

# Commons and Communities



**Graham Bathe, Foundation for Common Land**



# Great Wishford Folklore

**On Oakapple day each year inhabitants of Great Wishford rise before dawn and collect green boughs from Grovely wood.**

**These are used to decorate the church and village prior to village processions and dancing.**

**Sticks are gathered into small bundles called knitches.**





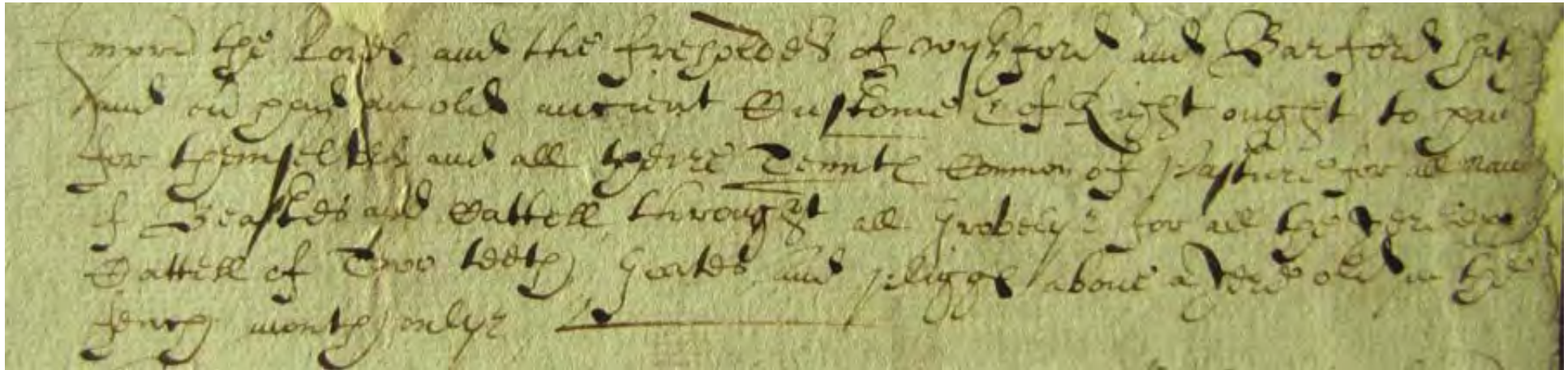
**Villagers take their green oak boughs to Salisbury Cathedral where Knitch Ladies perform a dance.**



In the cathedral, villagers read a charter asserting their right to take green boughs, and then they yell '*Grovely Grovely and All Grovely*'.



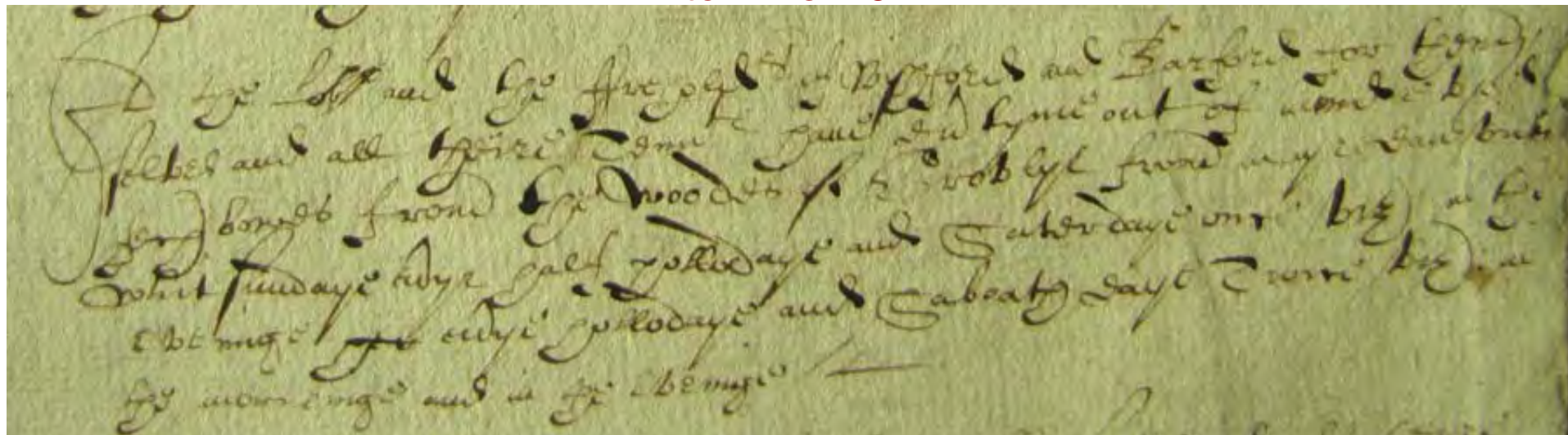
## Customs of the Manor of Great Wishford 1597



Imprimis the Lords and the freeholders of Wyshford and Barford **hath and ever had an old ancient custom and of right ought to have** for themselves and all theire tenants common of pasture for all manner of beastes and cattell through **all Grovely** for all the year, except cattle of two teeth and pigges above a year old in the fence month only.

