The Rise of Property and the Death of the Moral Economy: Enclosure and Social Unrest in Late-Eighteenth Century England

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Abstract

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Eighteenth-century Great Britain was a kingdom marked by the rise of a property-based and highly individualistic conception of social and economic structures came a doctrine of improvement based upon extracting the most value from a tract of land possible. Parliamentary enclosure was critical to this change, seeing lands converted from something of communal value to individual property. This work argues that the growth and implementation of parliamentary enclosure was a source of immense social unrest in late-eighteenth century Britain as the process and its supporting ideologies were inherently counter-intuitive to traditional systems of communal land ownership and subsistence. This paper utilizes primary sources from both landowners implementing enclosure and the responses of commoners and enclosure's opponents to better understand the agency of the peasantry in their fight against a damaging practice and how forms of unrest were multi-faceted and prevalent, despite the growing power of the land-owing gentry.

Keywords: Great Britain, England, Eighteenth-Century, Enclosure, Social Unrest, Common Lands, Class, Capitalism

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Chapter One: Introduction

Introduction

In a 1912 hypothetical dialogue between an eighteenth-century landlord and one of his agrarian labourers, British socialist historian R.H. Tawney outlined why such peasants might fear the enclosure and privatisation of agricultural land. The peasant, Tawney argued, would not dismiss the innovations brought or encouraged by the enclosure process. He did not deny the higher yields of enclosed fields over traditional common fields, nor the wastefulness of the older communal system of farming, nor the efficiency in managing a single large estate rather than numerous smaller ones. He did not deny the immense profitability of pasture farming over tillage farming and the economic benefits which this transition brought farmers and landlords. What the peasant did do, however, was issue a short but telling rebuke to the landlord which flew in the face of his supposed efficiency and profitability: "Our wasteful husbandry feeds many households, while your economical methods would feed few."[1]

Though hypothetical in origin, Tawney's dialogue illuminates larger socio-economic issues present within eighteenth-century British agrarian life. While the traditional liberal historiography has typically positioned Great Britain in the 18th century as a stable and prosperous nation, maintained by its constant economic development and growing liberalization, the reality of the situation was often quite messy. The traditional relationship between economic growth and stability, while perhaps true for the middle- and upper-classes, did not apply in a similar manner to the unpropertied lower- and labouring-classes of the kingdom. The fraught relationship between wealth, property, and social instability is best epitomized in the parliamentary enclosure process and its effects on the tenants, yeomen, and

[1] R.H. Tawney in John Bellamy Foster, Brett Clark, and Hannah Holleman, "Marx and the Commons," *Social Research an International Quarterly* 88, no. 1 (2021): 8.

labourers who lived on the land in question. Rather than encouraging social stability by encouraging economic growth, the enclosure process stripped tenants of their previously held common rights and the boons which they provided, allowed for the concentration of wealth within the hands of a select few, and resulted in increased violence and unrest due to resultant discontent.

This paper will primarily focus on the parliamentary enclosure process and its impacts on the tenants and labourers who lived on and farmed the land. Similarly, the justification for enclosure, how it fit within the contemporary British understanding of property (and how said understanding shaped British society generally), and how the capitalist belief of land 'improvement' conflicted heavily with the traditional moral economy of agrarian England are crucial in understanding backlash and social unrest were resultant from the enclosure process. The main purpose of this essay is to dispute the lack of revolution during 18th century Britain as a sign of tacit consent for the strictly hierarchical and classist status quo that valued property and property rights more than the rights and lives of its poor- and labouring-class citizens.[2] It is meant to counter the narrative that the development of private property laws and the increased presence of liberal-capitalist political economy was necessarily beneficial to the wider population of Great Britain and that social unrest was limited by these developments. Finally, this paper will assert that 18th century Britain was a period dominated by class conflict between the moneyed aristocracy and their labouring counterparts rather than one of hegemonic stability and unopposed economic growth. It will emphasize the agrarian poor as agents rather than objects in their often-dogged opposition to parliamentary enclosure. It is no coincidence that despite the continuing growth of the British Empire, her

