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**Beyond pasture rights: the management of turbary, estovers and other  
lesser rights on common land in England and Wales since 1600**

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The ‘Contested Common Land’ project has concentrated on the use of commons as pastures, reflecting our bias towards upland areas, in which the vast majority of surviving common land is found. Grazing remains the dominant use on common land in the uplands and achieving a balance between the exercise of pasture rights and ecological sustainability remains the prime focus of contemporary debate. English law, however, traditionally recognised no fewer than six categories of common right, of which common of pasture was only one, and the rights registered under the Commons Registration Act 1965 on the commons within our four case study areas include examples of almost all those categories: these non-pasture rights are summarised in the attached Appendix. This paper concentrates on the two most widespread common rights after common of pasture, the common rights of turbary and estovers, but it also casts its net wider to consider other customary forms of resource exploitation on common land, some of which *de facto* uses have been formally registered as common rights (as in our case study commons in Norfolk).

Examining these other rights and customs not only provides a counter-balance to our focus on grazing; it also allows other aspects of the culture of common land to be explored in the historical context. Whereas grazing rights were attached to landed holdings, the rights I’ll be discussing this morning were often attached to landless houses and cottages or even to all the inhabitants of a community. They were often disproportionately important to the poorer members of society, supporting meagre livings by giving access to vital resources, notably of domestic fuel – and it was this that helped to forge the association between common land and the poor in the minds of many commentators, particularly in the eighteenth century.

Furthermore, whereas grazing dominated on upland commons, the wider range of uses I'll be discussing were particularly characteristic of common land in lowland England. This paper moves into the world of lowland commoners and the rural poor described by Jeanette Neeson in her influential study of common land and enclosure in the south-east Midlands (Neeson, 1993).

The six main categories of use rights on common land recognised in English law were pasture, pannage, turbary, estovers, piscary and common in the soil (Gadsden, 1988: § 3.59-3.85). After common of pasture, the most significant of the other rights were common of turbary, which gave the right to cut turf and to dig peat, principally for fuel, and common of estovers, which gave the right to take wood for necessary purposes, expressed in the vernacular by the four rights of 'housebote' (for the repair of buildings), 'firebote' (fuel for the fire), 'ploughbote' (wood for farm implements) and 'hedgebote' (materials for the repair of hedges). Rights of turbary and estovers were generally attached to houses or land and their exercise was governed by clear principles. First and foremost, they were only to be used in support of the 'dominant tenement', the land or dwelling to which they belonged. From this flowed certain clear limitations: produce from the common was not to be sold or taken out of the manor, and the quantity of the resource which could be taken was limited to what was necessary to fulfil the reasonable needs of the dominant tenement (the term 'estovers' derived ultimately from the Latin *est opus*, 'it is necessary'). This meant, for example, that commoners in rural manors were expected to resist the temptation to dig peat for sale to fuel-hungry townspeople nearby.

These formal rights stood within a wider conception of use rights which had evolved by custom. The idea of 'necessary use' was often widened to enable other types of vegetation to be gathered from the common (for use as thatching materials, for example) under a broader interpretation of estovers. Moreover, despite the theory that most use rights were attached to a house or land, in some areas custom deemed that rights were held by 'the inhabitants', in other words by virtue of residence rather than land holding. These less formal conceptions of 'ownership' did not sit comfortably with the legal basis of use rights on common land. The law attempted to exclude them, Gateward's case of 1607 ruling against rights claimed by inhabitancy (see Thompson, 1991: 130). In the context of grazing rights, the ruling probably contributed to the distinction between ancient 'commonable' cottages, which possessed a common pasture right, and other cottages, built more recently, which did not. Yet the concept of common rights by inhabitancy survived, and grazing rights belonging to landless cottagers

in lowland England continued to be recorded in the eighteenth century (Neeson, 1993: 61-2, 68-9; Shaw-Taylor, 2002: 71-2). Indeed, the association in the minds of many eighteenth-century commentators between common land and the poor suggests that rights claimed by immemorial custom persisted beneath formal conceptions of common right. It is in this context that the claims to a range of minor rights on coastal common land in Norfolk (the right to gather seaweed, samphire and shellfish, for example), registered under the Commons Registration Act (see Appendix), must be viewed. Though it is difficult to fit them into any of the recognised categories of common right, their existence implies a persistent tradition of customary rights associated with residency.