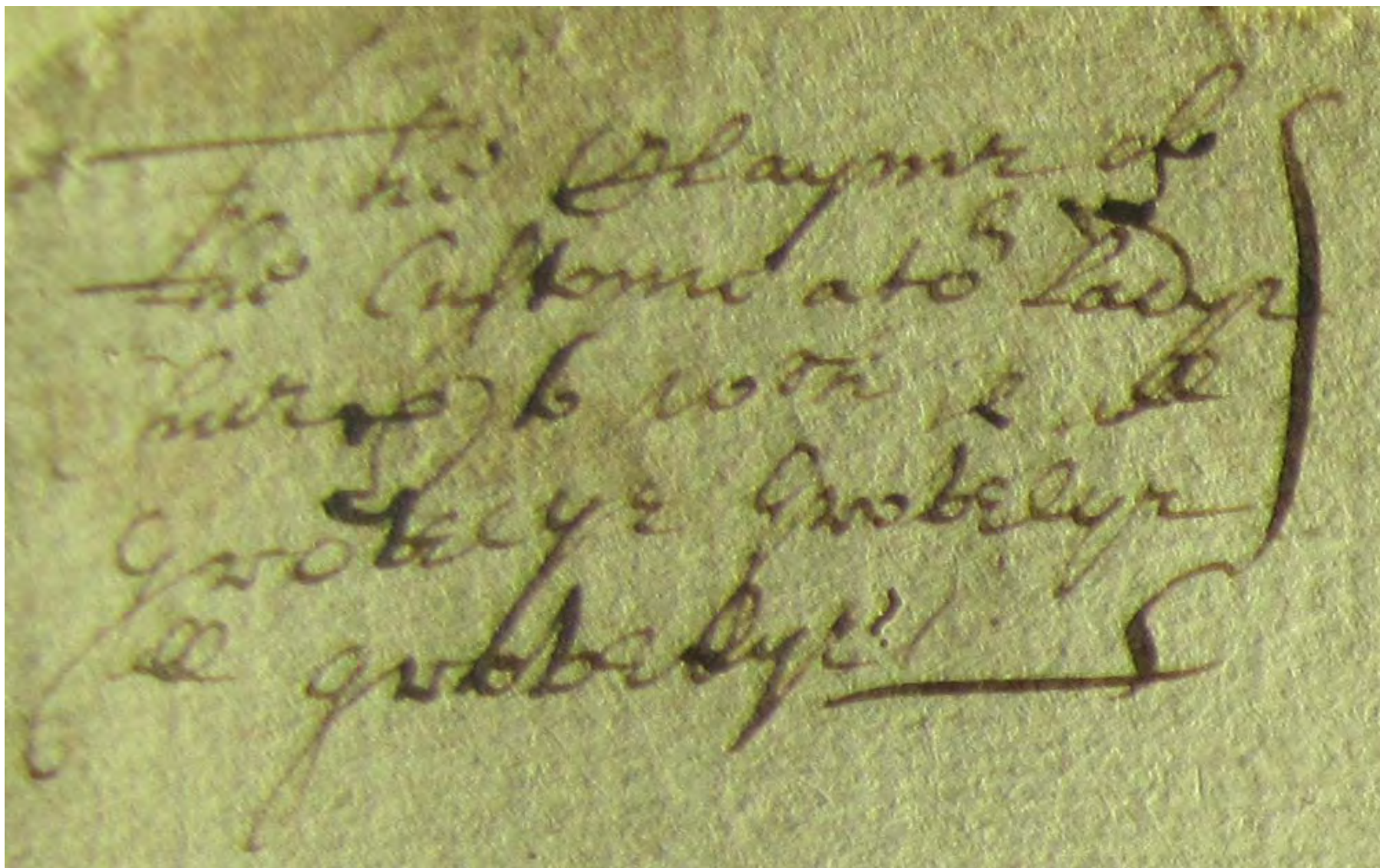
# Customs of the Manor of Great Wishford 1597

Item 2 of 18



Item the Lords and the freeholders of Wyshford and Barford for themselves and all their tenants **hath ever time out of mind** used to fetch **boughs** from the woods of Grovely from Maye daie until Whit Sundaye every half holliedaye and Saterdaye once viz in the evening and every hollodaye and Sabbath daye twice viz in the morninge and in the eveninge





**Item 17 : The Inhabitants of Great Wishford in ancient times have used to go in a dance to the Cathedral Church of our Blessed Lady in the City of New Sarum on Whit Tuesday and there made claim to their custom in the Forest of Grovely in these words: *Grovely Grovely and All Grovely.***



The record of customs shows that these are legal *rights* (not allowances or privileges).

The charter emphasises that they *are* rights, have *ever* been rights, and *ought* to be rights.

They are of considerable antiquity. In 1597 they were described as *old ancient customs, time out of mind*

But the dance, at least in its current location, cannot predate the building of Salisbury Cathedral in the early 1200s.

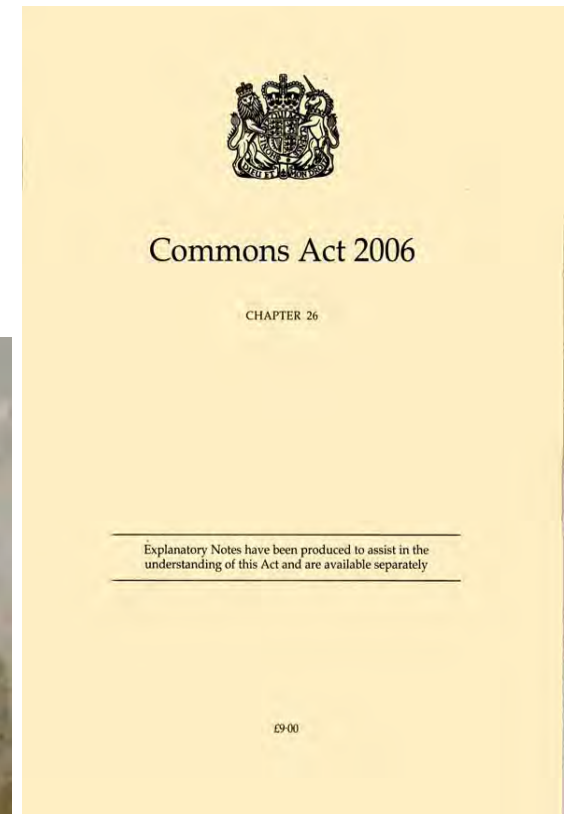




# Commons Act 2006

Repeals the Commons Act 1285.

This allowed the Lord of the Manor to enclose common land surplus to commoners' needs.



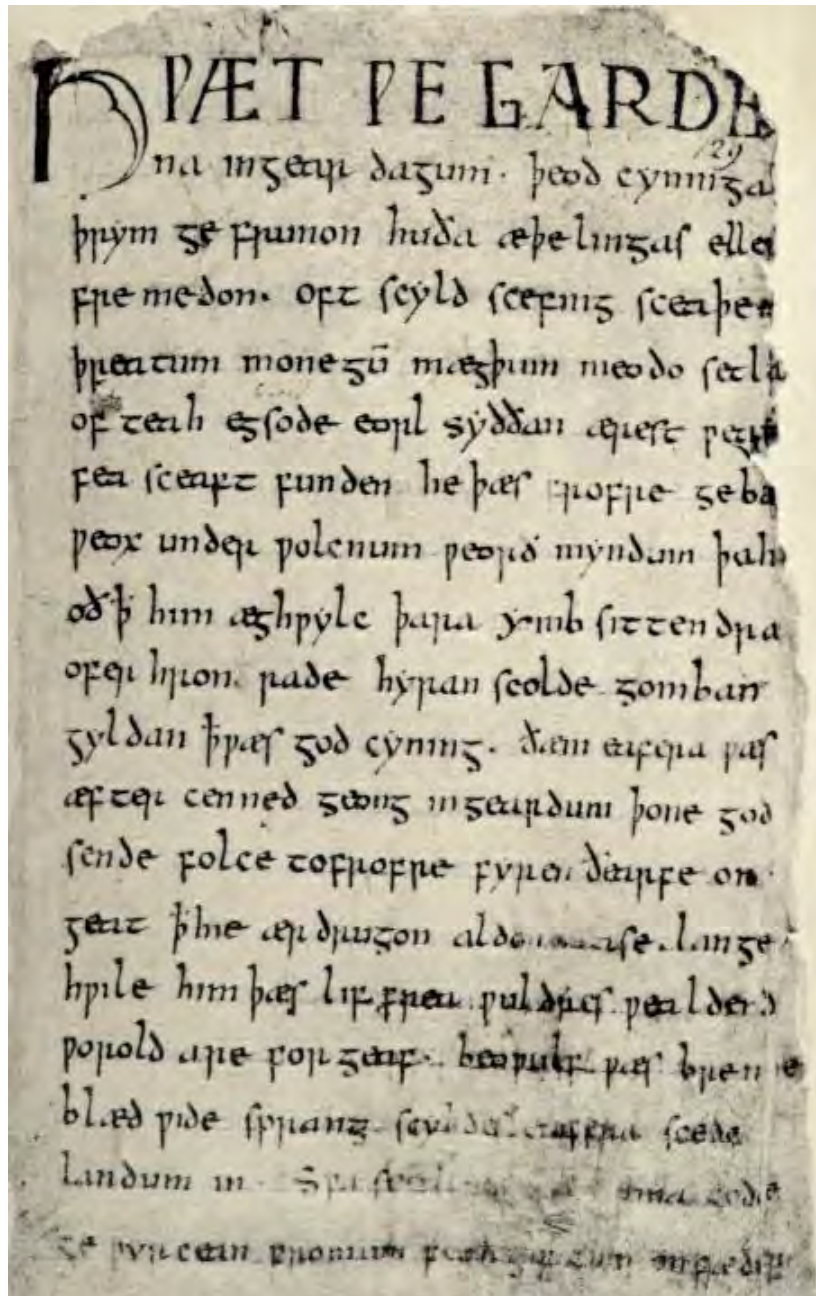
Three major implications:

Confirmed in 1285 that commoners really did have legally recognised rights that cannot be removed.

Confirmed that the Lord of Manor really was owner, and could enclose such land that the commoners did not need.

Enabled woodlands to be protected, at a time when most woodlands were grazed, and many damaged by domestic stock/deer, or by taking common fuel. Many of England's enclosed woodlands date from after this time.

# Pre-Norman (pre-1066) Records



**Beowulf (circa 8<sup>th</sup> Century), the first book in the English language, mentions inheriting land with *rights* attached**

**Before England was established as a country, the Laws of Wessex cited penalties for breaking enclosures, suggesting tension over shared (common resources)**



# Arable Strip Farming

Established by 10<sup>th</sup> century, and found throughout much of England.

Often involved communal working of the land, and common grazing after harvest.

Now almost totally eliminated

Surviving example at Braunton Great Field, South West England.







**Bronze Age settlements on Bodmin with divided lowland settlements, but wide funnels for animals to reach upper communal pastures suggest that commoning is prehistoric**

# Origins of Rights

Some rights derived from custom (prescription), some were granted and some were implied.

Documentary evidence comes from religious grants to institutions, eg this grant of c1190, allowing Trinitarian Friars free pasture for 8 beasts & pannage for 15 pigs.

However, existing rights for peasants were not recorded.

Certain rights had to be asserted regularly, or lost.  
Rights normally attached to land (not people)



Some rights were implied (and accepted by law). If a peasant had arable land in the manor, he must have certain types of draught animals to pull his plough and to provide manure, and so need a place to graze.





# All Human Societies exploit a mix of shared and exclusive resources

Increasingly western society focuses on exclusive property



However shared rights remain even though there may be no legislation on which they are founded.

Actions '*as of right*' (without force, secrecy or permission) can be recognised in law without the need for legislation







**Common  
Rights**  
founded on  
custom &  
practice

Shared resource – food, fuel, bedding, pasture

Custom and Practice

Recognition of 'entitlement' and concept of  
defendable rights. Manorial and Forest  
Courts upholding local customs.

County & Hundred  
courts

Statutory Law made by monarch  
or legislative assembly

From Henry II (1154) Unification as  
'common law' through precedent

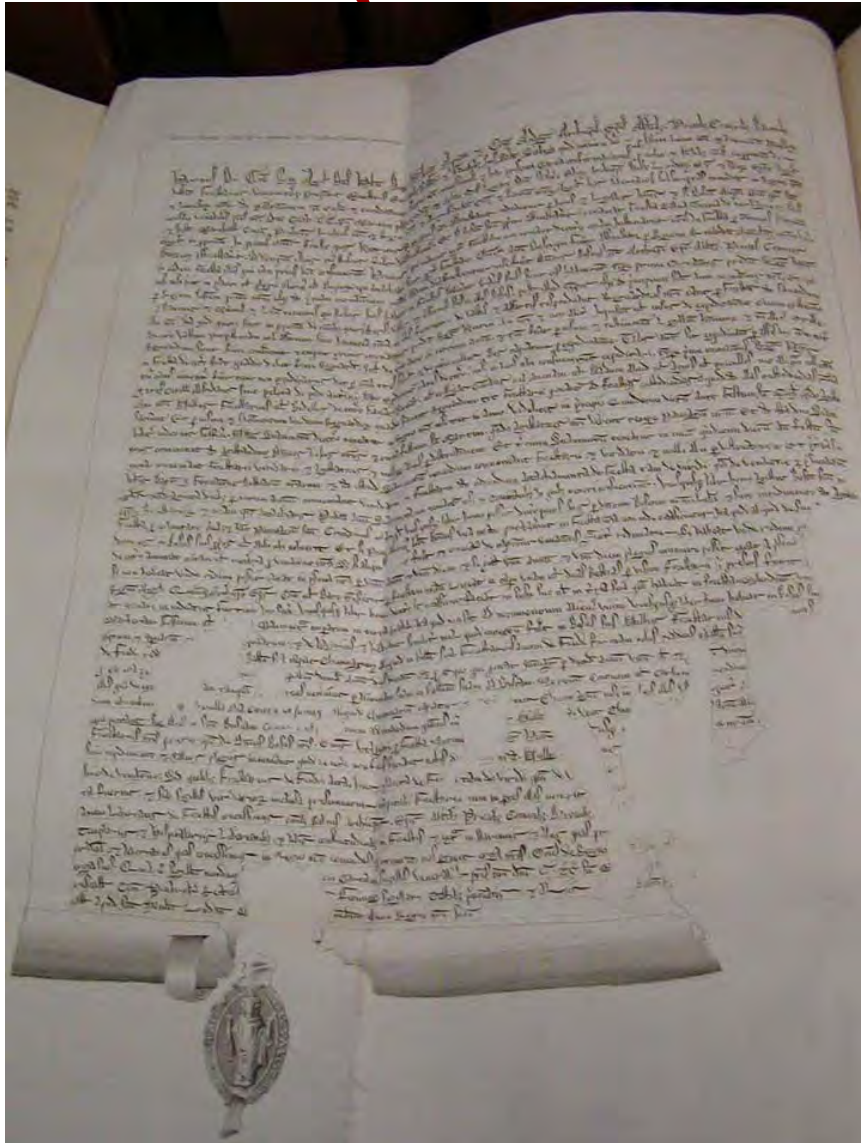


Custom and practice was not the basis of law.

It was the law.