[2] The notion of revolutions as "unnatural" attacks against the natural constitutional order is embodied in 18th century Britain by contemporary Tory MP and political philosopher Edmund Burke. The belief that a lack of revolution meant support for the current state or that any notable discontent was anarchic can be traced to Burke's comments on the French Revolution and its violence. See Edmund Burke, *Reflections on the Revolution in France* (London: J.M. Dent and Sons Ltd, 1967), 39-40.

vast wealth and burgeoning industrial power, the 18th century ended with an angry, impoverished, and hungry countryside that saw little of the supposed benefits of modern political economy.[3]

This paper is not a dismissal of the tangible agricultural developments that occurred along with, or in relation to, enclosure such as improvements in selective breeding, crop rotation, and animal husbandry. Parliamentary enclosure's effects, positive or negative, were often highly dependent upon the region in which they occurred. Increased harvest yields and both higher quality crops and livestock achieved during this period encouraged the development of professional farming and the decline of subsistence farming; these developments are not inherently in dispute (though there are some interesting caveats with this increased production that shall be discussed in a later section).[4] This paper also cannot claim to have a full understanding of every tenant farmer or yeoman's opinions on and reactions to the enclosure movement. As noted by British historian E.P. Thompson, the cultural customs (codified or uncodified) which dominated the "plebeian" class were in a state of "continual flux." Constant conflict and hegemonic influence were crucial in shaping these evolving customs making any shared belief amongst the entirety of the agrarian poor highly unlikely and impossible to determine even if one did exist.[5] What this paper will dismiss is the belief that parliamentary enclosure was necessarily beneficial or that any losses the agrarian poor experienced because of the enclosure of the commons was an acceptable loss justified by the growth of commercial farming and the British economy.

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[3] E.P. Thompson, *Customs in Common* (New York: New York Press, 1991), 18.

[4] Ian R. Christie, *Wars and Revolutions: Britain 1760-1815* (Cambridge: Harvard University Press, 1982), 4-6 and George S. Pryde, *Scotland from 1603 to the Present Day* (London: Thomas Nelson and Sons Ltd, 1962), 68-70. Though Pryde's work discusses Scotland rather than England, the agricultural developments of the Scottish Lowlands are comparable (if a few decades behind) to those experienced in England.

[5] E.P. Thompson, *Customs*, 4-6.

Enclosure Defined and Justified - Capitalism's Relation to Land

Necessary for understanding how the parliamentary enclosure process impacted tenants is a definition of said process' basic tenets and its relationship with capitalist conceptions of land value. Enclosure was a process by which plots of land were surveyed, measured, and divided into specific allotments under the ownership of specific individuals, typically landlords/manorial lords or local elites such as wealthy farmers. These land allotments were subsequently enclosed by fences, walls, or hedges (giving the process its name) meant to prevent encroachment/trespassing and solidify a given allotment's legal status as private property. Enclosure was typically done for the purpose of enclosing and consolidating common-field farmland into a singular commercial farm, enclosing other forms of common land such as bogs of forests, or the development of crown lands and improvement of public infrastructure. In contrast with earlier enclosure efforts from the 15th-16th centuries, the parliamentary enclosure process of the 18th century was directly supported by parliament both legally through the creation of the *Inclosure Act* (1773) and ideologically.[6]

A heavily bureaucratic affair, the act of enclosure required the careful surveying of the land in question by a legally warranted surveyor and a report on its annual revenue to the Crown, a list of landowners and their properties, exact measurements of the land to allow for division into allotments, and the creation of a group of commissioners to oversee and administer the process once the survey was complete. This could be a surprisingly complicated affair. The *Inclosure Act* (1773) required three fourths of all commoners to support the measure before enclosure could be undertaken; negotiating with such a large group could be unsurprisingly complicated.[7] Similar complications could occur during the