The intensity of exploitation of these common rights varied over time, though the chronology and trajectories of change differed from those of grazing rights. As we shall see, there is evidence for surges in the exploitation of particular resources in the seventeenth and eighteenth centuries in response to economic stimuli (demand for bracken as a source of potash, for example) but the broader trajectory is of decline of use in the face of technological and economic change. As slate replaced thatch as the roofing material of choice in the uplands and oil lamps supplanted rush lights, so the gathering of thatching materials and rushes from the common vanished. The taking of peat and other traditional fuels declined almost to extinction as the nineteenth-century transport revolution brought cheap coal within reach of almost all communities. As a result, the formal rights to turbarry or estovers were mostly memories by the time registration of rights was required under the Commons Registration Act of 1965. The evidence of the commons in our four case study areas suggests that registration was inconsistent (see Appendix). The two properties registering turbarry and rush cutting rights on Scales Moor, Ingleton, both belonged to the same owner: it seems highly probable that similar rights were attached to other houses but that their owners did not register them, as they had long fallen into disuse. Conversely, on other commons almost all rights holders appear to have registered non-pasture rights, whether or not they were still actively exercised. Thirty-one of the thirty-three commoners registered rights to cut ‘fern’ (bracken) on Cwmdeuddwr common, though whether they all continued to cut bracken for bedding in 1968 is unclear. Likewise, 20 of the 24 commoners on Barrow common, Brancaster, registered rights to fuel, in three cases explicitly described as the right to take ‘furze’ (gorse) for firing: were these live rights or a desire to preserve potential rights, which would have been lost had they not been registered?

Very few formal rights to turbary or estovers are now exercised, the main exception being the occasional cutting of bracken for livestock bedding in Wales and, though not a feature of our case studies, a few active cases of peat-cutting for fuel. Where non-grazing exploitation of the produce of common land survives, it mostly takes the form of gathering food, represented in our Norfolk case study, for example, by the shooting of wildfowl and the gathering of shellfish and marsh samphire.

In the rest of this paper I wish to focus on the management regimes devised by local communities to enable sustainable exercise of these non-grazing rights in the traditional rural economy. Rather than structure the discussion around the common rights recognised in law, I have arranged the material around the three main areas of the domestic economy in which resources from common land were important. First, commons were crucial as a source of fuel for domestic use, the common right of turbary providing access to peat; estovers, as we have seen, allowing wood to be gathered for the hearth. Second, a range of vegetation fulfilled a variety of essential needs around the dwelling and on the farm. Much of this exploitation fell under the umbrella of estovers, but common of turbary was also involved, allowing turf and sods to be taken for building and repairs. Finally, common land was an important source of wild food in the traditional economy, much of it gathered by informal custom rather than under formal common right – a tradition which survives and has been revived in recent decades through publications such as Richard Mabey's *Food for Free* (1972) and the current fashion for the 'survival' genre of television programmes (cf. Fearnley-Whittingstall, 2009).

### ***1. Fuel for the Hearth***

The common rights of turbary and estovers gave tenants of a manor access to fuel for heating and cooking. Demand for domestic fuel was directly related to the number of households and one of the central themes in byelaws governing the exercise of fuel-gathering rights is the response of manor courts to population growth, particularly the expansion in the number of landless households, from the sixteenth century. A range of strategies, involving quantitative, spatial, or seasonal restrictions, attempted to manage access to fuel resources on the commons, often distinguishing between the landed and landless sections of the community. Ensuring equitable access in a context of rising demand was the central aim but limiting the environmental damage caused by fuel gathering was also a concern. These themes can be illustrated both by the regulations governing turbary rights in upland manors and by those

managing access to gorse in lowland areas. Strikingly different attitudes to social sustainability are visible in each area.

Peat was the principal fuel in much of upland Britain until the nineteenth century. The broad framework governing the exercise of turbarry rights is illustrated by an order recorded by the manor court at Clapham, Yorkshire West Riding, in 1704. No person was to dig more peat or turf than was necessary for domestic use in a house within the manor; no peat or turf was to be sold, given or taken outside the manor; and everyone exercising turbarry rights was to 'bedd, cover and levell again' the bottom of their peat diggings (West Yorks, Record Office, WYL 524/179, m. 6v.). The last clause, repeated widely in byelaws elsewhere in northern England, represents a conscious attempt by the courts to limit the environmental damage caused by peat digging, by seeking to preserve the vegetated sod on worked-out turbarries.