Long standing practices became codified and protected as rights fully defensible with the force of law.

# Carta de Foresta (Charter of the Forests)



Issued alongside *Magna Carta* 1217, part of the foundation of English Law, recognising the rights of the people, and that even the King must be bound by the rule of law.

The Charter gives explicit recognition of the rights of commoners within the Forests

*“Even the King must not prejudice rights of interest of common for such beasts as are commonable” (Manwood 1598)*



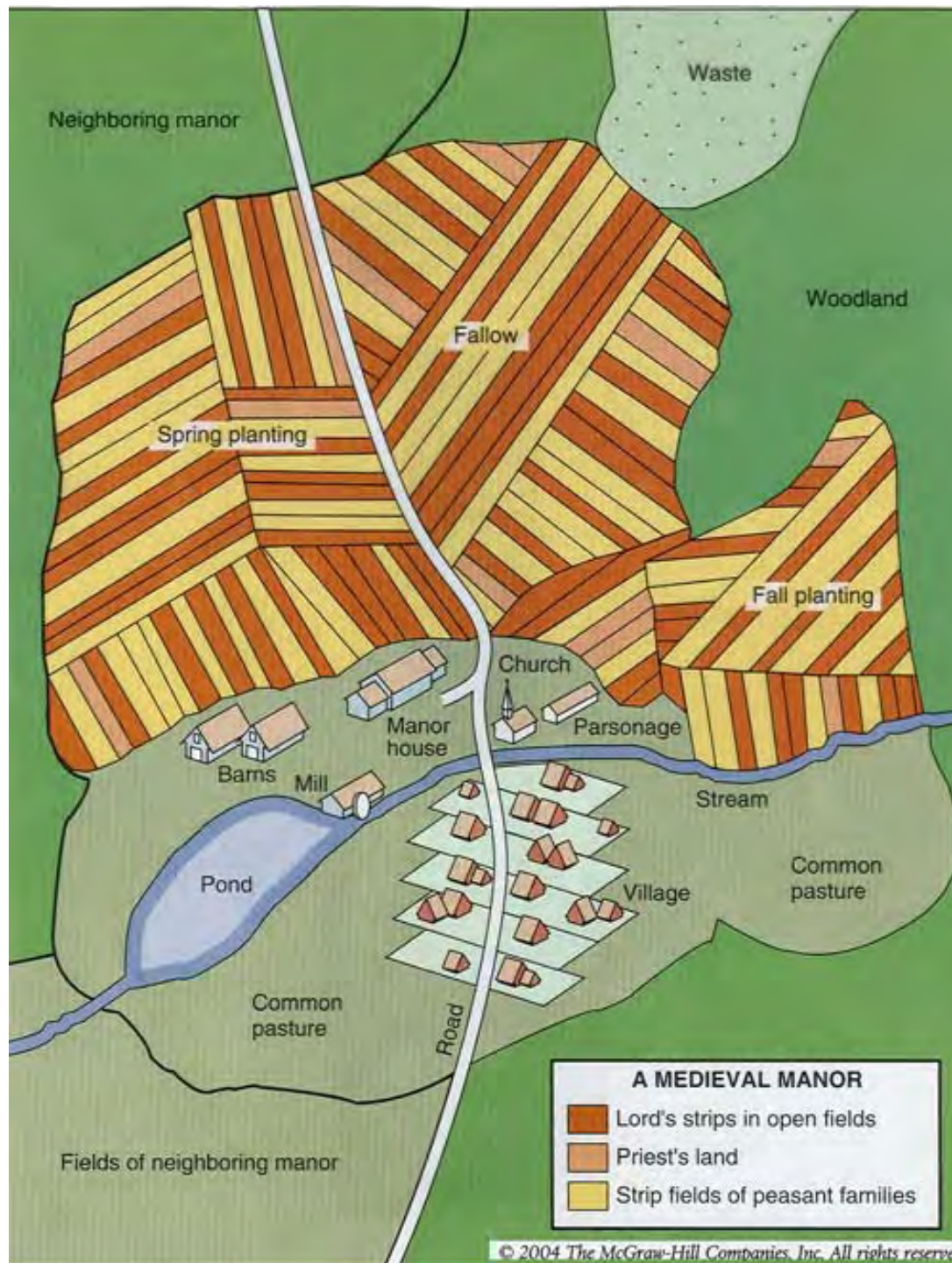
# The Medieval Manor

The Manor was a basic division of land, managed as an integrated unit for the whole community, from later Saxon/Norman times. It had a Lord of the Manor, and a number of peasant families.

Manors are distinct from parishes which merely reflect church administration.

Manors had arable, meadow, woodland and pasture.

Apart from the houses and garden plots, almost all land was managed communally, at least for part of the year.





