage could be set. The meeting also set the dates for sheep gatherings and for ‘boon’ days (for collective maintenance work); and dealt with the repair of sheep folds, walls, fences, gates, and drains; and more recently tackled issues of traffic and trespass; and correspondence with outside agencies (MAFF, English Nature etc.).¹⁸ Further details are given in section 3.3 below.

3.3 The evidence of two minute books: Eskdale and Ingleborough

The Eskdale Commoners Association minute books are particularly rich documents. Their pages deal with issues as varied as heather loss, protection of heafs, unlawful fencing and vehicles, trespasses by animals from neighbouring commons, and implementation of ESA agreements. As a historian of common land, they seem to me to be of equal importance and should be as carefully preserved as the manorial records which preceded them. Like manorial records, they allow us insight into a community’s relationship to their landscape, and into the relationships between different interest groups. We can see commoners and landowners working through peculiarly ‘common’ problems such as apportionment and severance of rights, with their decision-making processes and conclusions clearly recorded. But the importance of these documents goes beyond purely common land matters, since at root they detail ongoing and changing management issues of a quintessential Lakeland landscape in the late twentieth century, a time of great change in hill farming, rural life and economies, and touching on issues such as traditional farming systems, public access, recreation, and the role of preservation (with the National Trust as landowner). There is not time to do these books full justice in this paper, so I would like to draw out two areas that might be of special interest today: firstly, what these records tell us about the common land registration process (which has both historical and contemporary relevance); and secondly, what they tell us about the evolution of a body and its adaptation of grazing rules.

The Eskdale case provides rare insight into how a community of graziers attempted to register a ‘definite number’ of animals under the Commons Registration Act 1965. What stands out is the pragmatic way in which Eskdale commoners saw this as an opportunity to move beyond the legacy of levancy and couchancy (which had probably been widely ignored for a long time) and replace it with something more equitable and carrying greater credibility with local graziers. Participants in discussions emphasised the need to register a ‘true basis of what the Common would hold’¹⁹, showing that their concern was for the carrying capacity

¹⁸ Ingleborough Estate Office, Clapham: Ingleborough Fell Minute Book, 1927-2007.

¹⁹ Eskdale Commoners Association Papers (private): minute book, 1967-1980, 7 June 1967, minute 5.

of the common as a whole rather than their inbye. The Leconfield Estates (which still owned the common at this time) informed the Association that ‘so long as the Commoners could agree amongst themselves the numbers of sheep and cattle to graze this common there would be no objection raised by the Estates.’²⁰ The Association concluded that its members should use the carrying capacity of the common, determined at 2 sheep per acre, as the basis of their calculations.²¹ Graziers were essentially stinting the common.

The philosophy behind using the carrying capacity of the common land area as a measure of common rights was stated most clearly after the event, in a meeting held in November 1980. The two main reasons given were ‘(1) that the productivity of inside land (whether fields or intakes) varies from farm to farm and cannot be defined fairly in general terms. (2) that fell sheep spend very little time inside and are virtually never all inside together.’²² This was a clear statement that traditional rules did not match the realities of hill farming, and were seen locally as redundant tools of governance. It must also be remembered that the tradition of heafs (defined areas of grazing associated with specific flocks) was still current and provided another means of moderating grazing levels in Eskdale, since graziers were not supposed to overstock their own heafs to the detriment of others (Winchester and Straughton 2008). However, the register did not allow for registration of area limits on grazing, only numerical ones.

With this collective approach, the registration process could have worked well for Eskdale commoners, allowing them to reach a settlement for stocking numbers on the whole common and to adapt the legal basis of rights to fit their daily practices. Unfortunately, the way in which individual grazier’s rights were registered compromised collective agreements. As the minutes show, the Association altered their preferred conversion rate between sheep and cattle after some individual graziers had already registered rights, meaning that the register contains inconsistent conversion rates, and some graziers registered a different number of rights from the number they had supplied to the Secretary of the Association (Rodgers 2009).²³ Some of these problems can be attributed to a lack of ‘clout’ on the part of the Association. The Association had no legal leverage over its members (it could not insist on them registering a particular number), nor could it exert influence over those commoners who chose not to be members. But much can also be attributed to the flawed design of the registration process itself. As a result, like many other commons in England and Wales, the register for Eskdale is problematic and does not always support commoners and/or agencies in their search for environmental governance strategies today. What is interesting from the point of view of this paper is that it is the minute books which explain the reasons why rights

²⁰ Ibid., 12 April 1967.