A key customary mechanism for ensuring equitable access to turbarry resources was to assign a section of the peat diggings to each commoner. Rights in these 'peat pots' were exclusive to the individual: no one was to dig peat except in his own allocated place; nor to carry away peat dug on his neighbour's peat pot; nor to allow others to dig peats in his own peat pots. As peat beds were worked out, new peat pots were assigned by officers of the manor court. Population growth and an increase in the number of landless households might put pressure on this system of spatial allocation. The response of the courts was often to treat cottagers as second-class citizens, in an attempt to ensure that their exercise of common rights did not interfere with the rights of the landed. Quantitative limits were sometimes imposed, distinguishing between a more generous allowance for landed households and a closer restriction on landless cottagers. In the Yorkshire manor of Calton in 1544 this was expressed by volume (cottagers were restricted to eight cartloads of peat each year); at Harrington, Cumberland, in 1717 by value (landed tenants could take 1s. (i.e. 12d.) worth; cottagers 4d. worth); at Loweswater, in the same county, in 1677 by a combination of a time limit and a quantity (cottagers could dig peat for three days (three 'dayworks') and take 100 turves). Cottagers might be required to defer the start of peat-digging until several days after farming households or they might be restricted to digging only where 'convenient' to the farming families, keeping away from the 'peat pots' assigned to landed holdings. In a very direct response to population growth in a lead-mining area where, on the face of it, the supply of peat for fuel was plentiful, the court at Alston Moor, deep in the north Pennines, laid out clear restrictions on cottagers' rights in 1679: they were not to dig peat on the common without leave of 'adjacent neighbours' and in any case were to exercise their rights only on outlying

sections of the common at a distance of at least one mile from their cottage (Winchester, 2000: 129-33; Dilley, 1991: 317). Orders such as these, prioritising the rights of the landed over those of the landless, had the effect of restricting the use rights of one section of local society. One might even say that they illustrate the assumption that the resources of upland commons were viewed as 'belonging' to the farming element of the community, rather than to all local inhabitants, by the early-modern period.

A marked contrast in attitudes to fuel resources is found in byelaws regulating access to gorse (*Ulex* species), also known as 'furze' or 'whins', which was a valuable fuel resource across lowland England, particularly among the rural poor (Neeson, 1993: 159-60; 174-6; Shaw-Taylor, 2002: 75-6). Byelaws regulating the cutting of gorse on the common included what seems to have been a widespread customary limitation on quantity, whereby gorse was only to be taken from common land by being carried in bundles; carting it away on a wheeled vehicle was forbidden. Eighteenth-century byelaws to this effect have been noted from Warwickshire, Northamptonshire and Oxfordshire (Thompson, 1991: 145; Neeson, 1993: 175; Shaw-Taylor, 2002: 76) and a series of very similar orders are recorded at Brancaster, Norfolk, in the sixteenth century, for example. In 1556 and again in 1569, the Brancaster court ordered that no inhabitant of the vill was to cut 'whins' nor to carry them away by cart for a three-year period, while in 1598 a similar ban was imposed for four years (Norfolk Record Office, HARE 6334, Sept. 1556; 6338, 27 Oct. 1569; 6345, 11 Oct. 1598). These time-limited quantitative restrictions may have been periodic attempts at environmental management, aimed at allowing the gorse to regenerate, but they clearly had a social aim as well. The order of 1569 makes it clear that a distinction was drawn between the wealthier and poorer members of the community:

it is ordered and decreed by the tenants of the lord of this manor that no tenant or inhabitant of this manor who has horses or cart shall collect gorse upon the common of this manor for three years under penalty of forfeiting to the lord 6s. 8d. for each cartload during that time; but it is clearly permitted for the poor to collect gorse, carrying [it] in bundles on [their] heads (NRO, HARE 6338, 27 Oct. 1569.).

The implied assumption is that those with holdings of land would have access to fuel on their own property; the landless, excluded from these private resources, were therefore given priority on the common. The acceptance that common land was a source of vital resources for the poor, seen here in Norfolk by the sixteenth century, stands in marked contrast to the orders restricting cottagers' turbary rights on commons in the Pennines and the Cumbrian

fells. The contrast hints at the existence of two distinct cultures of common land, one in lowland England, the other in the uplands.