# Main English Rights of Common



**Turbary – peat**



**Pannage - pigs**



**Pasturage**



**Piscary - fish**



**Estovers – wood/bracken**



**Animals ferae naturae**



**Right in Soil - Freemining**



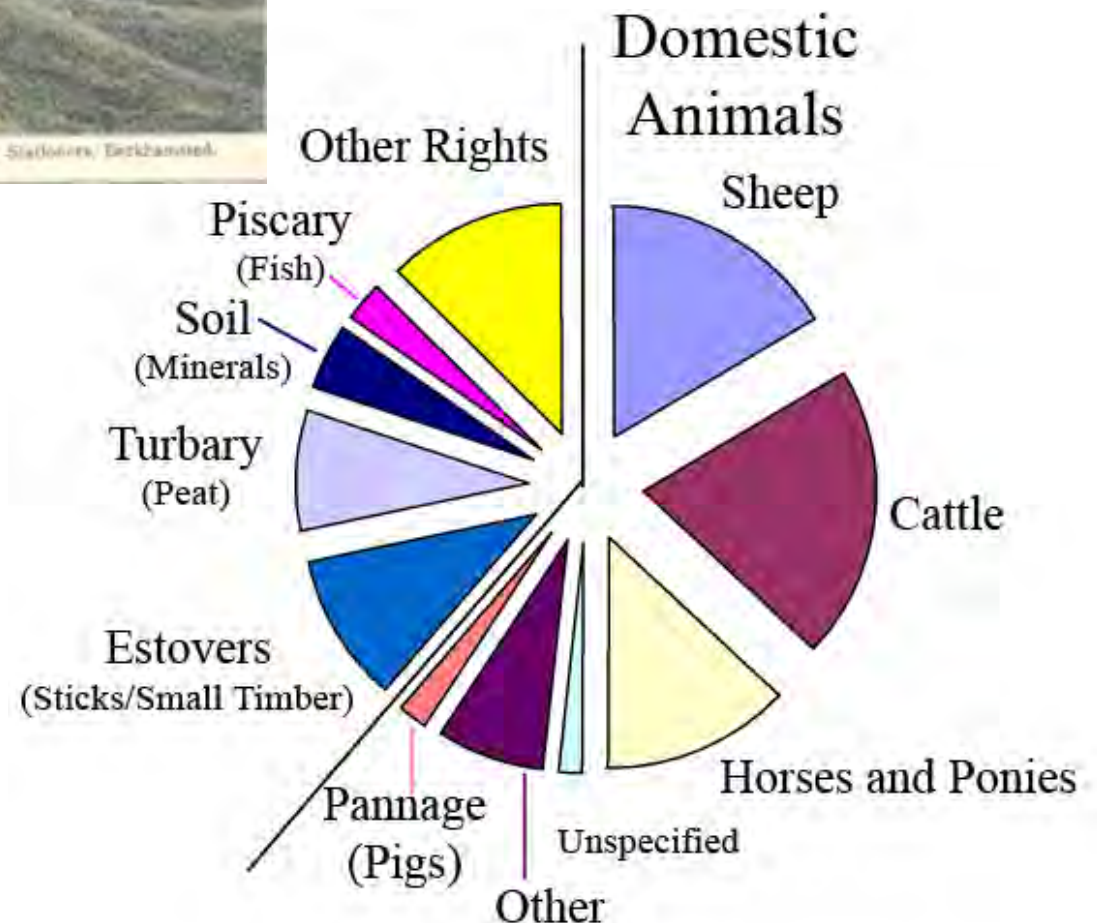


## Types of Right Registered

About 65% of all rights are for domestic animals

A wide range of other rights are registered but may be rarely used

There is no register of whether rights are used, just whether they exist





Commoning was the life blood of rural communities essential to poor cottagers, yeomen and even the Lord of the Manor who needed workers to till his own land.





# Commoners' Courts of the 1500s

Commoners were essentially able to manage their own affairs through Forest courts, and address transgressions, eg:

Pasturing in summer more beasts than sustained in winter.

Exceeding rights with hundreds more sheep than allowed.

*'The village is grieved because the inhabitants of neighbouring villages put their cattle on the common which ought to be frith [reserved] to us until Holyrood Day'.*

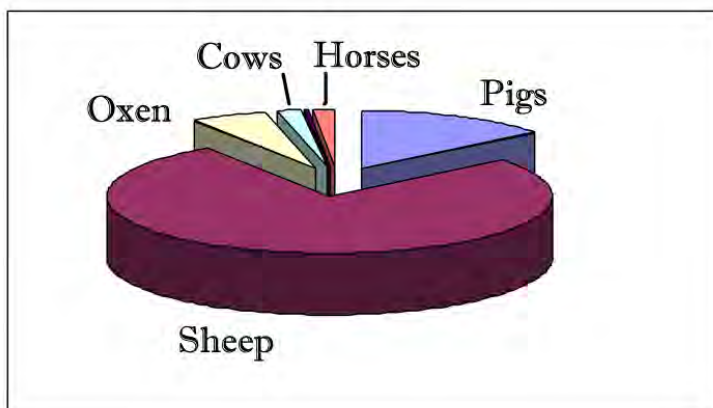
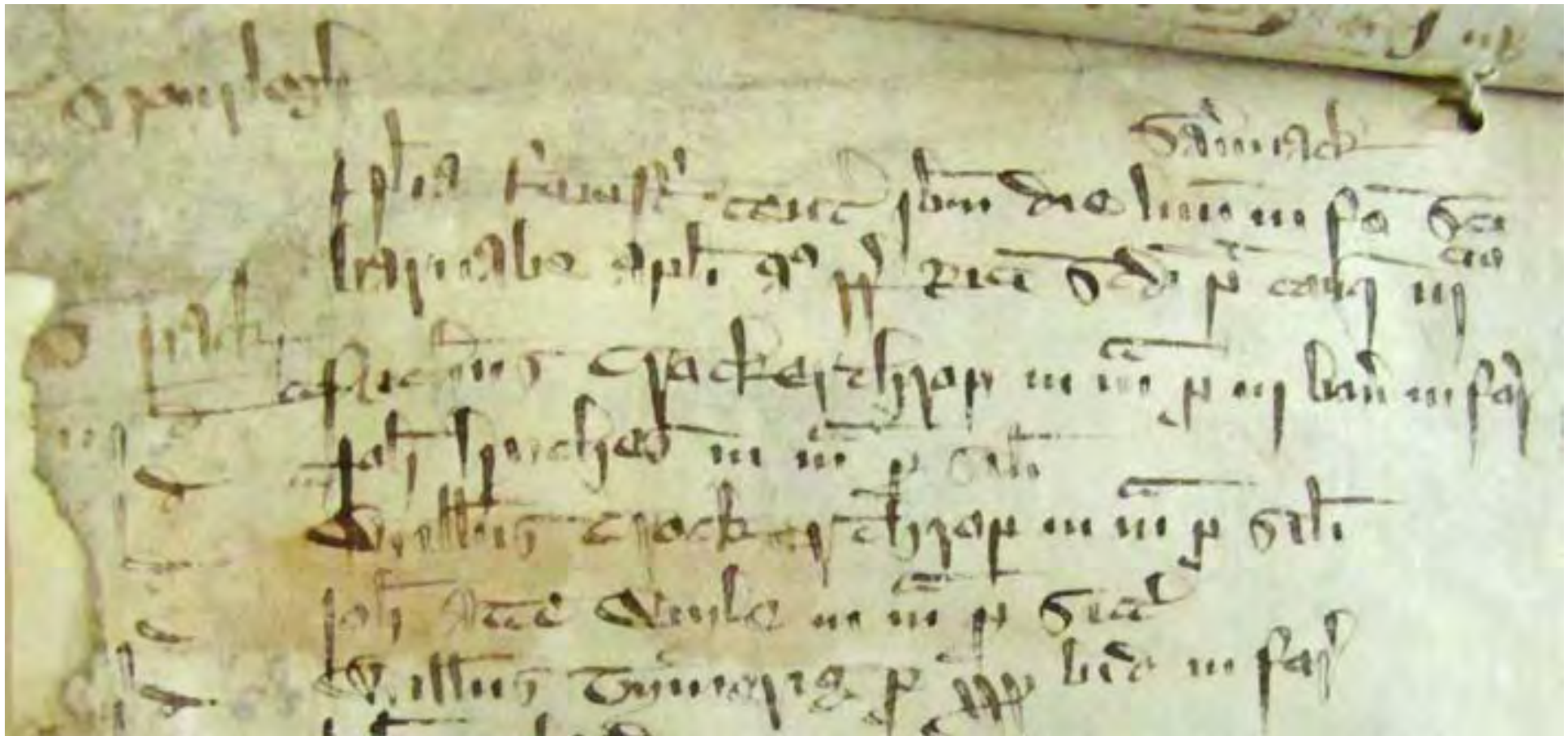
*In 1580, '15 cottages have been erected on the wastes, and every occupant of them claims common pasture'.*

