

Common Land

The report of the Common Land Forum

Published by:
Countryside Commission
John Dower House
Crescent Place
Cheltenham, Glos GL50 3RA
Tel: 0242 521381
© Countryside Commission 1986

Distributed by:
Countryside Commission
Publications Despatch Department
19/23 Albert Road
Manchester M19 2EQ
CCP 215
Price £7.50 including postage

British Library Cataloguing in Publication Data

Common Land.

Report of the Common Land Forum.

I. Commons—England—Management

I. Title II. Great Britain.

Countryside Commission

333.2 HD1289.G7

ISBN 0-86170-182-8

Typeset in 19/11pt Goudy Old Style
Produced at the Country Studio, Chalford, Stroud.
Printed in England by the Wembley Press, Reading.

Countryside COMMISSION

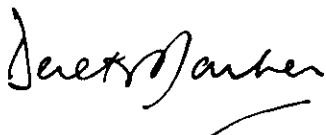
From the Chairman, Sir Derek Barber,
John Dower House, Crescent Place, Cheltenham, Glos GL50 3RA
Telephone/Fonofax: (0242) 521381

Sirs –

I have great pleasure in presenting to you the final Report of the Common Land Forum to the Countryside Commission. The Report's recommendations have been agreed by Forum members who represent the whole spectrum of interests in common land. The Commission welcomes the Report unreservedly as a means of implementing in full the recommendations of the 1958 Royal Commission on Common Land. We strongly recommend that the Report should form the basis for early public consultation on government proposals for second stage legislation on common land.

The Forum's task has been a considerable one. The Commission is deeply grateful to members for their time and energy in producing this report. Our particular gratitude for skilful coordination and sheer hard work goes to the Forum Chairman, Maurice Mendoza and Secretary, Len Clark, and to the Registration Sub-Committee Chairman, Gerard Ryan QC and Secretary, Michael Davies.

I am Sirs
Your Obedient Servant



Derek Barber
Chairman

The Right Honourable Nicholas Ridley, MP
Secretary of State for the Environment
2 Marsham Street
LONDON SW1

The Right Honourable Nicholas Edwards, MP
Secretary of State for Wales
Gwydyr House
Whitehall
LONDON SW1

Chairman: Maurice Mendoza, CVO, MSM.

Secretary: Len Clark, CBE, c/o Open Spaces Society, 25A Bell Street, Henley on Thames, Oxon. (0491-573535)

COMMON LAND FORUM

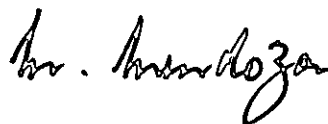
REPORT TO THE COUNTRYSIDE COMMISSION

Sir Derek Barber
Chairman
The Countryside Commission

The Countryside Commission set up the Common Land Forum in 1983 to consider the extent to which proposals for future commons legislation could be formulated which would command the support of all its members.

We have today concluded our work. It has entailed profound discussion and deliberation, in which every member of the Forum has made a significant contribution. We have formulated a set of agreed proposals which we consider presents a balanced and workable solution to the main problems still affecting common land in England and Wales. On behalf of all those whose signatures are appended hereto and the organisations which they represent, I am pleased to present to the Commission our agreed report.

It is our hope that the Commission will be able to commend our proposals to Government as the basis for early legislation and that Ministers will so accept them.

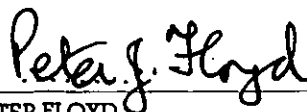


M MENDOZA
Chairman
Common Land Forum

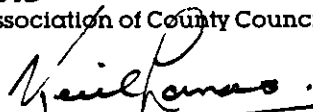
23rd May 1986

COMMON LAND FORUM: REPORT TO THE COUNTRYSIDE COMMISSION

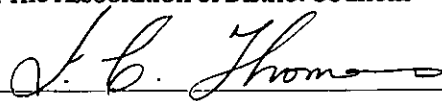
SIGNATORIES



PETER FLOYD
for The Association of County Councils



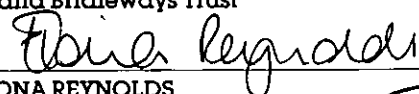
KEITH LOMAS
for The Association of District Councils



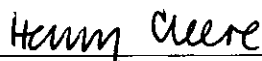
IAN THOMAS
for The Association of Metropolitan Authorities



DAVID WALLACE
for The British Horse Society and The Byways
and Bridleways Trust



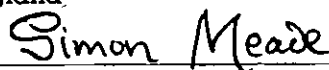
FIONA REYNOLDS
for The Council for National Parks



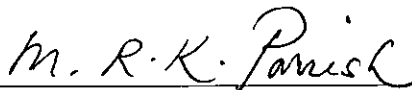
HENRY CLÉERE
for The Council for British Archaeology



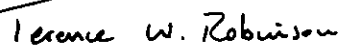
ALISON KEMP
for The Council for the Protection of Rural
England



SIMON MEADE
for The Council for the Protection of Rural Wales



MARGARET PARRISH
for The Country Landowners' Association



TERRY ROBINSON
for The Countryside Commission



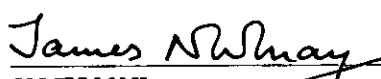
JEFF STUMBKE
for The Crown Estate Commissioners



IAN MERCER
Dartmoor National Park Officer



PAUL CLAYDEN
for The National Association of Local Councils



JAMES MAY
for The National Farmers' Union



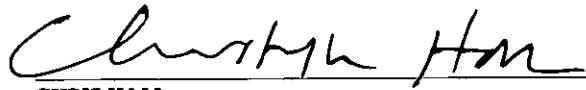
DEREK WELLS
for The Nature Conservancy Council



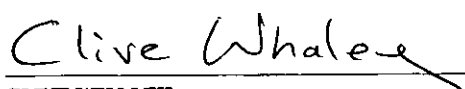
JOHN WORKMAN
for The National Trust



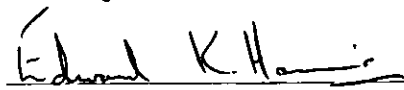
KATE ASHBROOK
for The Open Spaces Society



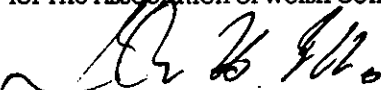
CHRIS HALL
for The Ramblers' Association



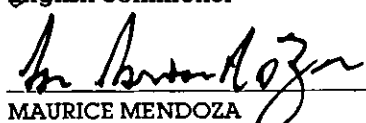
CLIVE WHALEY
for The Sports Council



EDWARD HARRIS
for The Association of Welsh Commoners



JOHN ELLIS
English Commoner



MAURICE MENDOZA
Chairman

Contents

	Page
1. Introduction and conduct of business	7
Introduction	7
Composition of the Forum	7
Requests for membership of the Forum	7
Written evidence	7
Oral evidence	7
Research	8
Procedure	8
Arrangement of report	8
2. Starting points and principles	9
3. Registration of common land	11
4. Access and management	13
The connection of management and access	13
Creation of a management organisation or authority	13
Amenity commons	13
Grazing commons	14
Combination of CLUs for management	14
Management schemes	15
The public interest	17
Changes to management constitutions and management schemes	17
Access for dogs	18
Access for perambulators and invalid carriages	18
Finance	18
Consolidation of existing legislation	19
5. Other issues	21
Common land completely surrounded by fenced private land	21
Vesting of unclaimed common land	21
Works on commons	22
Fencing	22
Limitation of occupiers' liability to the public	22
6. Summary of recommendations and conclusions	23
Starting points and principles	23
Registration of common land	23
Access and management	25
Other issues	26
Conclusion	27
Appendices	29

1. Introduction and conduct of business

Introduction

1.1 It is estimated that there are approximately one and a half million acres (600,000 hectares) of common land in England and Wales. A legal right of public access exists to only one fifth of this area. A similar proportion only is subject to schemes of management. In 1958 it was this situation which led the Royal Commission on Common Land (1955-58) to its principal recommendations, namely:

- (i) that registers of all common land should be compiled;
- (ii) that all common land should be open to the public as of right, subject to the restrictions in the Second Schedule of the National Parks and Access to the Countryside Act 1949;
- (iii) that owners, commoners and local authorities should be able to promote schemes for managing and improving a common.

Since 1950 the situation regarding access and management has remained essentially unaltered.

- 1.2 The first recommendation led to the passing of the Commons Registration Act 1965 and the setting up of Commons Commissioners to deal with matters arising from applications to register. It has always been envisaged that the remaining two recommendations should be dealt with in further legislation and successive governments have expressed sympathy for this aim.
- 1.3 In 1975 the Department of the Environment concluded that a start should be made in preparing for second stage legislation, recognising that the subject is complex and preparation would be time consuming. Accordingly, an Interdepartmental Working Party was set up to identify the various issues and review the arguments for and against various courses of action. Its report, issued in September 1978, largely endorsed the views of the Royal Commission and recommended ways in which they might best be implemented. The report was the subject of consultation with national bodies and societies, including local authority associations, interested in common land.
- 1.4 Apart from the outstanding subjects of access and management, experience since the passing of the 1965 Commons Registration Act had revealed a number of anomalies, and many cases are still awaiting determination by the Commons Commissioners.
- 1.5 In June 1983, responding to the widespread concern at the lack of progress on second stage legislation, the Open Spaces Society convened a national conference. In the light of contributions made there, the Chairman, Sir John Cripps, suggested that a group of interested organisations might come together to consider how progress might best be made. In turn, this led the Countryside Commission, in the autumn of 1983, to invite the major interested bodies to join a Forum, with the following terms of reference:
- to review the report of the Interdepartmental Working Party *Common Land: Preparations for Comprehensive Legislation*,
 - to consider the extent to which proposals for future commons legislation can be formulated which com-

mand the support of all Forum members, and

- to report to the Countryside Commission within two years of its first meeting. An interim report is to be produced at the end of the first year identifying the legislative proposals which are under consideration.