[6] S.J. Thompson, "Parliamentary Enclosure, Property, Population, and the Decline of Classical Republicanism in Eighteenth-Century Britain," *The Historical Journal* 51, no. 3 (2008): 623-624.
[7] Great Britain, Parliament of the Kingdom of Great Britain, *An Act for the Better Cultivation, Improvement, and Regulation of the Common Arable Fields, Wastes, and Commons of Pasture in this Kingdom (The Inclosure Act)*, adopted 1773, s. 1, https://www.legislation.gov.uk/apgb/Geo3/13/81/contents.

survey process. Records regarding land ownership or how a given piece of land was divided were often spotty or inadequate. For example, enclosure efforts on Holy Island (Lindisfarne), Northumberland, were initially delayed by a general lack of knowledge on who actually owned the lands in question. John Fryer, the man responsible for surveying Holy Island, acknowledged that he knew little of the island's divided land ownership before his survey. The only thing Fryer could claim with certainty was that ownership was characterized by "a number of proprietors, divided into small parcels, and those parcels dispersed and intermixed with each other."[8] Upon Fryer's discovery that Holy Island was under lease from the Crown to a Henry Collingwood Selby Esquire, it was revealed in a previous survey document that the last report of land ownership on Holy Island was recorded in 1661, making any available information woefully outdated and a demanding an even more comprehensive survey than in other attempts at enclosure.[9] These bureaucratic measures, alongside negotiating with the local parishioners, could slow the enclosure process and delay its eventual implementation.

Enclosure acts were most often proposed by local elites, landlords, or comparable members of the gentry. For example, John Robinson, Surveyor General of Woods, Forests, Parks and Chases (1786-1802), was directly instructed by the Lords Commissioners of His Majesty's Treasury to "treat" with the parishioners of Winkfield Parish, Berkshire, in order to gain consent for the enclosing a piece of waste land at Mill Gate, Great Windsor Park. The waste contained a dilapidated wooden bridge that was "greatly complained of" by locals and travellers and was believed to be an adequate subject for improvement. Robinson informed the parishioners that, upon their consent, post-enclosure a new brick bridge would be built for

[8] John Fryer to William Harrison, Letter, Newcastle, Northumberland, 14 September 1789, CRES 34/122 Office of Commissioners of Crown Lands and Predecessors: Registered Files on Crown Estates Sold Before 1941, Box 1, Holy Island: Inclosure, Division of Common, The National Archives, London, UK (hereafter referred to as NA).

[9] Surveyor General's Office [William Harrison] to John Fryer, Letter, London, 19 September 1789, CRES 34/122, NA, and Unknown [presumably Henry C. Selby], "Account of the Derelict Lands in Holy Island," Document, 19 September 1789, CRES 34/122, NA.

the convenience of "public passage."[10] This particular example is illustrative of the potentially double-edged nature of enclosure for the commoners. The repair of the dilapidated bridge would be an undeniable boon for the community and any travellers, but the loss of any rights of common post-enclosure was a heavy price to pay.

A more typical approach to enclosure can be seen in Suffolk during the 1780s-1790s in which both the Duke of Grafton and Earl (later Marquess) Cornwallis began supporting enclosure on their lands. In his work on crime and the loss of common rights in England, historian Peter King notes that these efforts, both informal and parliamentary, were undertaken for the purpose of consolidating smaller scattered fields into larger single estates/properties.[11] Section 27 of the *Inclosure Act* (1773) allowed for this easy consolidation, giving landowners full authority to enclose any part of their land so long as it was for private use.[12] The success of these consolidation efforts is evidenced by the concentration of wealth in the Suffolk parish of Timworth by 1786. Though parish agriculture was still fairly differentiated, containing both common-field and enclosed-field farming, 95% of the parish poor rate was carried by its four largest farmers: Worlledge, Steel, Harrison, and Andrews, indicating the men's immense wealth in comparison to their working-class tenants. By the early-19th century these men-controlled thousands of acres of farmland while the poor of Timworth had lost their rights of common and the lands which previously accompanied them.[13]