²¹ Ibid., 8 May 1968; reiterated in a minute of 14 November 1980.

²² Ibid., 14 November 1980, pp. 17-8. At this time, objections were being heard against some of the Eskdale registrations. Graziers voted to confirm their earlier decision that ‘the total stock numbers should be calculated at a rate of 2 sheep per acre of fell, or equivalent cows (1 cow to replace 10 sheep)’, p. 18.

²³ Ibid., 29 January 1969; 12 August 1970. For further details see Rodgers, C.P., (2009) *Analysis of Register of Common Land: Eskdale Common CL 58* [Unpublished Contested Common land Paper].

were defined and registered in particular ways. Without the evidence of the minute books, the registration pages alone would make very little sense.

Another significant aspect of the Eskdale minute books is what they tell us about the adaptive nature of this body, and the new rules and constitution which it created. The most significant period of change came when ownership passed from the Leconfield Estate to the National Trust in 1979. This seems to have stimulated the drafting of the association's 'Fell Rules' in 1980, and an overhaul of rules of membership and voting rights in 1982 (replacing those established in 1967). The new set of 'Fell Rules' adopted in 1980 indicate which particular governance issues were considered important in 1980, and how they would be dealt with. It was agreed that the definition of a member and commoner would be: 'any person or any organisation legally owning and/or entitled to exercise (as tenant or owner) registered grazing rights, with or without any other registered rights, on Eskdale Common, Cumbria'.²⁴ The rules set out principles for heafing and the pasturing of fell-bred/purchased animals, shepherding, marking of sheep, and the banning of letting rights (see Appendix 2). Interestingly, it is the maintenance of heafs which appears to have been the subject of greatest importance. Although the rules determine that commoners have a right to graze their 'registered stocks of sheep and cattle', the rules seem to put no emphasis on actual registered numbers; and indeed, rule 8 dictated that heafs were to be marked on the Association's copies of registration maps: the Association clearly saw the governance of the exercise of rights as primarily spatial, rather than numerical.²⁵ From a historical point of view, it is interesting to see this scheme of Fell Rules in the context of a long tradition of customary rule-making and byelaws on common land, and in particular in the context of a set of fell rules created some 400 years earlier, in the form of the 'Eskdale Twenty-Four Book': an award drawn up by twenty-four jury men in 1587, governing access to heafs, cow pastures and the grazing land around Burnmoor (Winchester and Straughton 2008). Thus the 1980 Fell Rules, recorded in the minute book, belong to a long history of land management.

As with Eskdale, the Ingleborough Fell Commoners minute book is a rich source and could be explored from a number of different perspectives, but the two factors I want to concentrate on in this paper are firstly, what this book tells us about the significance of shepherding to the purpose and functioning of this body; and secondly, what it tells us about patterns of membership: the inclusivity/exclusivity of recorded meetings.

The Ingleborough Fell Commoners' meeting largely exists because of the tradition of appointing shepherds in this communal landscape. In its early days it was described as a meeting of 'the Commoners of Ingleborough Fell who have contributed towards the wages of a Shepherd',²⁶ and the shepherd was the central figure in day-to-day management of the common grazing. He was employed between April and November, with the task of managing stocking and gatherings, and each commoner paid a contribution towards his wage

²⁴ Ibid., 3 June 1980, Fell Rules [typed insert], p. 12.

²⁵ Ibid., 3 June 1980, Fell Rules [typed insert], p. 12.

²⁶ Ingleborough Estate Office, Clapham: Ingleborough Fell minute book, 1927-2007, 8 March 1928.

in proportion to their number of sheep on the Fell. If the shepherd had sheep on the Fell himself, he was usually allowed to turn them out for free for the duration of his employment. Despite the centrality of shepherding, the minute book reveals that salaried shepherding of the Fell was not without controversy. Commoners sometimes voted against the appointment of a shepherd (as in a meeting of 6 March 1931); more frequently there are examples of commoners requesting to shepherd their own sheep. Thus, on 8 March 1928, one commoner informed the meeting that he wanted to shepherd his own sheep in future, as some 50 of his lambs had become separated from their mothers before being fully weaned, reducing their value: he said he was not blaming the shepherd, but ‘considered it was impossible for the shepherd to know which Sheep had Lambs of their own as he himself would have known.’²⁷ Similarly, at a subsequent meeting on 6 March 1931, the commoner claimed that he wanted to shepherd his own sheep as ‘he could give them better attention than it was possible for any Shepherd to give.’²⁸ In 1931, the landowner’s agent reminded those present why shepherding had been introduced:

a Shepherd had been appointed 24 years ago on the wish of the tenant farmers of the Ingleborough Estate who exercised sheep rights on the Fell owing to the difficulties and friction which existed, as it was found that the sheep were never at rest but always kept on the move by various Commoners, and it was Mr. Farrer’s wish that a Shepherd should continue on the moor.²⁹