# Squatting

*'The most important part is that the smoke be kept going from [the new building] sunset to sunrise, [for] that ensures that it becomes your habitation thereafter [and common rights will be attached]'.*



# Swainmote Courts



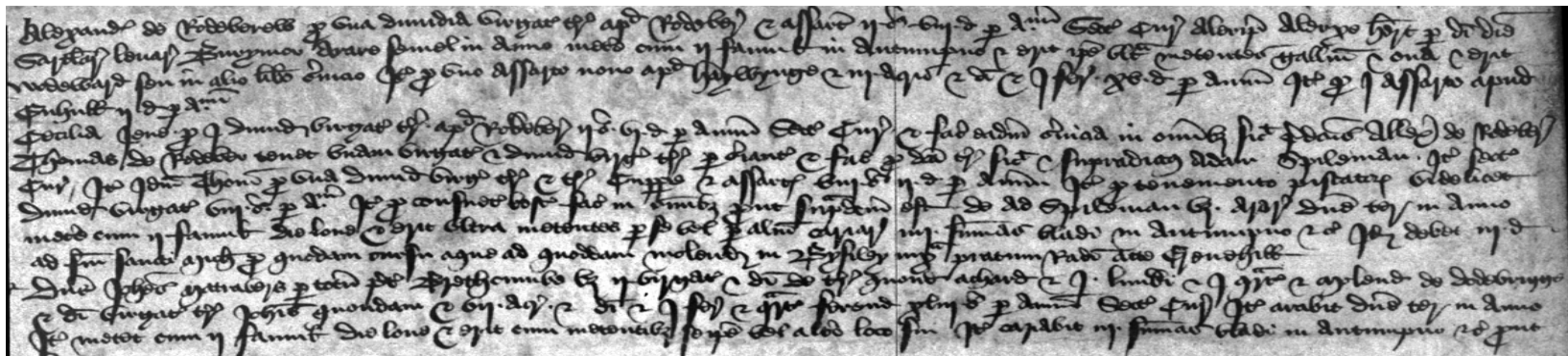
Surviving court records may show animals put out.

Incomplete records of Courts held 1371 – 1380 record over 11,000 animals out in one site.

# The Minchinhampton Custumal (Customs of the Manor- c1300 Edward I)



Lady of Manor was the Abbess of Caen, and customs were set down when the land came into the King's hands during wars with France





## Individual **Duties** listed for 157 people/families



Brewing, ploughing, collecting nuts  
Haymaking

Taking charge of the warren

Driving pigs to the mast

Paying Peter's Pence (tax to Rome)

Providing a fowl at Christmas and 5  
eggs at Easter

Watching on St John's Eve (before  
midsummer day, when spirits  
might rise from their graves)

Providing lighted lamp in chapel



# Rights

Weavers' Rights: erecting a dwelling on the waste.

Rights to fullers earth, stone, wood for charcoal, bracken.

'The right of the wood' was universal. Much of the common was woodland.



# Minchinhampton –working common important for access, wildlife & archaeology







**Focus for Village Events,  
Fairs, Dances and  
Celebrations or informal  
recreation**

**GREAT  
Berkhamsted  
COMMON.  
HOLYDAY  
FAIR,**  
ON THE  
Tuesday and Wednesday, in the Whitsun  
Week, June 1st. and 2nd. 1819,  
THE FOLLOWING  
**PRIZES**  
WILL BE GIVEN AND CONTESTED FOR.

**First Day.**

A SUBSCRIPTION PRIZE—to be run for,  
by two prime Dandy Hobblers.  
A PAIR OF SHOES—to be jingled for.

A LIVEN-SHIRT—to be run for by Men,  
the second best to have a pair of Stockings.  
A HOLLAND CURE—to be run for by  
Women, the second best to have a pair of  
Stockings.

**Second Day.**

THE SHILLING—to be run for by Don-  
kies, the best of Three Rounds.  
PAIR OF SHOES—to be run for by Men  
in Socks.  
Cricketing as usual Wickets pitched at 11 o'Clock.  
THE PRIZES TO BE RUN FOR ON THE 2ND DAY.  
N. B. The Donkies that are intended to be run for the Prizes, must be entered at DARVIL'S,  
Berkhamsted, on, or before the Saturday night preceding, or they cannot run.  
The Persons who contend for the other different prizes, must enter their names at DARVIL'S  
aforesaid, on or before the night preceding the Sports.

**PRINTED, AND SOLD, BY WATFORD.**



# Inclosure & the Loss of the Commons

For 1000 years commons were universal & essential parts of rural economies.

From 16th - 19th century massive inclosure reduced common land by > 90%.

Some was agreed, some was by stealth, and some authorised by 4,000 Acts of Parliament, until a General Act was passed in 1845.

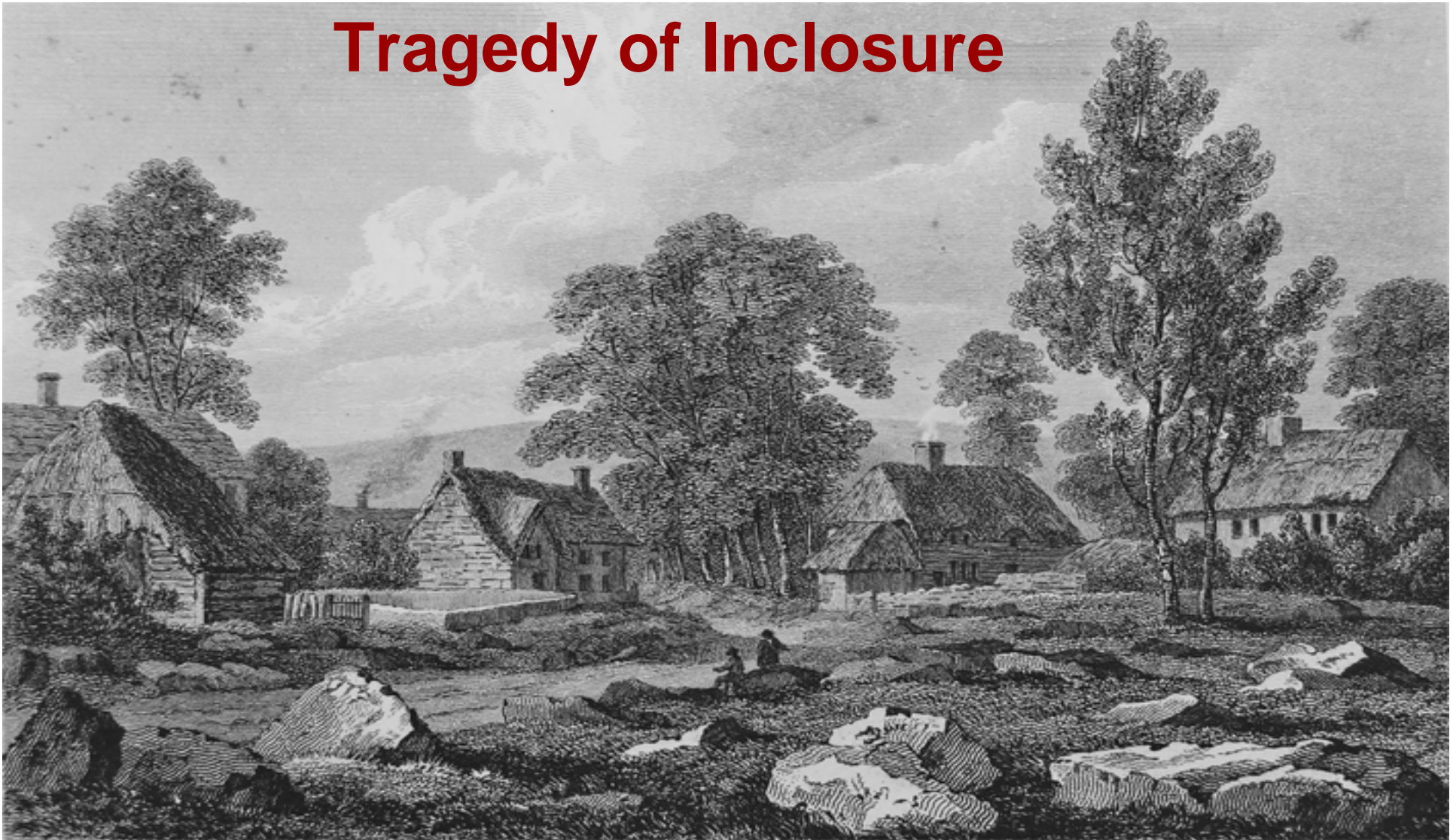
Inclosure caused tension, and most Lords of the Manor benefited, farmers increased efficiency, but the almost landless peasant was made even poorer.