## ***2. Vegetation for Necessary Uses***

The role of common land in yielding a wide range of resources for use in the traditional domestic economy is well-known (Neeson, 1993: 166-71; Winchester, 2000: 133-42). Roofing and building materials, notably sods and bracken, heather or reeds for thatching, were particularly important, as were materials for specialist purposes, such as rushes for making rushlight candles. Bracken (*Pteridium aquilinum*) provides an illustration of a highly valued resource (see Rymer, 1976), in demand until the nineteenth century for potentially conflicting uses and thus requiring careful management to avoid conflict over competition.

The plant had three principal uses in the early modern period. First, its dried fronds were traditionally spread as litter for livestock when kept indoors during the winter, replacing straw, of which little was available in upland communities with little arable land. In its second use bracken was again a substitute for straw, its hard, shiny stems being used as a thatching material for roofing until slate replaced thatch from the later seventeenth century. In both cases, these were ‘necessary uses’ for the support of the house and land to which the right was attached. But bracken was also exploited commercially, by burning it into potash for sale, increasing the demand for the plant and leading to potential conflict with domestic exploitation. Although not a ‘necessary use’ – and thus, strictly speaking, not a valid use of a common right of estovers– the burning of bracken was accepted and was widespread, particularly in the seventeenth and eighteenth centuries. These different, and not necessarily compatible, uses are reflected in a host of management regulations recorded in byelaws, particularly from Cumbria. The following discussion summarises material in Winchester, 2006.

As with fuel resources, manor court juries imposed spatial, quantitative and seasonal restrictions on the taking of bracken in an attempt to devise sustainable management systems. Spatial allocation of use rights was widespread. Defined stands of the plant, known as bracken ‘rooms,’ ‘dales’ or ‘dalts’, were allocated to individual commoners, their bounds sometimes being defined in great detail. These sections of bracken-covered hillside, assigned to individuals, were protected by the weight of the courts’ authority and offenders might be penalised for reaping bracken which belonged to the holding of another person. Restrictions

on the quantity of bracken which could be taken were also found, usually expressed in terms of manpower, a frequent limit being one gatherer per holding (Dilley, 1972: 159-60).

But the principal device to resolve the potential conflict between competing uses was the imposition of seasonal restrictions. The inherent tension between different uses of the resource centred on how it was harvested: fronds for thatching needed to be harvested carefully by pulling the stems or by cutting with a sickle or hook, whereas gathering for bedding or burning could be accomplished by mowing with a scythe. Several byelaws draw a distinction between the cutting, pulling or shearing of bracken fronds, which was allowed from late August or mid September, and the wholesale mowing of brackens, usually forbidden until around Michaelmas (29 September). Some recognised the need for flexibility when new buildings were erected and accepted that the cutting of ‘thack brackens’ might be allowed before the specified date where a new or ‘bare’ house needed covering. In the byelaws from north-west England, Michaelmas or the morning after was the usual date from which mowing was allowed, but a greater range of dates was found after which shearing or pulling could take place, ranging from St Lawrence’s day (10 August) to St Matthew’s day (21 September). Whatever date was laid down, the intention was presumably the same, to enable those who needed to select fronds for thatching to gather these before wholesale clearance of the drying bracken began for litter or for burning.

The underlying aim of these sophisticated management regimes governing the cutting of bracken was the preservation of ‘good neighbourhood’ in the face of competing demands. What is striking is that the commercial exploitation of bracken for burning into potash appears to have been accepted as a customary practice, despite the fact that it could not be justified as a ‘necessary use’. Rules were devised to accommodate it. An idea of the intensity of competition for the resource can be gained from such regulations as those specifying that no one was to gather bracken before sunrise on the allotted ‘bracken day’ or imposing stricter limitations on cottagers than farmers. In orders comparable to those encountered in connection with turbarry rights, cottagers were sometimes required to defer cutting bracken for one or more days after the named ‘bracken day’ or were assigned a lower manpower limit, as at Dalston, near Carlisle, in 1687, where occupiers of over four acres of ground were allowed one scythe; whereas occupiers of under four acres were restricted to only three sickles (Dilley, 1972: 160).