The Forum had its first meeting in January 1984.

Composition of the Forum

1.6 The membership of the Forum and its Sub-Committees, including observers, is given in Appendix A.

Requests for membership of the Forum

1.7 In addition to the bodies invited by the Countryside Commission, the following organisations asked for membership of the Forum:

Youth Hostels Association (England and Wales)
National Sheep Association
Timber Growers UK
Confederation of British Industry
Central Council for Physical Recreation
National Coal Board
Royal Institution of Chartered Surveyors
Royal Society for Nature Conservation

The Commission left it to the Forum to decide whether any or all of the above named bodies should be admitted to membership. Each request was carefully considered by the Forum in full session. It was noted that the interests of those applicants were or could be covered, wholly or substantially, by one or other of the members of the Forum. Further, enlarging the Forum would have made it unduly difficult to maintain the full and easy exchange of views which had been a significant feature of the discussions. It was therefore decided that membership should be restricted to the bodies originally invited by the Commission. All the applicant organisations were, however, invited to put their views to the Forum in writing.

Written evidence

1.8 The main body of written evidence considered by the Forum came in the form of papers submitted by its members. More than 100 papers were so submitted and they are listed in Appendix B. In addition, the following organisations responded to the Forum's request and put their views in writing:

Youth Hostels Association (England and Wales)
Timber Growers UK
National Coal Board
Royal Society for Nature Conservation

Oral evidence

1.9 The time constraints imposed by the terms of reference and the need to allow ample time for discussion precluded the Forum from issuing a general invitation to give evidence in person. The Forum wished, however, to ensure that it had ample presentation of the experience and opinions of practising commoners. It therefore supplemented the information provided by its own membership, which included an English com-

moner, the Chairman of the Welsh Federation of Commoners, as well as representatives of the two national farming unions, by devoting a full meeting to hearing the views of four farmers who grazed stock on common land as an essential part of their livelihood. The four were selected with the help of the National Farmers' Union, the Farmers' Union of Wales and the National Trust to cover a wide range of conditions: the commons they farmed were in the Pennines, the Lake District, and Mid and South Wales.

- 1.10 The Forum also considered that the special problems associated with preserving grouse on many of the extensive northern commons were worthy of special attention. Oral evidence was therefore invited from and given by the Earl Peel, Chairman of the North of England Grouse Research Project, and Dr Hudson of the Game Conservancy.

Research

- 1.11 The Forum initiated two research projects, which were commissioned on its behalf by the Countryside Commission. The research was needed to fill the gaps in the factual information on which some of the Forum's conclusions would have to be based.

(i) There was a feeling in the Forum that there were significant deficiencies in the registers of common land and common rights, which had been set up in accordance with the provisions of the Commons Registration Act 1965, but the evidence of the deficiencies was largely anecdotal. In order to establish the nature and extent of the deficiencies, the Department of Geography of the University of Wales, which had already undertaken studies of common land in Wales, was commissioned to review the commons registers in the eight Welsh counties and a representative sample of eight English counties. The objectives of the review were to establish the accuracy, comprehensiveness and consistency of the records in the registers, and to ascertain the proportion and types of common land that were covered by various landscape and wildlife designations. The results of the research were made available to the Forum in a report entitled *The Common Lands of England and Wales: Commons registers and designated conservation areas in selected counties* in October 1984.

(ii) One of the main concerns of the Forum was to consider what procedures, including legislation, might be required to provide new and improved methods for managing common land. To assist in that consideration, the Forum wanted to know how existing management operated. Land Use Consultants were commissioned to survey and appraise the activities of existing Boards of Conservators or similar management bodies set up to manage certain rural commons in England and Wales under the terms of the Commons Act 1876 or under private or local acts for an individual common or group of commons. The consultants covered a sample of 25 commons very expeditiously. Their report entitled *Commons: A Study of Schemes of Management* was made avail-

able to the Forum in November 1984 (and subsequently published by the Countryside Commission as CCP 197).

- 1.12 The Forum was also able to benefit from research which had been commissioned independently by the Department of the Environment in the autumn of 1983 to provide basic information on the current condition of common land and on competing claims for the use of this resource. This research was undertaken by Rural Planning Services, whose report (May 1985) was made available to members of the Forum.

Procedure

- 1.13 When the Forum was set up it was envisaged that it would require eight quarterly meetings to complete its business. In the event, eighteen meetings proved to be necessary, in addition to 21 meetings of the two Sub-Committees (see paragraphs 1.14 and 1.15). The report of the Interdepartmental Working Party was taken as a starting point and a wide range of views was considered, as reflected by the list in Appendix B. The main thrust of the Forum's concern narrowed to three principal issues:

- (i) deficiencies arising from registration;
- (ii) access;
- (iii) management.

- 1.14 It soon became apparent that the legal and administrative issues arising from the Commons Registration Act and subsequent case law were detailed and complex. They could not be considered adequately in the full Forum without unduly delaying other business. It was therefore decided to set up a Registration Sub-Committee to look into these matters. The Forum was exceedingly fortunate to secure the interest of Gerard Ryan QC, who most kindly agreed to chair the Sub-Committee. In all it held 18 meetings. Its main report was submitted and approved in September 1985 and a supplementary report on village greens was submitted and approved in December 1985. The membership of the Sub-Committee is shown in Appendix A, and the reports in Appendices C and D.

- 1.15 Similarly it was decided that detailed discussion on the composition of management committees and procedures for setting them up could best be dealt with by a smaller group. A Management Constitution Sub-Committee was set up under the Chairman of the Forum, with membership as shown in Appendix A. It met on three occasions and its conclusions are embodied in the chapter on access and management.

Arrangement of the report

- 1.16 The report is arranged in six chapters. Following this introduction the main topics are dealt with in subsequent chapters as follows:

- 2: Starting points and principles
- 3: Registration of common land
- 4: Access and management
- 5: Other issues (raised in the report *Common Land: Preparations for Comprehensive Legislation* not dealt with in preceding chapters)
- 6: Summary of recommendations and conclusions.

2. Starting points and principles



Common land above Glaswm, Powys.

2.1 The starting point for the Forum's deliberations is well summarised in paragraph 403 of the report of the Royal Commission on Common Land.

'We have come to the conclusion that, as the last reserve of uncommitted land in England and Wales, common land ought to be preserved in the public interest. The public interest embraces both the creation of wider facilities for public access and an increase of the productivity of the land.'

2.2 The Forum recognised that the best use of common land could be achieved only if many requirements were catered for simultaneously and without derogating from the rights of the owners and commoners. It therefore sought to agree on arrangements which would enable the objectives of productive agriculture, public access for air and exercise, the conservation of areas of scientific and historic interest, and the maintenance and enhancement of the natural environment all to be pursued concurrently. The Forum took the view that, although the emphasis placed on each of the objectives might properly be different on different commons, all of them should be given equitable consideration.

2.3 The Forum appreciated that conserving the beauty of many of our commons and their flora and fauna could not be achieved simply by letting nature run its course. Although the statutory restrictions on the development of common land have protected it from some man-made changes – intensive cultivation,

commercial forestry and building – the landscape and the ecological characteristics of our commons derive as much from man's intervention as they do from nature itself. The fragile heather habitats of the northern commons are maintained by a combination of the care exercised by those seeking to preserve and to shoot the grouse and by controlled grazing by sheep. Elsewhere, commons would lose their characteristic herbage and revert to scrub if not properly grazed. The cessation of upland grazing by cattle has already led to the extensive spread of bracken. Broadleaved woodlands on the commons need expert attention and replanting if they are not to degenerate. Amenity commons need constant care, attention and wardening in order to maintain their 'natural' look. The Forum therefore took the view that an important element in preserving the desirable features of commons was to maintain the traditional practices of agriculture on that land. The Forum has not discussed by what means those practices might be supported by government intervention; that matter was separately considered by the Commission and a way forward recommended in its report, *A Better Future for the Uplands*, published in 1984. The Forum has, however, borne in mind the crucial importance of promoting traditional agricultural practice on common land in all recommendations made for access and management.

2.4 In formulating its proposals for access as of right to common land and for providing means for its better management, account has been taken of the views

expressed by members of the Forum. Those views are summarised and paraphrased below:

- (i) The Country Landowners' Association, while not against the principle of public access, is concerned with the implications of the widely-used form of words 'universal public access'. The Association takes the view that each common has special characteristics and that the legislation should allow for management schemes to be tailored to fit those characteristics. It also takes the view that opportunity should be afforded for those management schemes to be made before public access is granted.
- (ii) The Farming Unions are concerned to protect the interests of their members, whose agricultural enterprises are dependent upon the continued existence of common grazing rights. While accepting that public access to much common land could be increased, the Unions are strongly opposed to there being a universal right of public access to all common land. It is their view that any increase in the public's access to common land must be carried out in such a way as not adversely to affect the other lawful uses to which the common land is put. It is fundamental to the Union's position that any increase in public access must be introduced as part of an overall management scheme for each common and that, in appropriate cases, compensation should be available.
- (iii) The proponents of public access to commons take the view that it should be a right founded in law. They would concede that there might be circumstances in which the management of a common should entail some qualification of the right of access, but consider that restrictions should be exceptional and subject to public scrutiny and to approval by public authority. They consider that the general effect of all approved restrictions should, at worst, lead to no diminution in existing levels of access, *de facto* or *de jure*.
- (iv) Those who are concerned with preserving the wildlife and landscape quality of the commons want to ensure that improved management does not lead to the deterioration of those qualities. They therefore consider that any management authority should either include representatives of or be required to consult appropriate amenity bodies.
- (v) The British Horse Society and the Byways and Bridleways Trust wish to have horse-riding included in a right of access, but would accept the regulation of riding where it was necessary under a scheme of management. In particular, they wish to ensure that informal horse-riding should continue on those commons where it is an accepted practice.
- (vi) Forestry interests could accept *de facto* access where that could be sensibly accommodated and would not object to a right of public access provided that was part of an appropriate management scheme, but are opposed to a universal right of access.