Taken at face value, this is a useful historical document on the role and nature of shepherding on common land in the twentieth century. But the development of this body must also be seen in the context of the landowners’ interest in grouse moor. It has been suggested that the estate’s keen interest in facilitating new annual meetings, shepherds, grazing rules and stint rates in the nineteenth and twentieth centuries stemmed in part from a desire to protect or create the appropriate conditions for grouse, and that institutions such as those set up on Ingleborough, Blea Moor and Littledale provided a vehicle by which competing interests could be negotiated (Winchester and Straughton 2008). The Farrers were particularly keen to turn their manorial rights to game on the commons into a commercial grouse shooting enterprise (Johnson 2009, 218-225), and the landscape still has evidence of grouse butts and shooting cabins, as can be seen on the Project’s LandNote website. The distinction between gamekeeping and shepherding was not always clear. In 1927, the man elected as shepherd by the Ingleborough Fell commoners was also the ‘Game Watcher’ on the moor; it was decided that his new role as shepherd would not prevent him from performing his duties as ‘Watcher’ and indeed a later entry suggests that the shepherd’s job description had developed to include game watching and driving grouse across the fell.³⁰

²⁷ Ibid.

²⁹ Ibid., 6 March 1931.

³⁰ Ibid., 27 April 1927, 2 February 1934.

What is interesting in this case is that the institution itself outlived both professional shepherding *and* commercial grouse shooting, retaining the commitment of commoners and the lord of the manor to the present day, presumably because the body had evolved to play a wider role as a vehicle for discussion and decision-making. The pages of the minute book reveal the collapse of grouse numbers (in 1934, the Ingleborough agent reported that there was no longer a need for the shepherd's services as game watcher or for driving grouse across the fell, because there were too few grouse³¹) and they show that the emphasis on shepherding changed over time, as it became less feasible to find willing candidates (a recurring problem from the 1950s onwards). The commoners eventually agreed to operate a rota system, performing shepherding tasks for themselves.³²

Membership of the Ingleborough Fell Commoners was not a straightforward issue, and reflects the complexity of the manorial and landholding legacy in the area. As noted above, the meeting was initially described as comprising 'Commoners of Ingleborough Fell who have contributed towards the wages of a Shepherd', and in its early days it seems to have centred only on those commoners who were tenants of the Ingleborough Estate. Some graziers named in the record were treated differently, as they were allowed to depasture their animals for free. In addition, a distinction is sometimes made between 'Commoners' and 'Non-Commoners'; and indeed it seems that the shepherd was sometimes expected to split the sheep into commoner and non-commoner flocks.³³ In 1961 it was suggested that 'There appears to have been quite a bit of misunderstanding regarding the rights of Non-Commoners whose sheep tended to stray towards the Ingleborough Fell Commoners side.' 'Non-commoner' could perhaps be used here to indicate common graziers who were not Ingleborough Estate tenants and/or were not contributing to the shepherd's wages or participating in the meeting; or perhaps common graziers who had rights to the Ingleton side of the fell only (i.e. not 'our' commoners). The status of, and relationships between, different grazing communities on Ingleborough therefore needs further investigation.

As might be imagined, this rather limited membership profile proved problematic when it came to governance issues which affected the whole Fell. In 1936, noting that stocking numbers were rising, the Fell Commoners minuted that:

The stocking of the Fell has increased by 100 ewes last year, while the total number of 1775 does not include any sheep owned by Commoners who shepherd their own sheep, such as the occupiers of Crooklands, Bleak Bank, Scale mire &c., while the total area of the Fell only comprises 1808 acres.³⁴

Later meetings strove to widen participation. In 1966 one member of the meeting was given the task of going to see 'all graziers up to Ingleton Parish Boundary and to ask them if they

³¹ Ibid., 2 February 1934.

³² Ibid., 12 June 1961.