### ***3. Food for Free***

The third area in which common land supported local communities was as a source of foodstuffs. There is ample evidence to demonstrate that wild food was a significant part of the diet, particularly of the poor, from the early-modern period, and probably long before (Neeson, 1993: 169-70; Thirsk, 2007: 23-4, 201-2). Gathering nuts, mushrooms, berries and herbs was almost certainly a very deep-seated tradition but it rarely surfaces in the formal records of the management of common land. We are here entering that grey area where common rights shade off into informal custom. A distinction may be drawn between gathering plants and taking animals. The latter is more frequently recorded in manor court records, since it was more formally controlled. The right to take living creatures from a common usually belonged to the lord of the manor as owner of the soil, though formal rights of piscary and, more rarely, shooting rights are recognised as common rights (Gadsden, 1988: § 3.74-3.76; 3.86-3.89), as, for example, the wildfowling rights registered on commons in our Norfolk case study.

The gathering of plants for human consumption is a particular feature of the customary economy of the commons in our Norfolk case study. Under the Commons Registration Act 1965, numerous individuals claimed an assemblage of rights on both Brancaster and Thornham marshes, which were referred to collectively as ‘samphire rights’ (see Appendix). The spectrum of rights embraced a wide range of activities: gathering vegetation, taking wildlife and digging sand and shingle. The specific rights which were listed included taking samphire, seaweed, sea lavender, fish, bait and shellfish, wildfowl and game, and sand and shingle. These uses appear to blur the distinction between common rights and customary practice, not only because they are difficult to fit into the framework of recognised formal rights but also since the locations in which they would be exercised blur the topographical distinction between the foreshore and common land proper. Marsh samphire (*Salicornia europaea*), which grows on the lowest levels of the salt marshes, along the uncertain boundary between common marsh and foreshore, was both a local delicacy (a tradition of pickling the plant is recorded from Norfolk, where it continues to be sold in local markets, and it became a delicacy exported to London restaurants in the later twentieth century) and a traditional source of sodium in glassmaking and soap manufacture, for which it was dried and burnt in heaps. The latter use gave it its alternative name, ‘glasswort’ (Mabey, 1996: 97-9). Sea lavender (*Limonium vulgare*) is said to have been the local equivalent of white heather, ‘sold in bunches to tourists, as a popular radiator adornment after a coastal holiday’ (Mabey, 1996: 111-12). Both these marshland species thus had a monetary value as a cash crop, stretching

the concept of ‘necessary’ use rights in the same way that burning bracken for sale as potash did. Despite the fact that collecting samphire and sea lavender appears to have been a customary right in north Norfolk, no references to either species have been found in the historical sources recording the local management of the commons.

One species of vegetation taken for human consumption, which does enter the written record at an early date, however, was sea holly, or ‘sea hulver’ in the vernacular (*Eryngium maritimum*). Presentments against individuals for digging up sea holly roots are recorded at Brancaster across the seventeenth century from 1625 to 1689 (Glos RO, D2700/MJ/19/1-2). The earliest reads:

William Tompson and William Baker wrongly dug maritime roots in English called ‘Seahulver rootes’ in ‘le meeles’ [i.e. the sand dunes] of Brancaster without licence of the lord of this manor, and they carried them away to the prejudice of the lord and in bad example to others. (Gloucestershire Archives, D2700/MJ/19/1, 5 Oct. 1625)

They were each amerced 6d. and ordered to desist under pain of 3s. 4d. each but Tompson continued to offend and the penalty was doubled the following year. He was amerced again in 1629 when the court noted that environmental damage had resulted from his activities: ‘the Meeles are greatly decayed (*maxime decasati*) which is referred for the lord’s advice’.

What was going on? Sea holly root or ‘eryngo’ became a fashionable cure-all in the seventeenth century. The root was candied, preserved in syrup or made into lozenges. Like the humble but then new-fangled potato, it was claimed to have aphrodisiac qualities, a play of 1611 listing it with ‘oyster-pies, potatoes, skirret roots ... and divers other whetstones of venery’ in a banquet given to a lover on the way to meet his mistress (quoted in Salaman, 1949: 427-8). While the candying of ‘eryngo’ can be traced back to the early seventeenth century, its fame spread after 1621 when a Colchester apothecary began to market it (Thirsk, 2007: 199, 352, n. 8, citing *VCH Essex* II, 371-2). It is striking that the first presentment concerning ‘seahulver root’ in the surviving Brancaster records dates from 1625, shortly after this. It seems likely that the repeated presentments are evidence that the plant was in demand for medicinal purposes and that William Tompson and William Baker and their successors were local men responding to this new market for a local resource.