2.5 The Forum has accepted that the registration of common land in accordance with the provisions of the

Commons Registration Act 1965 has brought about more certainty than before in the knowledge of who owns and who has rights over commons. In many cases this more certain information has provided the basis for better and more formal management of common land. The Forum agreed, however, that the legislation was deficient in some important respects and that there were still many cases where the registrations are inaccurate or misleading. The Forum considered it essential that any legislation which was intended to facilitate the better management of common land and to allow the public access to it, should also remedy the deficiencies in the existing provisions relating to the registration of common land and in the practice of registration itself.

2.6 There was thus a consensus in the Forum that any legislation must:

- (i) provide remedies for the deficiencies of existing legislation, in particular those of the Commons Registration Act 1965;
- (ii) encourage and facilitate better management of commons for the combined objectives of agriculture, woodland, recreation and conservation;
- (iii) make provision for a right of public access and its regulation; and
- (iv) recognise the interests of those having lawful rights in commons.

2.7 The Forum considered that those requirements should be enshrined in the preamble to a new Commons Act, along the following lines.

'An Act to amend the law relating to common land; to make provision for schemes for the better management of common land and for their approval; and to grant a right of access to persons on foot for the purpose of quiet enjoyment and to provide for the regulation of that access.'

2.8 The term 'universal right of public access' was used in the report of the Interdepartmental Working Party set up by the Department of the Environment (which reported in September 1978), in the context of restrictions on access and public conduct set out in the Second Schedule to the National Parks and Access to the Countryside Act 1949. The uninstructed reader cannot be expected to realise that the term should be so qualified every time it appears in print. A more self-contained definition, which would give less cause for alarm, would be 'a right of access to common land by persons on foot for the purpose of quiet enjoyment'. In the remainder of this report the term 'universal right of public access' should be read as so defined, except in relation to those commons where informal horse-riding is already an accepted component of public access.

3. Registration of common land

3.1 As has been mentioned in paragraph 1.14, the Forum delegated to a Sub-Committee of its members under the chairmanship of Gerard Ryan QC (the Registration Sub-Committee) consideration of the deficiencies in the operation of the Commons Registration Act 1965 and the formulation of proposals for remedying them. The Registration Sub-Committee submitted two reports to the Forum, one concerned with commons in general and a supplementary report concerned specifically with town and village greens (see Appendices C and D).

3.2 The approach adopted by the Registration Sub-Committee was outlined by Mr Ryan in his Chairman's Introduction to the main report. As that introduction deals succinctly with the main registration issues it is reproduced, in substance, below.

1 The Committee was established by the Common Land Forum in April 1984 'to consider identifying deficiencies in the Commons Registration Act

1985 and to propose amendments for remedying them'. We have sought to do this against a background of concern on two main points. The first is that the application of the Act has resulted in some genuine common land escaping the net of registration whilst other land, not common land at all, has become caught in it. The second is the desirability of ensuring that land which has properly been included on the registers of common land should remain there.

2 We have had neither the information nor the research capacity to enable us to investigate the extent to which land that should have been caught by the Act was not caught. We are, therefore, unable to suggest how much genuine common land escaped registration, although we are agreed that some did. Opinions about the possible extent to which land escaped registration reflect differing views about the intended scope of the



The Langdale Pikes and part of Great Langdale common in the Lake District.

(Photo: G Berry)

statutory definition of common land (illustrated by the case *Re Box Hill Common*) and about the date at which land should have been held to qualify for inclusion on a register (illustrated by *CEGB v Clwyd County Council*). Legal issues apart, the subject would involve lengthy and complex investigations. This omission accounts for what might be thought to be a one-sided approach to our task.

- 3 Early in our discussions we reached the conclusion that it would be altogether unsatisfactory to propose a general reopening of the registers. The passage of nearly twenty years since the registration process began, and the inferred waste of substantial resources of time, thought and money expended, would rule out such a prospect even were a general reopening of its registers desirable in principle; and we have firmly concluded that it is not.
- 4 We have therefore attempted to put forward positive proposals to improve the mechanism of the registration legislation, building on to its notable achievements and looking for practical solutions to the problems we have identified. The report shows that we think there are several important respects in which the registers and the registration process need prompt legislative attention. Foremost amongst these is the need to establish a greater degree of permanence in the status of registered common land than it now enjoys.
- 5 It is surely remarkable that in legislation governing the status of land, and hence its value, one should look in vain for a provision requiring notice to be given to an owner that an application had been made to register his land as a common. Lord Justice Oliver's judgement in the *Corpus Christi College* case (referred to in the Appendix paragraph A.16) begins with the comment that: 'It is one of the pitfalls for the unwary landowner provided by the Commons Registration Act 1965 that he may find that his land has been irrevocably registered as common land without the matter ever having been brought to his attention.'
- 6 The omission of appropriate provisions for giving notice, which might be thought to be no more than a requirement of natural justice, has led to cases in which private houses and gardens, commercial premises and even schools and places of worship have become finally registered as common land. We think that provision must be made for such nonsenses to be put right. Whilst we have accumulated a number of examples of these 'mis-registrations', we do not claim that our collection is representative and we do not hold a comprehensive list of these cases. Those mentioned in the appendix to our report are simply illustrative.
- 7 We have also considered the prospect that the registers, so painstakingly compiled under detailed legislative guidance, will lose their value as 'living' registers in the absence of amending legislation. They have 'in fact' started to lose this value already. We have therefore suggested means by which they could be brought and kept up to date. In this context the ownership sections of the regis-

ters appeared to present the greatest problem, but with the cooperation of the Chief Land Registrar we have been able to propose what seems to us a practical and economic method for making records of the changing ownership of commons available to the public. We have concluded that responsibility for the maintenance of all sections of the registers should remain with the county councils.*

- 8 We have kept in mind the need that every common, if it is sensibly managed, should be capable of fulfilling several functions and our proposals are put forward in the hope that they will contribute to the proper conservation of common land to the advantage of all. These requirements are substantially responsible for our proposal that jurisdiction in respect of a number of commons matters should be conferred on the Agricultural Land Tribunal.
 - 9 Thirty years ago, the Royal Commission on Common Land took the view that in order to allow the management and improvement of commons to be placed on a secure footing and to provide surer protection against illicit encroachment, there was 'a necessity for a public record of the land and its boundaries, of the ownership of the soil and of the common rights'. In this report we put forward proposals for remedying defects which we think prevent the Act from properly achieving this objective. In the light of our remit we have seen no reason to express views on the subject of compensation.
 - 10 We have referred to the Commons Registration Act 1965 simply as 'the Act' throughout this report. Registered land is referred to by its 'CL' number, which identifies it in the land section of the commons register kept by each county council.
- 3.3 The Forum accepted the recommendations of the Registration Sub-Committee. The two reports, confirmed as forming part of the Forum's conclusions, are reproduced, in full, as Appendices C and D. The summarised conclusions of the Registration Sub-Committee are included in the main summary of conclusions in Chapter 6.

* After 1 April 1986, when the metropolitan counties and the Greater London Council are abolished, their functions will devolve respectively to metropolitan district councils and to London Borough Councils. The term 'county council' used in paragraph 3.2(7) and elsewhere in the report should be taken as subsuming metropolitan district councils and London Borough Councils after 1 April 1986.

4. Access and management

The connection of management and access

- 4.1 There was general agreement in the Forum that statutory provision for the more effective management of common land must march with the right of access. The requirements for farming, the extraction of minerals, the preserving of game and the maintenance of woodland vary widely from one common to another. In some cases these requirements would give rise to no qualification of public access, in other cases restriction would be necessary. The way of catering for these different circumstances would be to express them in appropriately drawn management schemes. The farming and landowning interests held the view that the creation, where none existed, of a management structure and then a management scheme should precede the right of access to a common.
- 4.2 If, however, there were no incentives for the expeditious creation of management schemes, owners and commoners could defer the right of access until doomsday. The Forum therefore recommends that a new Commons Act should require the Secretary of State to appoint a day on which public access would be granted on all commons, whether or not management schemes had been submitted in due form to the appropriate local authority. Given that there would be some difficulties in creating management structures for commons where they do not exist, and that time would have to be allowed for the public inquiries recommended in paragraph 4.27, the Act should prescribe that the period for making management schemes should be stated in a Statutory Instrument and that the appointed day should be not more than five years from the confirmation of the Instrument, or such later period as might be necessary in the case of those commons whose status had not by then been determined.
- 4.3 Where new commons were created after the confirmation of the Statutory Instrument referred to in paragraph 4.2 above, the period for making a management scheme should be two years from the date of registration of the common or by the appointed day, whichever period is the longer.
- 4.4 If a management scheme were not submitted for approval to the local authority by the appointed day, the common in question should be treated as if it were subject to the provisions of a model management scheme. There would be no qualifications of access other than those which would be applied by statute to all common land. Although failure to have submitted a management scheme by the appointed day would not preclude one being initiated later, in accordance with the procedure outlined in paragraphs 4.15 to 4.29, it would necessarily be on the basis that there was already an unqualified right of access to the common.

Creation of a management organisation or authority

- 4.5 A new Commons Act should include provisions to facilitate the initiation of a management scheme: these should follow the recommendation of the Royal Commission that the owner of the soil or a commoner

or a local authority could promote a scheme. To those parties should be added the national park authority for commons within the park, where that authority is not also the county council, and the owner of the minerals if not also the owner of the soil.

- 4.6 A necessary preliminary to the formulation of a management scheme must be the creation of a body or authority to consider and to refine the initial proposal for a scheme, to put it forward to the appropriate approving authorities and to put the scheme into effect once it has been approved. This body is the management association, the membership, objectives, duties and responsibilities of which should be defined in a formal constitution.
- 4.7 It would assist the formation of management associations and go some way to ensuring that they were viable and workable organisations if model forms of association were promulgated in delegated legislation flowing from a new Commons Act. At least two different forms of constitution or authority would appear to be necessary, one to govern the management of commons used primarily or exclusively for purposes of recreation and amenity (hereinafter called amenity commons) and those used primarily or substantially for grazing (hereinafter called grazing commons).