ON THE COMMON: GORLEY WOOD. (13)

WARREN. PHOTO. RICK MANS WORTH AND W



# Tragedy of Inclosure



***John Aubrey in the 17th C remarked ‘the cry of the poor was lamentable. I knew several that remembered when a cow could be kept for 4d per year. The rule was, how many they could winter they might summer, and pigs cost nothing. Now the highways are encumbered with cottages, and travellers with beggars that dwell in them’***



# Resistance to Inclosure



*Mousehold Heath Norwich* (John Crome 1768-1821)

**Site of Kett's rebellion  
against inclosures, 1549.  
3,000 killed.**

**Fakenham – last rural  
rebellion on English soil 1869**





**GF Robson** *Grassmere* 1830



**Miles Birket Foster (1825-1899)**  
*The Shepherd's Rest*



**Unknown Artist,**  
*Chorleywood Common*

## **Common Land and Artwork**



## Poetry and Literature

Cowper, Crabbe, Goldsmith, Hardy & Clare were concerned with countryside & rural poor.

Clare in particular lamented the loss of commons to inclosure, likening it to a buonaparte letting not a thing remain, but levelling every bush, tree and hill.

*Fence now meets fence in owners little bounds,  
Of field and meadow, large as garden grounds,  
In little parcels, little minds to please,  
With men and flocks imprisoned ill at ease.  
(The Mores).*

*Thus came inclosure – ruin was its guide,  
But freedom's clapping hands enjoyed the sight,  
Though comfort's cottage soon was thrust aside  
And workhouse prisons raised upon the site  
(The Fallen Elm)*





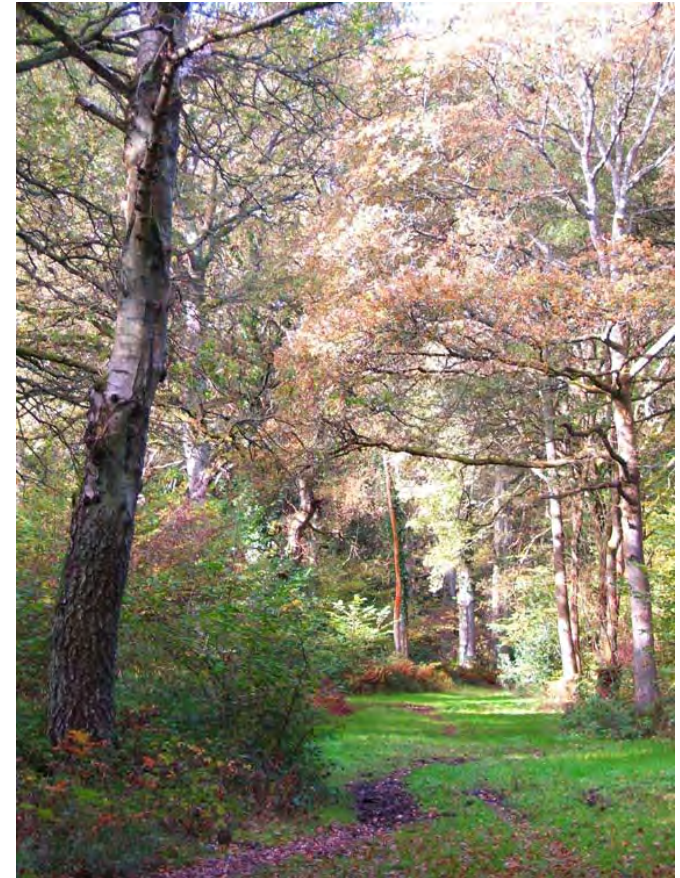
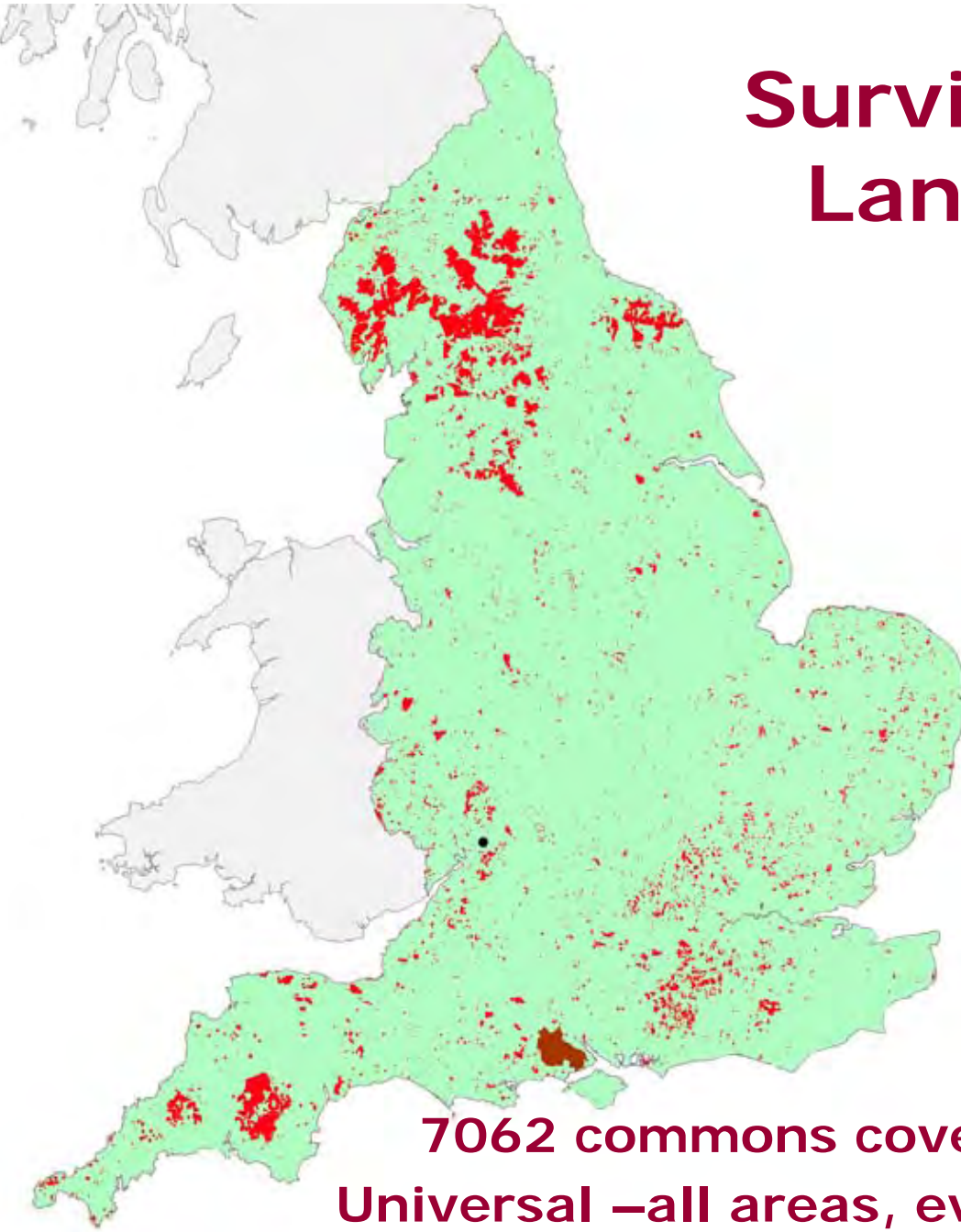
**The law locks up the man or woman  
Who steals the goose from off the common.  
But leaves the greater villain loose  
Who steals the common from the goose.**