We need to ask on what basis the presentments against men like Tompson and Baker were brought. In no instance is the offender said to have acted ‘against byelaw’. The wording of the presentments suggests initially that they were infringing the lord of the manor’s rights. As

we have seen, in the earliest presentment Tompson and Baker were amerced for digging the roots 'without licence of the lord'. Under the law there was a general prohibition on 'breaking the lord's soil' on manorial waste, except in particular circumstances, such as when exercising turbary rights. Digging for sea holly roots would have infringed that principle. At Brancaster some of the sand dunes lay within the common marsh but others were deemed to be lord's freehold in the seventeenth century. When William Claye dug sea holly roots in one of these freehold areas, the East Meels, in 1653 he was presented for digging 'where of right he ought not to have done to the greate damag of the lord'. The implication was, perhaps, that there were other places where it would have been legal for the offender to take the roots. It seems very possible that digging the roots had become a customary practice, which only in some circumstances entered the court record.

The presentments are capable of a variety of interpretations. The earlier presentments could be attempts by the lord and his steward to prevent the taking of sea holly from developing into a customary right by repeatedly amercing an offender (perhaps one among many), to establish that the gathering of this new crop represented an unwarranted usurpation of custom and/or because the digging caused environmental damage to the lord's soil – it is striking that the earliest presentment refers to the 'bad example' set by the offenders. However, some of the presentments from the 1650s onwards were against men from the neighbouring settlements of Titchwell, Burnham Deepdale and Burnham Norton, in one case (in 1651) their exploitation of the plant being described as not only to the lord's damage but also to the 'prejudice of his tenants'. A second interpretation, therefore, is that the actions of men from outside the manor were detrimental to the interests of Brancaster men, for whom sea holly roots may have provided a useful source of income. Certainly, taking sea holly roots is thought to have continued in Norfolk until the nineteenth century, strongly suggesting that it came to be accepted as a customary right on the seaboard commons, despite manor court presentments such as those at Brancaster (Norfolk Wildlife Trust, 2009).

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### ***Themes and reflections***

Most of this paper has been concerned with rights which are no longer exercised or uses of common land which have fallen into abeyance. Yet, despite the fact that such formerly widespread practices as bracken harvesting and peat cutting have all but ceased, I suggest that

some of the themes highlighted above have a wider relevance. I end by offering four reflections:

1. First of all, the history of the uses of common land discussed above illustrates the deep-seated and persistent tension between the legal theory of common rights and the reality of custom and practice on the ground. It is possible to conceive of a spectrum of relationships between customary uses and formal common rights. Custom had been incorporated into, and lay at the heart of, the medieval notion of estovers, for example: ‘necessary use’ was a general principle capable of different interpretations according to specific local conditions, and thus allowing such regional variants as the harvesting of reeds, bracken or heather to be accommodated within its scope. By contrast, the assemblage of rights on the Norfolk marshes known as ‘samphire rights’ appears to represent the recent legal recognition of a cluster of customary uses of common land under the Commons Registration Act. Not recorded until the 1960s, their place in the canon of formal rights of common seems to have baffled Gadsden, who admitted as much and discussed them under common of piscary, since they involved ‘water related products’ (Gadsden, 1988: § 3.76). Other customary uses, such as the harvesting of many life-sustaining resources by the poor on commons in lowland England, described so eloquently by Jeanette Neeson (1993: 166-71), appear to have been tolerated but never formally recognised – perhaps the harvesting of sea holly roots fell into this category as well. Despite attempts to codify common rights, local custom survived – and indeed survives – in traditions such as blackberrying, which effectively lie outside the legal framework of common rights but remain an active element of the use and culture of the commons.