Amenity commons

- 4.8 Many of the commons now used primarily for recreation or amenity are already managed under constitutions which are included in statutes or derived from them. Although these constitutions differ considerably one from another, there would be no advantage in changing them simply to impose uniformity, provided that the commons so governed continue to be managed effectively. Amenity commons which are not yet governed by a properly constituted management body or which cannot be effectively managed under an existing but out-moded constitution could be regulated under schemes following the Commons (Schemes) Regulations 1982, made under the Commons Act 1899. (The full text of the Regulations is given in Appendix E.) With some minor amendments, the form of scheme given in the Schedule to the Regulations should be the model scheme for amenity commons.
- 4.9 At present the power to make schemes under the Commons (Schemes) Regulations 1982 is restricted to councils of districts. There are many small amenity commons which could be satisfactorily managed by parish or community councils. Under new legislation those councils should also be empowered to initiate schemes for amenity commons. It should be open to owners and rights holders, where commons rights are no longer exercised, to recommend to one of those councils that a commons scheme should be made.
- 4.10 Unless the governing body of an amenity common has an adequate income from sources independent of activities conducted on the common or can raise an adequate income by precepts or fees, it is unlikely to dispose of the financial or technical resources to manage the common effectively. The Forum therefore



Ponies on Belstone Common, Dartmoor

(Photo: G Wright)

recommends that the local authority or authorities concerned should be encouraged to take the whole or a substantial responsibility for amenity commons where the existing governing bodies lack the resources to manage them effectively. Future commons legislation should facilitate the input of local authority financial resources and of managerial and technical ability.

Grazing commons

4.11 The model form of constitution for a management association of a grazing common would have to go into more detail than one for an amenity common, where the powers were likely to be exercised by a local authority already governed by statute and rules of practice. The Forum recommends that the duties, responsibilities and powers of a management association for a grazing common should be expressed in a preamble to the model, as follows:

'It shall be the prime duty of the management association to take such steps as appear to it to be necessary and practicable for continuing the exercise of commoners' and owners' rights; the maintenance of the common and the promotion of proper standards of livestock husbandry thereon; and in discharging its duty the Association shall promote the conservation and enhancement of the natural beauty of the common and access to it by persons for the purpose of quiet enjoyment. Nothing in the duty or powers of the Association shall imply that the rights of its members have been transferred to the Association.'

4.12 In more detail, a management association should have the following powers:

- (i) to organise the cooperative efforts of its members in putting into effect an approved management scheme;
- (ii) to regulate the turning out of animals on the common;
- (iii) to appoint and remunerate officials and agents to carry out the activities and responsibilities of the association, and to remove them when appropriate;
- (iv) to raise revenue by means of licence fees and levies on owners and commoners in order to defray the administrative costs of the association and the costs of activities otherwise consonant with the purposes of the association; and
- (v) to act so as to secure compliance with the by-laws regulating the conduct of the public on the common.

4.13 The model form of constitution for a grazing common should also set out rules for the conduct of the association's business. The Forum's view of the content of those rules is set out in Appendix F.

Combination of CLUs for management

4.14 In some parts of England and Wales the units in which commons were registered (CLUs) do not provide appropriate areas for management. There are already management organisations which cover a number of contiguous or adjacent CLUs. There is a

need to allow for similar arrangements elsewhere: where a small number of small units have to be joined in order to provide an adequate area for grazing; or where flocks have habitually grazed over two or more CLUs; or in very sparsely populated areas where it would not be feasible to have a separate committee for each registered unit. The new Act should therefore expressly permit the amalgamation of two or more CLUs under one management association, to be covered by one management scheme, by agreement of the parties concerned. If unanimous agreement cannot be obtained for such an arrangement, then agreement should be by majority vote in each CLU. (In the remainder of the report the word 'common' should be taken to mean all that common land managed by one management association, whether composed of one or more CLUs, unless the word is specifically qualified.)

Management schemes

4.15 The Interdepartmental Working Party envisaged that each management scheme should be approved by the Secretary of State. Where management schemes for amenity commons were made in accordance with the Commons (Schemes) Regulations 1982 no such approval would be required. For management schemes made in respect of grazing commons, which are likely to be more numerous, the arrangement would put a considerable weight of work on the two Departments and be a potential source of delay. A more expedient arrangement would be for the Secretary of State to delegate to county councils the approval of management schemes which complied with the statutory models. In the national parks, the county council should be required to consult the park authority before approving a scheme.

4.16 The purpose of a model scheme of management for a grazing common should be expressed in terms similar to those recommended for the duties of a management association for that type of common, namely: 'It shall be the purpose of this management scheme to continue the exercise of commoners' and owners' rights in or over the common; to maintain the common and to promote proper standards of livestock husbandry thereon; and to promote the conservation and enhancement of the natural beauty of the common and access to it by persons for the purpose of quiet enjoyment.'

4.17 In more detail the model should:

- (i) allow for no restriction on the right of access, as defined in paragraph 2.8 above, except as in (v) and (vi) below;
- (ii) provide for the maintenance or enhancement of the existing natural environment by grazing or other suitable means;
- (iii) allow for the control of grazing and stocking by regulations analogous to those in S.5(1) of the Dartmoor Commons Act 1985*;
- (iv) (a) allow casual, informal and local horse-riding on commons where it already occurs, subject to regulation by the management association; and (b) elsewhere, permit casual, informal and local horse-riding at the discretion of the management association;

(v) permit such restriction in use and access so far and for such period or at such times as can be demonstrated (see paragraphs 4.18 and 4.19 below) to be necessary on condition that the restriction shall not deprive members of the public from obtaining access to the remainder of the common:

(a) for the protection of any ancient monument or area of archaeological, historic, or scientific interest;

(b) for the protection of trees on the common under (viii) below;

(c) for the prevention of accidents at any quarry, pit, mine-shaft, or opencast working; or on specified parts of the common used for the cutting of peat; or on or from any existing firing range;

(d) to protect properly depastured livestock from disturbance during the period of lambing in specified areas of the common to a maximum single period of six weeks in the year (in accordance with the conditions in paragraph 4.19);

(e) for the continuance of sporting activities on any golf course, race course, football, rugby or cricket pitch, or other sports ground now existing and to which the public does not have right of access or has a limited right of access;

(f) to allow timber on a common to be safely cut and moved (see paragraph 4.20);

(g) to allow the recovery, repair and regeneration of the surface soil and vegetation of the common in specified areas (in accordance with the conditions in paragraph 4.21); these restrictions to be subject to prior advertisement and opportunity for public representation and, if implemented, to be reviewed annually by the management association;

(vi) permit the temporary and short term exclusion of the public, in the interests of safety, from those areas where hay or bracken is being cut (see paragraph 4.22);

(vii) permit the burning of heather, gorse, grass, bracken and bilberry to such extent as is desirable for the purposes of livestock husbandry, game preservation or the conservation of the natural environment, or any of those objectives in conjunction;

(viii) permit the management of existing woodlands and, to an extent comprising not more than one quarter of the area of the common, the establishment and management of trees or parcels of woodland for amenity or shelter in accordance with the conditions in paragraph 4.23;

(ix) require the imposition of byelaws, following a model to be promulgated by the Secretary of State, to regulate activity on the common, failure to comply with which should be an offence and should render the offender liable to be treated as a trespasser.

* This clause permits the making of regulations for the purposes of:

- 1 ensuring good husbandry and the maintenance of health of all animals depastured on the commons,
- 2 ensuring that the commons are not overstocked,

- 3 ensuring that all animals depastured are duly hefted or flocked and permanently marked to identify their ownership,
 - 4 controlling entire animals depastured on the commons,
 - 5 excluding unhealthy, unthrifty or unsuitable animals from grazing the commons.
(The full text of S.5(1) is given in Appendix G.)
- 4.18 A management association which wishes to make use of any of the restrictions on access that would be permitted under paragraphs 4.17(v) and (vi) should, before they are exercised, demonstrate the necessity for them to the county council, in the first instance.
 - 4.19 The restrictions on access which would be permissible under paragraph 4.17(v)(d) should not be applicable on commons where the accepted practice has been for the flocks to be withdrawn to in-bye land for lambing. On other commons, where the restriction might be invoked, it should be demonstrated that flocks have, by custom and practice, been brought for lambing to the areas specified. Those areas should be sited so as not to deprive members of the public of convenient access to the common, nor should they block points of entry to and paths or tracks across the common customarily used.
 - 4.20 Cutting timber involves risks to the safety both of the operatives and of the general public. It requires the former to conduct the work in a manner which conforms with statutory provisions on health and safety. Compliance with those provisions should normally entail the exclusion of the public from the areas where timber is being felled and moved.
 - 4.21 The temporary restriction on public access to allow the 'recovery, repair and regeneration of the surface, soil and vegetation' of parts of a common, in accordance with sub-paragraph 4.17(v)(g) above, will usually arise from one or two causes. First, pathways may become unduly eroded by the passage of people or horses. Second, the pasture or other vegetative cover may deteriorate because of over-grazing by farm stock. In the first case, the eroded pathway would be fenced or otherwise obstructed while repair, seeding or natural regeneration took place, and an alternative route indicated. This is a usual practice on popular routes and the linear restriction on access does not give rise to difficulty. In the second case, where common land has suffered from over-grazing, relatively larger areas would need to be fenced against farm stock but the recovery would not usually be adversely affected by the passage across the regenerating area of persons on foot. We therefore recommend that any temporary fencing necessary in this second case should be amply provided with stiles or other means by which it could be easily crossed by persons on foot.
 - 4.22 Whereas the felling and moving of timber can be and usually is planned in advance, cutting hay and bracken depends on the weather. Except within broad time limits, the latter cannot be planned in advance. In order to minimise the extent of restriction of access for the purposes of public safety, it is considered that prior notice of the activity and its consequent restriction need not be given provided that the restriction is limited to the hours or days when operations are actually taking place.
 - 4.23 The trees and woodlands which would be permitted under paragraph 4.17(viii) should be of species appropriate to the locality. Conifers should be planted either individually or in small clumps so as to enhance the landscape. Proposals for larger scale planting should be dealt with as departures from the model scheme.
 - 4.24 The restrictions on public access permitted under a model management scheme of the kind outlined above should not:
 - (i) be applied so as to restrict or further restrict rights of access on those commons where such rights are granted in accordance with the provisions of S.193 of the Law of Property Act, 1925;
 - (ii) have the effect of extinguishing or diverting rights of way across a common.