³³ Ibid., 12 June 1961.

³⁴ Ibid., 7 February 1936.

would join in and contribute to the Fell Commoners Shepherd.³⁵ At the next meeting newcomers were formally welcomed, with the chairman emphasising the ‘need to try and maintain co-operation between all commoners of those who grazed on this side of Ingleborough Fell.’³⁶ Thus the body which was originally the preserve of estate tenants who paid for a shepherd was reinventing itself as a more inclusive body. However, there is still a distinction between the Clapham/Newby side and the Ingleton side of Ingleborough. Gathering days are often carried out jointly, but the communities also assert their separate identities and interests: when dealing with proposals from English Nature and MAFF to reduce stocking levels on Ingleborough in 1994, the Ingleborough Fell Commoners recorded that they had decided to negotiate separately from the neighbouring Ingleton Committee.³⁷ Many stakeholders or agencies involved with Ingleborough would probably find it easier to work with a single association or commoners council for the whole land area, but as the minute book shows, the historical and cultural legacy of landholding on Ingleborough has left an enduring mark on the way in which commoners approach their mountain.

4. Concluding remarks

This discussion paper represents a preliminary exploration of the survival of minute books, and it is by no means a comprehensive or complete survey. Do the volumes discussed above represent the tip of the iceberg, or merely isolated and unusual cases? The scale of the creation and/or survival of minute books remains largely unknown, since the likelihood is that their existence is known only to existing meetings or private individuals. Surviving minute books provide a vital archive or store of common land history, of both local and national importance, and are equally as important (in my view) as manorial records in piecing together the story of a common. They could be of interest to a wide readership, including other commoners, landowners, external agencies and academic researchers. At the very least, it would be useful to log the existence and time-span of surviving minute books, whilst also respecting custodians’ right not to reveal their contents should they wish to keep them private.

It seems to me that the evidence of minute books is important on a number of levels. Firstly, the minute book(s) of a particular common provide an important record of what has occurred on a single land area over time, often shedding light where other sources of evidence are lacking, or filling the documentary black hole left by the demise of manor courts. Secondly, in a wider sense, the collective body of minute books provide evidence for diverse forms of organisation on common land across England and Wales and can be compared to see whether there are differences, patterns and connections. As this is a discussion document, I have not

³⁵ Ibid., 8 February 1966.

³⁶ Ibid., 28 March 1966.

³⁷ Ibid., 12 August 1994.

drawn firm conclusions on these matters, but have rather identified a number of themes and questions emerging from the study of the minute books presented above:

Diversity:

The single category ‘common’, and in particular ‘registered common’, hides a wealth of cultural diversity, with different forms of interaction, and multiple ways of seeing and governing a landed resource. Diversity is a recurring theme in studies of common land, and was highlighted in the recent *Trends in Pastoral Commoning Report* for English Nature, which noted that ‘Each common has its own particular character, traditions and identity’.³⁸ Similarly, surviving minute books reveal that recorded meetings appearing in the nineteenth and twentieth centuries had diverse historical origins and evolutions. One might appear in the early twentieth century as a meeting of estate tenants, another in the 1960s as a response to a specific external policy (the 1965 Commons Act); one might be set up by a landowner to help with game management; another might be formed in the wake of an enclosure award. They existed within wider cultural and policy contexts, but they also emerged out of a specific terrain and social milieu, with specific opportunities and constraints. How can we explain their different chronologies and geographies? Why were particular models of business and governance adopted? Why did some end while others continued into the present?

Membership and territories:

Membership emerges as a particularly complex issue. In at least two cases mentioned here (Eskdale and Ingleborough), membership did not comprise all those with rights to the common, inevitably limiting their influence, but also emphasising that these were essentially voluntary or selective bodies. In addition, these cases have shown that membership policies might change over time – membership was not a static or stable concept. The same can be said about the territory which a recorded meeting might cover. The case of Ingleborough shows, in microcosm, how a single mountain can be made up of a complex web of manorial boundaries, changing social groups and power relations, which therefore preclude simplistic policy solutions. What determines membership and territory, and how have these factors evolved over time?