Outside of just Suffolk, smaller farms (20-30 acres) had begun to disappear en masse by the late-18th century as larger consolidated plots were economically and bureaucratically

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[10] John Robinson to Winkfield Parishioners, Letter [Draft], Sunninghill, Berkshire, 10 July 1793, CRES 2/63 Office of Woods, Forests and Land Revenues and Predecessors: Unified Correspondence and Papers, Box 1, Windsor: Enclosure, NA, and John Robinson to Mr. Batson, Letter [Draft], Sunninghill, Berkshire, 22 October 1796, CRES 2/63, NA.
[11] Peter King, "Part IV The Attack on Customary Rights," in *Crime and Law in England, 1750-1840: Remaking Justice from the Margins* (Cambridge: Cambridge University Press, 2006), 293-294.
[12] Parliament of the Kingdom of Great Britain, *The Inclosure Act*, s. 27.
[13] King, "Attack," 295-297.

preferable to the new commercial farmer.[14] Their enclosing of fields, along with a speculator boom that saw urbanites begin investing in commercial agriculture and becoming prominent landlords, saw a marked increase in large commercial farms and a proportional decrease in owner-occupancy as agrarian labourers and smaller-scale farmers were either forced off of, or forced to sell, their lands. This created a "farming hierarchy" in which, ironically, those who worked and previously owned the land in common were fixed at the bottom of and consequently rendered landless.[15]

The primary targets for enclosure were plots of common-field farms and perceivably useless common "wastes," the latter being land which had no real purpose to farmers and/ or landlords and was supposedly worthless in terms of economic value. Wastes could refer to woods/forests, marsh, or un-plowable fields; they were described by Elizabethan and early-Stuart gamekeeper and barrister John Manwood as "vacant and waste ground whereof His Majesty (James I and VI) hath no profits at all; norris subjects very little benefit or good thereof."[16] A 1796 bill for enclosing the commons of Macclesfield described said lands as "of small value and incapable of any considerable improvement in their current state," and argues that it "would be very beneficial to several persons interested therein to have the same divided and enclosed."[17] Enclosure was, according to its proponents, a simple matter of common sense rather than a complex sociological issue: if the commons and wastes offered

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[14] J.H. Plumb, *England in the Eighteenth Century (1714-1815)* (Harmondsworth: Penguin Books Ltd, 1961), 152.
[15] Roger A.E. Wells, "The Development of the English Rural Proletariat and Social Protest, 1750-1800," in *Class, Conflict, and Protest in the English Countryside, 1700-1880*, ed. Mick Reed and Roger Wells (London; Franks Cass and Co. Ltd, 1990): 31-32.
[16] John D. Manwood, "Manwood's Proposition for Improving the Land Revenue by Enclosing Wasts - For Sir Julius Caesar," Text, early-1600s (compiled mid-1700s), CRES 40/27 Office of Woods, Forests and Land Revenues and Predecessors and Successors: Miscellaneous Books, Crown lands: Projects for Improvement and Enclosure of Wastes and Commons: Papers, NA, pg. 27.
[17] "A Bill for Dividing, Allotting, and Enclosing the Commons and Waste Grounds, Within the Manor and Borough of Macclesfield, in the County of Chester," 1796, Bill, CRES 2/152 Macclesfield: Enclosure and Allotments, NA, 1-2.

no obvious commercial value in their current state then there was no logical reason why they should be maintained/preserved.[18] Commons (wastes and fields), in contrast to the claims of enclosure's advocates, were critical to the lives and socio-economic structure of the English peasantry and subsistence, but the lack of explicit economic value rendered them acceptable for 'improvement' and development.