A change in a right of way should be dealt with in accordance with the legislation governing the extinguishing or diverting of rights of way. Any fencing, temporary or permanent, or other works in connection with the permissible restrictions on access, would remain subject to the consent of the Secretary of State in accordance with the provisions of S.194 of the Law of Property Act, 1925.
 - 4.25 The imposition of byelaws would form part of an approved management scheme. The main objectives of these byelaws should be to make it an offence wilfully to damage the natural environment of a common or wilfully to interfere with or to obstruct farming, forestry or other lawful activities on common land. The Forum recommends that the model byelaws should be promulgated in delegated legislation rather than in a Schedule to a new Commons Act. The former would make it simpler to revise the byelaws to take account of changes in social behaviour and leisure pursuits: for example, as existing byelaws have had to be revised in recent years to take account of new sports such as hang-gliding or parascending or the nuisance of music reproducers. Examples from which a model might be derived are the 'General Restrictions' in the Second Schedule to the National Parks and Access to the Countryside Act 1949 (see Appendix H), or the more recent Forestry Commission Byelaws 1982, S.I.648 (see Appendix I) insofar as they take account of contemporary problems.
 - 4.26 The Forum also recommends that district and county councils should have power to initiate prosecutions for contraventions of the byelaws. The penalties for such contraventions should not be negligible.
 - 4.27 It should be made clear in the Act that duly constituted management associations should have a right to submit management schemes which depart from statutory models, for example, to cover restrictions required for the exercise of sporting rights. When such schemes are submitted to a county council it should be required to transmit them to the appropriate Secretary of State with comment on the justification for the variations from the model, together with any objections received. All such schemes should be subject to approval by the Secretary of State. The Secretary of State should have a discretionary power to cause a public local inquiry to be held into any management scheme submitted to him. Before approving a modification scheme, the Secretary of State should be satisfied that the extent to which that

scheme was less satisfactory than the model for the public's use and enjoyment could be justified by circumstances peculiar to the common to which it would apply.

- 4.28 The existence of an approved management scheme which allowed for public access to a common should not be a bar to the temporary exclusion of members of the public in the national interest or in accordance with statutory powers. For example public access would be prohibited if the common in question formed part of an area affected by a notice of a notifiable disease made under the Animal Health Act 1981 or if a county council gave notice that it was in an area affected by drought, where there was a substantial risk of fire.
- 4.29 As a matter of practice, a scheme which complied in all respects with a statutory model should be considered proof against objection. It should, however, be open to persons or bodies with an interest in the scheme to object to it on the grounds that the model chosen was inappropriate (eg a grazing model had been put forward for an amenity common or vice versa). Further, when application was made for a particular restriction to be put into effect, it should be open to objection on the ground that the necessity for it had not been demonstrated.

The public interest

- 4.30 The public interest in a management scheme has a number of elements. First, all owners, lessees for terms exceeding one year, and rights holders should be given fair opportunity to take part in creating a management association and formulating the management scheme. Second, opportunity should be afforded to check that access is either unrestricted or subject only to such restriction as is appropriate in the circumstances. Third, opportunity should be afforded to check that sites of special scientific interest, the general ecology of the area and the quality of the landscape are duly safeguarded. Fourth, organs of central and local government with direct or indirect interest in the common in question should be given opportunity to check whether the scheme is consonant with any duties they are required to discharge.
- 4.31 The basis for ensuring that all the elements comprising 'the public interest' have an opportunity to consider the potential effects of a management scheme must be adequate publicity. The Interdepartmental Working Party went into some detail about the extent of the publicity they thought desirable in paragraphs 2.18-2.20 of their report. The procedure recommended by the Working Party would not be entirely suitable under the legislation which the Forum is recommending, which seeks to encourage rights holders and owners to make a management scheme as a prerequisite of granting public access, and which contains a sanction if they do not. In those circumstances it would be fairer for the responsibility for advertisement to rest mainly with the county councils. The Forum recommends that the promoters of the scheme should be required to convene a meeting, to which all the commoners, owners and the local authorities concerned should be invited, to create a management

association, to approve a management constitution and to formulate a management scheme. (It might be that all the business could not be completed at one sitting, in which case additional meetings of all the interests involved should be held until a management scheme had been formulated.) It should be the responsibility of the promoters of the scheme to ensure that due notice of the meeting or meetings were given. Responsibility for advertising the general meeting, the advertisement of the deposit of the scheme for approval and the provision of copies of the scheme for inspection by the public should rest with the county council.

- 4.32 Putting the onus on owners and commoners to consult all government departments and other governmental bodies which might have some interest in a particular common would be an undue burden. Although the promoters of the scheme would find it useful to have early exploratory discussions with departments and other governmental bodies, they should be encouraged but not required to do so. Government bodies should be afforded the same opportunity to object to a scheme as any other party and within the same time periods. County councils should discharge their responsibility to central government by notifying either the Welsh Office or the Department of the Environment of schemes submitted to them. It would be for those two departments to notify all interested central authorities.
- 4.33 What has so far been described should help to ensure that the public interest was accommodated at the inception of a management scheme. But circumstances change with time and some arrangement ought to be made for ensuring that the subsequent practice of management continues to take account of the public interest. That would best be done by providing in the statute for the county council, district council and local council to nominate persons who would represent the public interest to each management association. That would ensure that the ultimate responsibility for the public interest would rest with elected representatives. The nominees need not be councillors, but should not be eligible in another capacity, eg they should not also be owners or rights holders of the common in question.

Changes to management constitutions and management schemes

- 4.34 It would not be possible to envisage every future happening when management constitutions and management schemes were prepared and approved. Some arrangements should therefore be made to allow for accommodation to changed circumstances. Constitutions can be drawn so as to include a provision which would permit amendments if they were approved at a general meeting by a specified majority of those entitled to vote. Amendments to management schemes which did not entail departures from the model would not present problems. Where they appeared to depart, however, the procedure outlined in paragraph 4.27 would have to be followed. That, of course, would entail a public inquiry if the Secretary of State so decided.



Common land in southern England in the early 1920s.

(Photo: Open Spaces Society)

Access for dogs

4.35 Dogs under control probably constitute little or an acceptable risk on amenity commons. On commons used extensively and substantially for grazing, dogs cannot always be kept under close control in the presence of stock. Even when they are so kept, they may remain a potential hazard, particularly to hefted and to pregnant stock. These two different circumstances should be catered for by alternative byelaws in the statutory model.

- (i) On amenity commons not used for grazing the rule should be to the effect that any person who takes a dog on the common or allows it to enter and remain shall keep it under proper control.
- (ii) For commons being grazed by farm stock and/or used for the preservation of game the rule should be to the effect that any person who takes a dog on the common or allows it to enter and remain shall prevent it from disturbing, worrying or chasing any bird or animal and shall keep it on a leash. Dogs engaged in the proper management of livestock or the authorised participation in sporting rights shall be excepted from this provision.

Access for perambulators and invalid carriages

4.36 Conveyances for children and invalids should be permitted under a byelaw similar to 6(1) of the Forestry Commission Byelaws 1982:

'No person shall bring or cause to be brought on to common land any vehicle other than a perambulator

or wheelchair drawn or propelled by hand or by electrical power and used solely for the conveyance of a child or children or an invalid.'

Finance

4.37 The proposals for the creation of management associations, and the formulation and approval of management schemes, together with the proposals for remedying the deficiencies of existing commons legislation made in the two reports of the Registration Sub-Committee, would add to the responsibilities and costs of county councils. It seems equitable that some adjustment should be made to grant related expenditure, at least during the five year period when the councils would be most involved in additional work.

4.38 The Forum did not dissent from the view expressed by the Farming Unions, that compensation should be payable to owners and rights holders where the public's access to common land adversely affected the other lawful uses to which that common land could be put. A precedent for the payment of compensation following injurious affection exists under S.6 of the Commons Act 1899. The onus of proof that there was increased access as the result of the granting of a right and that such an increase did adversely affect the other lawful uses would be on owners and rights holders. The outcome of claims for compensation is so uncertain that no estimate of the amount of compensation could be made. If compensation were to be payable, however, then it is the Forum's view that the funds should be provided from central government.



Children playing by a stream at Abrook Common in Surrey in the early part of this century. (Photo: Open Spaces Society)

4.39 The study undertaken by Land Use Consultants into schemes of management indicates that the grazing commons, particularly those on uplands, have different sources of revenue and different needs for expenditure from those of the amenity commons. Broadly speaking, the management of grazing commons can usually be done by voluntary effort and does not call for paid staff. A small stint levy usually suffices for running expenses. If a major item of work has to be undertaken then it is the practice for a special levy to be raised from the commoners in proportion to their stints. Amenity commons, although they often have a greater need of resources to fund paid wardens, undertake regular rubbish clearance and provide for car parking and barriers to prevent indiscriminate vehicular incursions, do not have a ready source of income from graziers. Often there are no commoners still exercising their rights to graze. The principal and potential sources of revenue for amenity commons are licence fees: for car parking, grazing (which needs to be encouraged to keep down scrub and bracken as well as for income), horse-riding and other open country sport such as cross country running, orienteering and hang-gliding.