**Concern for loss of amenity & military training grounds helped stop inclosure, and spawned (what became) the Open Spaces Society**

# Surviving Common Land in England



**7062 commons covering nearly 400,000 ha**  
**Universal –all areas, even around largest cities**  
**Very uneven distribution of size and area**



## 187 Commons in the Chilterns AONB

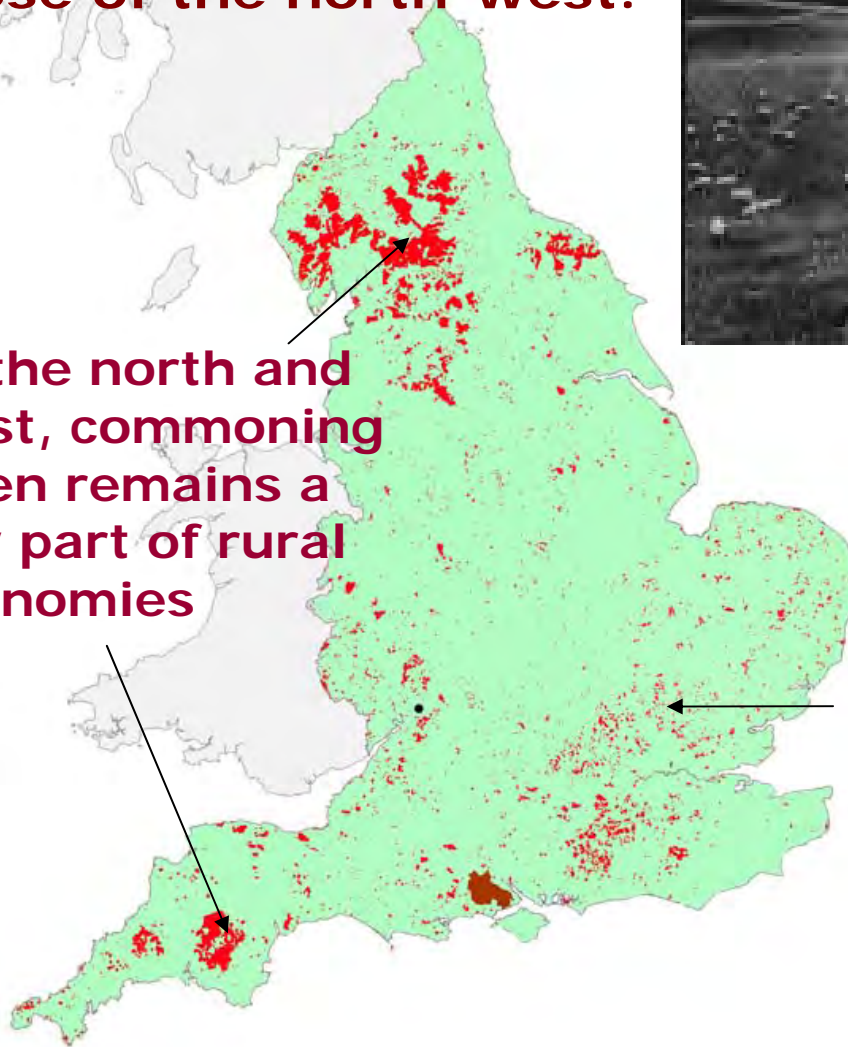


# Commoning

There is a major division between the commons of south-east England and those of the north-west.



In the north and west, commoning often remains a key part of rural economies



In Chilterns & SE, whilst there may be many rights, there are often NO active commoners



# Modern Commons still link with Local Communities and a Sense of Identity



## Open Access in the Chilterns Area of Outstanding Natural Beauty





# Relics of wood-pasture



Tree shape and bank/ditch structure can reveal former use. Veteran oaks, some older than the Norman conquest, or even England itself, persist on commons and former commons. Their spreading form testify they grew in open landscapes.



A Romantic-style landscape painting featuring a dense forest of tall, mature trees with lush green foliage. The sky is filled with dramatic, billowing clouds in shades of grey and white, with a bright light source breaking through near the top center, creating a golden glow. The overall mood is majestic and awe-inspiring.

**Commons are woven into the fabric of England.**

**They were the everyday norm, the life blood of rural communities for the best part of a millennium, possibly longer**

**They derive from a time when nearly everything was shared.**

**Such sharing was based on legally recognised and defensible rights.**

**Although covering just a fraction of their former extent, their prevailing characteristic is that they still serve communities, and remain one of our richest sources of heritage.**





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