2. Furthermore, it is striking how often the legal principle which lay at the heart of the concept of estovers, namely that the quantity of a resource taken from common land should be limited to what was required to answer the reasonable needs of the dominant tenement, was ignored. Custom seems to have sanctioned the taking of produce for sale and profit, be it sea holly in the seventeenth century, bracken ash in the eighteenth or samphire in the twenty-first. Much of this commercial exploitation was small in scale, even if of great significance to the poor, as it was to the elderly couple from Kettering in the eighteenth century, whose livelihood depended on weaving mats from flags and rushes taken from common land (Neeson, 1993: 176-7). But some exploitation, notably the burning of bracken for potash, was on a much larger scale. The scythe-wielding figures spread across the commons, mowing bracken in the autumn sunshine, were involved in the first stage of a trade which saw ‘some

thousand loads of bracken ashes' passing through the port of Lancaster in 1742 (Marshall, 1967: 235).

3. Changing fashions could lead to resources on common land which had not hitherto been valued coming under pressure at a future date. The rapidly expanding fashion for candied sea holly root in the early seventeenth century is a case in point. Other, lesser examples from our case study areas include the growing demand for rockery stone, which led to the digging up of limestone pavement on Scales Moor, near Ingleton, in the 1960s, or the demand for 'magic mushrooms' which prompted their collection from Cwmdeuddwr common in Powys in the later twentieth-century (local information). In neither case did these represent the exercise of common rights as such: the gathering of rockery stone was licensed by the owner of the soil; the gathering of 'magic mushrooms' fell under the heading of informal custom. But they illustrate the wider point that, as the value placed on resources has changed, so the pressure to exploit the non-grazing resources of common land has varied over time and is likely to continue to do so.

4. That leads to a final reflection, on the ecological consequences of temporal variations in resource exploitation. In the case of bracken, the decline in the intensive cropping under the traditional patterns of exploitation can be said to have had negative consequences. Long viewed as a noxious weed by hill farmers, choking pastures by crowding out grass, bracken is often said to have spread in extent since the nineteenth century and anthropogenic factors are usually thought to have played a significant part. The decline in the harvesting of bracken in the traditional hill farming system has been identified as one factor in its spread, the cessation of cutting leading to an accumulation of dead bracken, which protects the rhizomes from frost and enhances the plant's vigour (Rymer, 1976: 157). The 'bracken problem' on upland commons today may be, in part, a consequence of the non-exercise of common rights. Conversely, the decline of other uses of common land have been ecologically beneficial. It has been suggested, for example, that the gathering of sea holly root had such an impact on the plant's distribution that it is only now recovering (Norfolk Wildlife Trust, 2009). The cessation of peat-cutting for domestic use has stabilised vegetation and prevented further erosion. Yet turbary rights survive on the commons registers and are thus dormant rather than dead. In a future of high energy costs it is conceivable that the exercise of turbary rights might be revived, posing a challenge to the ecological health of a common and to its role in carbon capture and storage. If the history of common land has one lesson for today, it is that,

as cultural and economic contexts change, so the pressure points in the contests over common land will continue to shift.

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**Appendix: numbers of non-grazing rights registered under the Commons Registration Act 1965 on commons in the four case study areas.**

<i>Case study</i>	<i>Total rights entries</i>	<i>Turbary</i>	<i>Estovers</i>	<i>Other rights</i>
<b><i>Eskdale, Cumbria</i></b>				
<b><i>Eskdale Common</i></b> (CL58)	22	15	6 (bracken)	water abstraction (1); sand and gravel (1)
<b><i>Ingleton, North Yorkshire</i></b>				
<b><i>Ingleborough</i></b> (CL134)	33	0	0	0
<b><i>Scales Moor</i></b> (CL272)	11	2	2 (rushes)	0
<b><i>Elan Valley, Powys</i></b>				
<b><i>Cwmdeuddwr Common</i></b> (RCL 36)	33	31	31 (fern)	0
<b><i>Brancaster and Thornham, Norfolk</i></b>				
<b><i>Brancaster Saltings</i></b> (CL124)	56	0	52	<54 (samphire, fish, shellfish, bait, seaweed) wildfowl (48) reeds (29) soil and herbage (6) sand/shingle (4)
<b><i>Barrow Common</i></b> (CL159)	24	1	20 (fuel/furze)	0
<b><i>Thornham marsh</i></b> (CL41)	52	0	39	<46 (samphire, sea lavender etc) sand/shingle (20)
<b><i>Thornham low common</i></b> (CL56)	58	0	24	<56 (samphire, shellfish etc) wildfowl/game (37)

Source: Commons Registers.  
AJLW, Sept. 2009