4.40 As indicated in paragraph 4.12, a new Commons Act should include power for management associations to raise revenue by levy on owners and rights holders, and by the licensing of activities by parties not having rights in the commons. Raising these forms of revenue should require approval by resolution at a general meeting and, in the case of licences granted to third parties, consent of the owners and rights holders involved. Management associations should be re-

quired by statute to keep proper accounts and to have them duly audited.

4.41 The evidence produced in the study of schemes of management indicated that the revenue from licence fees alone does not always suffice to defray even the modest costs of maintaining amenity commons and that the best managed of those commons are those which rely on the staff and financial resources of local authorities. As local authorities already have power, under existing legislation, to defray the costs of local amenities from the product of the rates, it would be supererogatory to restate the power in a new Commons Act. If, however, some of the less well endowed amenity commons are not to deteriorate and thus become less usable as places of public recreation, adequate but not expensive funding through local authorities will be necessary. The Forum expresses the view that central government should be generous in funds for this purpose, particularly as many amenity commons provide a well used place of recreation not only for the inhabitants of the local authorities in which they are situated but also for those of a much wider area.

Consolidation of existing legislation

4.42 A new Commons Act should consolidate the relevant provisions in existing Public Acts. The new Act should also include the power to enable the Secretary of State to amend or to repeal outdated private or local commons legislation by order, as and when that becomes necessary.

- 4.43 The study of commons management conducted by Land Use Consultants (see paragraph 1.11) included thirty commons which were governed by eleven schemes of management set up under special local Acts. All of those schemes provided for the public to have access to the commons as of right. The study did not, however, cover every common so governed and there may be some to which the public has no such right. In such cases the Forum recommends that the relevant Acts should be amended by order so that the proposals about access made in paragraph 4.17 should apply to them.
- 4.44 Some grazing commons are already controlled by courts referred to in the schedules to the Administration of Justice Act 1977. Where the control is effectively exercised there would be no advantage in substituting for those courts the management associations described in paragraphs 4.11 to 4.13 and Appendix F. The Forum recommends, however, that the constitutions and practices of the courts should be reviewed and, where necessary, modified to enable them to exercise a similar range of powers to those proposed in paragraph 4.12, and to provide representation of the public interest as described in paragraph 4.33 and Appendix F.
- 4.45 The commons owned by the National Trust constitute a special category of commons governed by local or private Acts: the provisions of the National Trust Acts impose on the Trust obligations and limitations of power which do not apply to other commons' managements which are governed by statute. On the other hand, the National Trust Acts provide the Trust with powers to improve and to carry out work on its commons which are not given to other governing bodies.
- 4.46 The Forum considered the application to the National Trust commons of its three main groups of recommendations, namely on registration, access and management, in the light of the Trust's special obligations and powers.
- (i) The Trust's commons are subject to the provisions of the Commons Registration Act 1965 and there is nothing in the Forum's proposals for remedying the Act's deficiencies which would conflict with the Trust's duties and responsibilities. The Forum therefore recommends that all the proposals about registration made in Appendices C and D should be applicable to National Trust commons.
 - (ii) The Trust is required, by the provisions of Section 29 of the National Trust Act 1907, to keep any of the Trust's property which consists of common or commonable land 'unenclosed and un-built on as open spaces for the recreation and enjoyment of the public'. The Trust shall not make any charges for admission to that property. The Trust has its own byelaws to regulate public conduct on commons. The obligations in respect of public access are more than commensurate with those which are recommended in this report for other commons. The Forum considers that there need be no amendment to the access provisions in the National Trust Acts.
 - (iii) The Trust's constitution stipulates that its governing body shall include nominated members from a range of bodies reflecting various aspects of the public interest as well as persons elected from and by its numerous membership. By those means, as well as through regional and local committees, what the Forum has meant by 'the public interest' is catered for in the management of the Trust's properties, including the commons. The Trust's record in promoting the conservation and enhancement of the natural beauty of its commons has not been questioned in the Forum. There were doubts, however, whether the Trust's statutory obligations and limitations would permit it to afford its commoners the same rights to participate in management as would be given by statute to other rights holders were the Forum's proposals about management associations to be put into effect. It would be inequitable to deny a significant number of commoners those rights. Moreover, if the desired character of commons, especially of the upland commons, is to be preserved then continued grazing by farm stock is essential. In the long term there would be a better chance of the Trust's commons being properly grazed if the commoners were playing a full part in the management of the land over which they have rights. The Forum therefore recommends that the Trust should review its statutory powers and obligations in the light of new commons legislation which might follow the Forum's recommendations. Were the result of the review to confirm that the Trust could not allow its commoners similar rights to participate in management as those provided for other commoners, then the appropriate amendments to the National Trust Acts should be sought.

5. Other issues



Banstead Common, near Sutton in Surrey.

(Photo: Archie Miles)

5.1 The terms of reference enjoined the Forum 'to review the report of the Interdepartmental Working Party *Common Land: Preparations for Comprehensive Legislation*'. Many of the proposals made in Chapters 3 and 4 spring from that review. There are, however, some matters of importance covered by the Working Party which did not fall to be dealt with in the preceding chapters; they are discussed below.

Common land completely surrounded by fenced private land

5.2 Such evidence as is available suggests that commons which are completely cut off from public rights of way are rare. The Forum considered that special legislative provision for making rights of way to these commons should not be included in a new Commons Act. The commons should not, however, be exempted from the provisions of the new legislation outlined in the previous chapters: to do so would prevent the rights holders from benefiting from the proposals made for better management. The right of public access to these commons would simply remain inoperative until such time as rights of way to them were granted or purchased.

Vesting of unclaimed common land

5.3 The Working Party estimated that there might be about 2,000 areas of unclaimed common land, covering about 10,000 acres in all, which would fall to be vested. For the most part the areas concerned were

relatively small and of minor importance, such as roadside wastes and other odd corners in and around villages. Exceptionally a few of the areas to be vested were much larger and of a different character, including an upland common of 500 acres in North Yorkshire and a common of 300 acres in Powys.

5.4 The Forum recommends that these areas of unclaimed common land should normally be vested in the parish or community council. Where a common crosses the boundary of two or more parishes it should be open to their councils to agree an arrangement for joint management or, where only a very small part of common was in one parish, management by the parish with the majority holding. Where there was no local council or where arrangements for joint or majority management could not be agreed, ownership should be vested in the district council.

5.5 The Forum envisaged circumstances in which it could be appropriate for an unclaimed common to be vested in a district or county council or national park authority (eg where the common was contiguous to a local or country park or was the verge of a major road). In those cases it should be provided that the district or county council could bid for vesting; in the event of opposition by the local council the dispute should be resolved by a Commons Commissioner or an administrative tribunal.

5.6 The Forum recommends that the new legislation should state the method by which unclaimed land should be vested. The registration authority, the

county council, should advertise unknown owner cases in local newspapers and by posting notices inviting the owner to come forward. If no owner were to come forward within a prescribed period, then the land should be automatically vested. Where a claimant owner did respond, his claim should be determined by a Commons Commissioner or, after the disbanding of that service, by the county court. If the claim were to be upheld, the land should not be vested and the owner's name should be duly registered.

- 5.7 If it is decided that the advertisement proposed in paragraph 5.6 runs counter to the provisions of Section 1(3)(b) and Section 9 of the Commons Registration Act 1965, an appropriate amendment should be included in a new Commons Act.

Works on commons

- 5.8 The Forum agreed that S.194 of the Law of Property Act provided an essential safeguard against the unwarranted erection of any work on a common. The Forum therefore recommends that this safeguard should be continued under any future comprehensive commons legislation and should be applicable to all commons, including any commons created after the passage of a new Commons Act.
- 5.9 The Forum recommends that county councils should have a duty and the public a power to take action against persons or corporate bodies responsible for constructing works on commons without first obtaining sanction under S.194; that duty and power should be in addition to powers vested in other bodies specified in S.194(2) of the Law of Property Act 1925.

Fencing

- 5.10 The Forum was indebted to two of its members, Edward Harris and John Taylor, for a comprehensive and perceptive paper on the fencing of and within commons. The paper illustrates the complexity of this feature of the management of commons and is reproduced in Appendix J.

- 5.11 The Forum endorsed the advantage of the custom and practice of fencing adjoining private land against the common. It was appreciated that the absence of such fencing was often a hindrance to the effective management of depastured flocks and could impose untoward financial burdens on grazier-commoners. The Forum therefore records its support of the financial assistance given by public authorities to schemes of fencing against the common, particularly those which form part of urban fringe renewal.

- 5.12 The Forum recognised that, subject to the safeguard in S.194 of the Law of Property Act 1925 and to the provision of adequate means of access to the common by persons on foot (and horse-riders where informal horse-riding was an accepted component of public access), there was a need for protective fencing on some parts of new high-speed roads where that was necessary to enhance the safety of the travelling public and depastured stock. On existing roads carrying fast-moving vehicles there might be grounds for providing similar protective fencing but there should not be a general presumption in favour of its installation.

- 5.13 The Forum recommends that temporary fencing should be permissible, under the provisions of S.194, to avoid the spread of disease among farm stock depastured on commons.

Limitation of occupiers' liability to the public

- 5.14 The Forum endorsed the recommendation of the Interdepartmental Working Party that members of the public who enter on common land for air and exercise (whether on foot or other permissible means of locomotion) as of right should do so at their own risk. The duty of occupiers, under the Occupiers Liability Act 1957, to take care that their land is reasonably safe for use by visitors, should not apply to common land to which the public has right of access.

6. Summary of recommendations and conclusions

6.1 The following summary presents the Forum's recommendations in shortened and, therefore, less accurate form. For a proper understanding of them it is necessary to turn to the relevant paragraphs of the report or, in the case of recommendations concerned with registrations, of Appendices C and D, as indicated by the numbers in brackets at the end of each recommendation.