Adaptation and change:

One of the most striking things to emerge from this preliminary study is how adaptive and innovative meetings can be. Some of the recorded meetings that exist today have evolved in terms of membership, functions, voting rights, regularity of meetings, etc., from when their minutes first began. Recorded meetings such as those found at Eskdale and Ingleborough have developed in a particularly organic and reflexive way. Can we explain why some meetings are able to adapt, when others collapse or fail? Recorded meetings must also be

³⁸Pastoral Commoning Partnership (2009), *Trends in Pastoral Commoning Natural England Commissioned Report NECR001*, p. 25.

seen in the context of changing patterns in the ownership of rights, whereby some commons have experienced the concentration of grazing rights/stints in fewer hands, whilst, conversely, others have seen the expansion of numbers of commoners due to the apportionment of rights. What impact have changes in the numbers of active commoners had on recorded meetings across the nineteenth and twentieth centuries?

Law and good neighbourliness:

None of the recorded meetings mentioned above had legal powers over their members, and none could probably be considered a legally constituted body. This lack of legal ‘clout’ could be problematic (e.g. Eskdale Commoners Association’s attempts to coordinate registration of rights) and minute books are certainly not free from conflict – they record serious disputes as well as agreements. For example, at certain junctures members of the meetings at Scales Moor and Ingleborough petitioned to herd their own animals rather than employ a shepherd. In 1889, the Scales Moor meeting recording the outcome of a case of assault on the herdsman by one of the stinholders, dealt with by the Ingleton Petty Sessions. However, stakeholder discussions held during the course of the Project suggest that there is great ambivalence towards the role of law in management of common land. At a focus group meeting of graziers belonging to the Ingleborough Fell Commoners and Scales Moor Stinholders in 2008, one participant mentioned that, ‘when you start talking about binding rules then lawyers and land agents are involved and have a say so friendship and neighbouring relations of graziers are put under risk. You don’t have to have professional people. Legal powers to enforce between friends and neighbour is not necessary.’³⁹ It would be interesting to look at minute books from across England and Wales to see how members have dealt with conflict and disputes. Were these dealt with successfully? What level of legal power or intervention have commoners been prepared to commit to?

To sum up, the historical evidence of minute books is important because it also allows us to ask interesting questions about common land management in the contemporary sphere. Does a common need a recognisable management institution to function well? Will external agencies wish to negotiate with legally constituted bodies only, and if so, how will that shape the evolution of existing recorded meetings? How can/should modern common land law and traditional concepts of ‘good neighbourliness’ interact in the post-manorial period? These are questions which go beyond the historical realm, and touch on issues of common land governance and management in the present day. Ultimately, common land is about people, and how they interact with each other in relation to a defined area of land. Much depends on the quality of that interaction and how problems are dealt with if/when they arise. The records of associations and committees can give us rare insight into forms of interaction and problem-solving over time.

³⁹ M. Pieraccini, *Report of Ingleton Focus Group Meeting Held 2 September 2008*, [unpublished].

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Appendix 1: Preliminary List of Minute Books

Common	District	Dates	Custodian/Reference
Backney Common, Sellack	Herefordshire	(1)1892-? (2)1931-1973	Ref.: Commons Commissioners Decision, 15/D/30-55, p. 343-4.
Burton Common, Longburton	Dorset	1951-?	Commons Commissioners Decision, Ref. 210/D/297-305.
Eskdale Commoners Association	Cumbria	(1)1967-1980 (2)1980-1995	Association.
Ingleborough Fell Commoners	N. Yorks	1927-2007	Private individual (lord of manor).
Littledale Gaitholders	N.Yorks	1930-1939	Private individual (lord of manor).
Llanbadarn Fynydd	Powys	1955-1956	Powys County Archives, P/SOC/1/M/G/1.
Morpeth Stint Book [minute book or transfers?]	Northumberland	1840-1872	Northumberland Record Office, NRO 990/F/1.
Moughton, nr Ingleborough	N. Yorks	?	Association [information from David Johnson].
Ryton Willows stinholders	Tyne & Wear	1857-1917 [with other papers]	Northumberland Record Office, NRO 3410/Wks/17/7; NRO DT.BEL/1/3 [included with other papers]
Scales Moor Stinholders	N.Yorks	(1)1884-1898 (2)1901-1991	Association.

Sennybridge Range Graziers Committee, Brecon	Powys	1955-1979	Powys County Archives, P/SOC/1/M/G/3.
Thornham Stint-owners	Norfolk	1924-1951	Norfolk Record Office, H. Bett. 14/6/79/28.

Symposium discussion paper: not for publication.

Appendix 2: Eskdale Fell Rules, 1980.

Please Note: The photo in Appendix 2 has been removed from the version posted online.