Starting points and principles

- 6.2 (1) Any future legislation must provide remedies for the deficiencies of existing legislation, in particular of the Commons Registration Act 1965; encourage and facilitate better management of commons for the combined objectives of agriculture, woodland, recreation and conservation; make provisions for a right of public access and its regulation; and recognise the interests of those having lawful rights in commons. Those requirements should be enshrined in the preamble to a new Commons Act (2.6, 2.7).
- (2) Public access should be defined as 'a right of access to common land by persons on foot for the purpose of quiet enjoyment' (2.8).

Registration of common land

- 6.3 (1) Provision should be made to enable the removal from the registers of land incorrectly registered as common land but only within strict limitations and subject to judicial process (Appendix C 011-013).
- (2) The 'slip rule' should be amended to allow the Tribunal to order amendment of a register where administrative or clerical error is alleged (Appendix C 014).
- (3) Apart from cases falling within the exceptions at (1) and (2) above, no challenge should be allowed to the registers of common land (Appendix C 011).
- (4) An unequivocal power should exist to order rectification of the register of ownership of common land upon proof that the registered owner has no justifiable title (Appendix C 019).
- (5) The power to order rectification should be exercised by a court or other judicial body (Appendix C 019).
- (6) Provision should be made to enable amendment of the register of rights of common where either the same rights of common have been registered more than once over the same area of land or the total extent of rights registered over a common is greater than the common can sustain (Appendix C 027, 028).
- (7) Where the registered rights are more extensive than the common can sustain, there should be a proportionate reduction of each right within a safety net to prevent rights of modest extent being effectively abolished (Appendix C 031).
- (8) There should be a limited class of persons en-

titled to seek amendment of the registers, confined to those having a direct interest in the good management of the common (Appendix C 032).

- (9) Tenants' rights mistakenly registered as rights of common should be deleted from the registers but the special position of tenants enjoying such rights should be recognised (Appendix C 029, 032).
- (10) Amendment of the registers should be entrusted to the Tribunal (Appendix C 033).
- (11) Legislation should create a new category of 'statutory common land', ie land in the lands section of a commons register which thus has the attributes of a registered common although it is neither subject to rights of common nor waste land of a manor (Appendix C 043, 046).
- (12) The principle enunciated in *Corpus Christi College v Gloucestershire County Council*, namely that final registration of a common is conclusive notwithstanding the failure to establish rights of common over it and irrespective of the former status of the land, should be confirmed by legislation (Appendix C 041, 042).
- (13) From an appointed day, land ceasing to be subject to rights of common by reason of unity of seisin should automatically become statutory common land (Appendix C 043).
- (14) From an appointed day, waste land of a manor not subject to rights of common should, upon ceasing to fall within that definition, forthwith become statutory common land (Appendix C 046).
- (15) There should be an express statutory prohibition against the creation of rights in gross by way of severance of rights of common from the dominant tenements to which they attach (Appendix C 051).
- (16) The formal leasing or informal lending of rights of common by commoners should only be permitted in favour of another holder of rights of the same common and, additionally, in accordance with the terms of a management scheme. The Tribunal should have power to deal with applications in appropriate cases. (Appendix C 053.)
- (17) Commons registration authorities should be required to examine their registers, to identify cases where the dominant tenement has not been adequately identified and given power to amend the register accordingly (Appendix C 059).
- (18) On the development of a dominant tenement, formerly in agricultural use, for non-agricultural purposes, the attaching rights of common of pasture should cease to exist. Where the dominant tenement is not in agricultural use, the rights should continue only if the dominant tenement could benefit from them. On non-agricultural development of part only of the dominant tenement, an appropriate proportion of the rights should be lost. (Appendix C 066, 071.)

- (19) Where a dominant tenement is divided, those holdings remaining in agricultural use should have the rights of common of pasture apportioned to them according to the reasonable agricultural requirements of the holdings, judged objectively (Appendix C 064).
- (20) There should be specific legislative provision prohibiting the apportionment of rights of common other than pasture. Legislation should also provide that, upon the division of a dominant tenement into parts, rights of common other than pasture must be assigned to one specific part and that not greater liability on the servient tenement should arise than exists at that date. (Appendix C 082.)
- (21) The Tribunal should exercise a supervisory role to ensure compliance with the principle of apportionment but should be bound to grant approval as a matter of course to any proposal which did not clearly breach that principle (Appendix C 067, 068).
- (22) Statutory provision should ensure that commons registration authorities are in a position to delete rights from the register where a dominant tenement is developed for non-agricultural purposes (Appendix C 072).
- (23) Where rights of common are transferred, neither the vendor nor the purchaser of the rights of common should be entitled to exercise the rights until the apportionment has been approved by the Tribunal and suitable sanctions should be provided to secure compliance (Appendix C 069, 074).
- (24) Where the application of the recommendations about deletion of common rights results in the disappearance of all rights over a common, the common should become statutory common land (Appendix C 075, 128).
- (25) Legislation should allow for the registration of newly created rights of common whether the registration of the common land has been made in the past or is being sought concurrently with the registration of common rights over it (Appendix C 085).
- (26) All disputes arising from new registrations should be determined by a Commons Commissioner (Appendix C 088).
- (27) All applications for new registrations should be processed within strict time limits (Appendix C 087).
- (28) There should be a living record of common land and ownership of rights of common, and a duty should be laid on commons registration authorities to set up and maintain the necessary registers based on those which already exist. Sanctions should be imposed to ensure that information is supplied to registration authorities. (Appendix C 095, 096.)
- (29) The registers should be open to public inspection (Appendix C 096).
- (30) Adequate safeguards should be provided to prevent incorrect applications for registration being accepted (Appendix C 105).
- (31) The register of ownership of common land should be created by regulations made under the Land Registration Acts requiring the Land Registry to supply, upon application by any person, details of the ownership of any land certified by a commons registration authority to be registered common (Appendix C 098, 099).
- (32) Further consideration should be given to quickening the pace of compulsory registration of title of common land, in the interest of public access to details of ownership (Appendix C 104).
- (33) Bodies acquiring common land under compulsory purchase powers should be under a statutory obligation to report the change of status to commons registration authorities (Appendix C 107).
- (34) The inclusion of stinted pastures within the provisions of the Commons Registration Act 1965 is inappropriate and the Act should be amended to secure their removal from the registers (Appendix C 113).
- (35) The Commons Commissioners should be retained to exercise their present jurisdiction (Appendix C 116).
- (36) The new areas of jurisdiction recommended in Appendix C should be the responsibility of the Agricultural Land Tribunal (Appendix C 117).
- (37) The inhabitants of the locality should be granted a statutory right to indulge in lawful sports and pastimes on every registered green in that locality (Appendix D S9).
- (38) The test for identifying a 'locality' should be 'neighbourhood' rather than 'parish' based (Appendix D S11).
- (39) There should be a procedure for removing mistaken registration of greens from the register (Appendix D S13-16).
- (40) A person who claims ownership of a green which has been vested in a local authority under Section 8(3) of the Commons Registration Act 1965 should be able to apply to the county court for rectification of the register (Appendix D S20).
- (41) Local councils should be given comprehensive powers to manage or acquire greens where irreconcilable disputes have arisen (Appendix D S21).
- (42) Section 12 of the Inclosure Act 1857 and Section 29 of the Commons Act 1876 should be suitably re-enacted (Appendix C S24).
- (43) Temporary use of the limited area of a green for informal car parking in connection with recreational activities should be allowed (Appendix D S25).
- (44) Subject to the consent of the Secretary of State, there should be a limited power for the owner of a village green to grant vehicular access over it (Appendix D S25).
- (45) Subject to the consent of the Secretary of State, there should be power for the owner of a village green to permit the erection of limited public facilities on the green (Appendix D S26).
- (46) It should not be possible for village greens which are recreation allotments to be disposed of, or appropriated for other purposes, by means of a Charity Commissioners' scheme (Appendix D S30).

Access and management

- 6.4 (1) A new Commons Act should require the Secretary of State to appoint a day on which public access would be granted on all commons, whether or not management schemes had been submitted in due form to the appropriate local authority. The period for making management schemes should be stated in a Statutory Instrument and the appointed day should be not more than five years from the confirmation of the Instrument, or such later date as might be necessary in the case of commons the status of which had not by then been determined. (4.2.)
- (2) Where new commons were created after confirmation of the 'appointed day' Statutory Instrument, the period for making a management scheme should be two years from the date of the registration of the common or by the appointed day, whichever period is the longer (4.3).
- (3) If a management scheme were not submitted to the local authority by the appointed day, the common in question should be treated as if it were subject to the provisions of a model management scheme. There would be no qualifications on access other than those which would be applied by statute to all common land. (4.4.)
- (4) A new Commons Act should include provisions to facilitate the initiation of a management scheme. Schemes could be promoted by the owner of the soil (or the owner of the minerals if not also the owner of the soil) or a commoner or a local authority and a national park authority, where appropriate. (4.5.)
- (5) Management schemes should be formulated and operated by management associations. They should have formal constitutions defining their membership, objectives, duties and responsibilities. (4.6.)
- (6) Model forms of association (at least one for amenity commons and another for grazing commons) should be promulgated in delegated legislation flowing from a new Commons Act (4.7).
- (7) With some minor amendments, the form of scheme given in the Schedule to the Commons (Schemes) Regulations 1982 should be the model scheme for amenity commons (4.8 and Appendix E).
- (8) Under new legislation, parish or community councils, as well as district councils should be empowered to initiate schemes for amenity commons (4.9).
- (9) Where commons rights are no longer exercised it should be open to owners and rights holders to recommend to a district or local council that an amenity commons scheme should be made (4.9).
- (10) Local authorities should be encouraged to take the whole or a substantial responsibility for amenity commons where the existing governing bodies lack the resources to manage them effectively. Future commons legislation should facilitate the input of local authority financial resources and managerial ability (4.10).
- (11) The duties, responsibilities and powers of a management association for a grazing common should be expressed in a preamble to the model form and should cover the following elements: continuing the exercise of commoners' and owners' rights; the maintenance of the common; the promotion of proper standards of livestock husbandry; conserving and enhancing the natural beauty of the common; promoting access to it by persons for the purpose of quiet enjoyment. Nothing in the duty or powers of an association should imply that the rights of its members have been transferred to it. (4.11.)
- (12) In more detail, management associations should have powers to organise the cooperative efforts of their members, regulate the turning out of animals, appoint and remove officials and agents, raise revenue, and act to secure compliance with byelaws governing conduct on the common. (4.12.)
- (13) The model form of constitution for a grazing common should set out rules for the conduct of the association's business (4.13 and Appendix F).
- (14) A new Commons Act should expressly permit the amalgamation of two or more CLUs under one management association, to be covered by one management scheme, by agreement of the parties concerned. Where unanimous agreement cannot be obtained, then agreement should be by majority vote in each CLU. (4.14.)
- (15) The Secretary of State should delegate to county councils the approval of management schemes which complied with the statutory models. In the national parks the county council should be required to consult the park authority before approving a scheme. (4.15.)
- (16) The purpose of a model scheme of management for a grazing common should be expressed in terms similar to those recommended for the duties of a management association for that type of common (4.11 and 4.16).
- (17) In more detail, the provisions of the model scheme should specify the agricultural and arboricultural operations, together with certain ancillary activities, which would be permitted on the common, specify what horse-riding was permitted, define the permissible restrictions on public access and require the imposition of byelaws to regulate the conduct of the public (4.17, 4.19-4.24 and Appendix G).
- (18) The necessity for restrictions on public access included in a scheme which purports to comply with the model should be demonstrated to the county council, in the first instance (4.18).
- (19) Restrictions on public access permitted under a model management scheme should not be applied so as to restrict or further restrict rights of access where those rights are granted under S.193 of the Law of Property Act, 1925, and should not have the effect of extinguishing or diverting any right of way across a common (4.24).
- (20) Any fencing or other works in connection with the permissible restrictions on access would be subject to the consent of the Secretary of State under S.194 of the Law of Property Act, 1925 (4.24).

- (21) Model byelaws should be promulgated in delegated legislation rather than in a Schedule to a new Commons Act (4.25).
- (22) District or county councils should have power to initiate prosecutions for contraventions of the byelaws. The penalties for contraventions should not be negligible. (4.26.)
- (23) The new Act should make it clear that management associations should have a right to submit schemes which depart from the statutory models (4.27).
- (24) County councils should be required to transmit 'departure' schemes to the appropriate Secretary of State with comment on the justifications for the variations from the model, together with any objections received (4.27).
- (25) All 'departure' schemes should be subject to approval by the Secretary of State (4.27).
- (26) The Secretary of State should have a discretionary power to cause a public local inquiry to be held into any management scheme submitted to him (4.27).
- (27) Before approving a 'departure' scheme, the Secretary of State should be satisfied that the variations from the model could be justified by circumstances peculiar to the common (4.27).
- (28) An approved management scheme which allowed public access to a common should not prevent the temporary exclusion of members of the public in the national interest or in accordance with statutory powers (4.28).
- (29) A scheme which complied in all respects with a statutory model should be considered proof against objection. Objections could be made on the grounds that the model chosen was inappropriate or, when application was made for a restriction to be put into effect, that the necessity for it had not been demonstrated (4.29).
- (30) The promoters of a scheme should be required to convene a meeting, to which all the commoners, owners and the local authorities concerned should be invited, to create a management association, approve a management constitution and formulate a management scheme (4.31).
- (31) The county council should be responsible for advertising the general meeting, the deposit of a scheme and the provision of copies of the scheme for inspection by the public (4.31).
- (32) Government bodies should be afforded the same opportunity to object to a management scheme as any other party and within the same time periods. County councils should discharge their responsibility by notifying either the Welsh Office or the Department of the Environment (4.32).
- (33) The county council, district council and local council should nominate persons who would represent the public interest to each management association. The nominees need not be councillors but should not be eligible in another capacity. (4.33.)
- (34) On amenity commons dogs should be kept under proper control; on grazing commons dogs should be prevented from disturbing any bird or animal and should be kept on a leash. Dogs engaged in the proper management of livestock or the authorised participation in sporting activities should be excepted from the latter provision. (4.35.)
- (35) Conveyances for children and invalids should be permitted under a byelaw similar to 6(1) of the Forestry Commission Byelaws 1982 (4.36 and Appendix I).
- (36) Adjustment should be made to the grant-related expenditure of county councils to cover the additional costs which they would have to meet if the Forum's proposals were accepted (4.37).
- (37) Compensation should be payable to owners and rights holders where the public's access to common land adversely affected the other lawful uses to which commons could be put. Central government should meet the cost of compensation (4.38).
- (38) Central government should make funds available to local authorities so that the latter might assist in maintaining the poorly endowed amenity commons in their areas (4.41).
- (39) A new Commons Act should consolidate the relevant provisions in existing public Acts; it should also empower the Secretary of State to amend or repeal outdated private or local commons legislation by order (4.42).
- (40) Where the public does not have access to commons with schemes of management made under special local Acts, they should be amended by order to provide such access as of right (4.43).
- (41) The constitution and practices of commons' courts referred to in schedules to the Administration of Justice Act 1977 should be reviewed and, where necessary, modified to enable them to exercise a similar range of powers to those proposed for management associations and to provide for a similar representation of the public interest (4.44).
- (42) All the proposals about registration made in Appendices C and D should be applicable to National Trust commons (4.45).
- (43) The Trust should review its statutory powers and obligations in the light of new commons legislation and seek amendment to its statutes should that be necessary to permit its commoners to play a full part in the management of their commons (4.45).

Other issues

(Issues raised in the Report *Common Land: Preparations for Comprehensive Legislation* not dealt with in preceding chapters.)

- 6.5 (1) There should be no special legislative provision for making rights of way to commons completely surrounded by fenced private land (5.2).
- (2) Unclaimed common land should normally be vested in the local council; arrangements should be made for joint or majority holding management where more than one local council is involved (5.4).
- (3) Where there was no local council or where joint or majority management could not be agreed ownership should be vested in the district council (5.4).
- (4) In appropriate cases the county council or national park authority should be able to bid for



The western escarpment of the Pennines in Cumbria showing extensive stretches of common land. Kirkland Fell is in the foreground: Dufton and Murton Fells in the middle distance and on the horizon is Mallerstang Common. (Photo: G Berry)

- vesting. In the event of opposition by a local council the dispute should be resolved by a Commons Commissioner or administrative tribunal (5.5).
- (5) A new Commons Act should state the method by which unclaimed common land should be vested (5.6).
 - (6) The safeguard against the unwarranted erection of any work on a common provided by Section 194 of the Law of Property Act 1925 should continue under any future comprehensive commons legislation and should be applicable to all commons (5.8).
 - (7) County councils should have a duty and the public a power to take action against persons or corporations responsible for constructing works on a common without first obtaining sanction under S.194 of the Law of Property Act 1925 (5.9).
 - (8) The Forum endorsed the advantage of the custom of fencing adjoining private land against the common (5.11).
 - (9) Subject to the provisions of S.194 and to there being adequate means of access to the common, the need for protective fencing on parts of new high-speed roads was recognised (5.12).
 - (10) Temporary fencing should be permissible to avoid the spread of disease among stock depastured on commons (5.13).

- (11) The duty of occupiers, under the Occupiers Liability Act 1957, to take care that their land was reasonably safe for use by visitors, should not apply to common land to which the public has a right of access (5.14).

Conclusion

- 6.6 The Royal Commission on Common Land dealt with the main issues of registration, public access and improved management as matters of principle. On the whole the Commission's proposals were directed more to the objectives than to the means of achieving them. The Forum was able to start from the principles enunciated by the Commission and from the work on means carried out by the Interdepartmental Working Party; it has concentrated on detailed proposals for remedying the faults in the registration legislation, and has directed attention to the means and procedures for achieving those of the Commission's objectives not yet secured. In particular, many of the Forum's more detailed proposals are about the safeguards inherent in reconciling the divergent objectives of a right of access on the one hand, and the enhancement of the environment of the commons and their better management on the other.

- 6.7 The detailed and concentrated nature of the Forum's considerations has involved our Secretary, Len Clark, and his supporting staff in the Open Spaces Society in a substantial burden of work. Not only have they maintained a prompt and unfailing record of the proceedings and a comprehensive flow of papers but also have ensured that the administrative arrangements for our meetings have proceeded without a hitch. In addition, Mr Clark was a most diligent and tactful manager of business outside the committee room. The members of the Forum wish to express their great appreciation of the zealous and efficient work of the Secretariat.
- 6.8 The Forum as a whole was indebted to those of its members who constituted the Registration Sub-Committee and who took on a substantial amount of extra work to such good effect. It was especially indebted to Gerard Ryan QC for agreeing to be the Chairman of the Sub-Committee and for his expert and careful conduct of such a complex matter. As for the administration of the Sub-Committee's business, and the lucid and succinct reports which emerged from it, a most appropriate appreciation is conveyed in Mr Ryan's own words.
- "It soon became clear that our work would be both hastened and strengthened were we able to find someone having a good working knowledge of the subject to act as our secretary. Great good luck befell us in the willingness of Michael Davies to undertake the work. His qualities of assiduity, patience and unruffled good humour, combined with a first class knowledge of the subject, have enabled us to produce a better report far more quickly than we would otherwise have done. I should also like to record the Committee's grateful thanks to Carolyn Gilbert-Johns, Ruth Avery, Julie Jones and John Crawforth for their help in producing the report. We also thank the National Association of Local Councils for providing us with a most convenient and comfortable meeting place."
- 6.9 The Forum's thanks are due to the National Trust for providing a friendly and sympathetic environment for nearly all the Forum's meetings and to the National Farmers' Union for a similar service in an emergency. The Forum also wishes to thank the staff of the Countryside Commission for unobtrusive help and support in all manner of ways and to Elizabeth Allmark for help in producing the report.