The "improvement" of land had been an integral aspect of both capitalist ideology and British political economy since the 1689 publication of *Two Treatises on Government* by John Locke. Locke argued that the improvement of land to its fullest economic and productive capacity was crucial to maintaining capital growth, and that said growth would be for the benefit of the masses. Land that did not fulfil this purpose was deemed wasteful and of little value, socially or economically.[19] Common lands fit this belief and were thus deemed perceivably wasteful because they did not fulfil their full economic potential and were thus demonized as unproductive. Locke even claimed that an acre of "inclosed [sic] and cultivated land" produced ten times the produce yielded by "an acre of land of equal richness lying in waste in the common."[20] This doctrine of land improvement provided a baseline for the capitalist transformation of land from a "source of power to an object of power" in which land was only valued for the potential economic boons it could grant its owner, be it through material extraction and/or labour. In *Capital*, Marx argued that it was this pretext, this ideology of improvement and minimization of waste, which was used to justify the creation

[18] Anonymous, "An Account of the Benefits Which Would Arise from the Inclosing, and Improving the Forests, Parks, and Chaces Belonging to the Crown, Not Only to the Publick in General, but to the Respective Claimants Interested Therein, as the Same were set Forth, and Explained by the Ministers and Officers of his Late Majesty King James the 1st, in Their Many Attempts to Enclose the Same," Text, early-1600s (compiled mid-1700s), CRES 40/27, NA, 43.

[19] Henry Jones, "Property, Territory, and Colonialism: An International Legal History of Enclosure," *Legal Studies* 39 (2019): 189-191.

[20] John Locke, *Two Treatises on Government* (New York: George Routledge and Sons, 1884), 218. Locke's "improvement theory" would also be used to justify Anglo-British colonial expansion. Locke depicted pre-monetary groups such as Indigenous nations in North America as unable to properly develop land for adequate use, therefore justifying British expansion as colonists would make 'better' use of the "wild woods and uncultivated waste of North America." Locke, *Two Treatises*, 218-219, 247.

of the "capital farm," the consolidation of common land into private property, and the exploitation of the commoners via "the systematic robbery of the Communal lands."[21]

The very concept of the commons, "[being] associated with collective rights and appropriation within a given community while promoting use values or non-commodity forms of wealth," stood in stark contrast with the core values of capitalism, an ideology and economic system in which public wealth or the common good are subject to the accumulation of individual capital.[22] If the continued growth of property and property rights were to continue within 18th century Britain then the commons had to be legally separated from its tenants. The common rights which bound the peasantry to the commons were divided and redivided by the commoners, rather than their manorial lords, and these rights provided commoners a degree of power in peasant-landlord negotiations and could not be trampled on without facing immense resistance. Enclosure, however, offered landowners a legal means of eroding any rights of common simply by removing the commons, enclosing the lands in question, and removing any need to treat with commoners once the process was complete.[23]

Pre-capitalist England's relationship with land was defined by the predominance of freeholders and copyholders, customary landowners with a notable reliance upon the commons for economic means and/ or subsistence who engaged in common land ownership with each other and other manorial tenants. By restricting said holders' common rights and reducing land to an object of strictly monetary value, and stressing said value in abstract legal terms rather than material concerns, it could be commodified like any other good. Land as property, rather than a complex natural object entangled in common and customary rights, removed any impediments to 'improvement' and commodification. Enclosed land was a legal

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[21] Foster, Clark, and Colleman, "Marx," 8, Thompson, *Custom*, 106, and Karl Marx, *Capital: A Critique of Political Economy (Volume I: The Process of Production of Capital)*, ed. Friedrich Engels, trans. Samuel Moore and Edward Aveling (Moscow: Progress Publishers, 1977), 364.
[22] Foster, Clark, and Colleman, "Marx," 1, 21.
[23] Ibid, 3-4.

tabula rasa (blank slate) in which laws that did exist did so to protect the rights of the landowner. Tenants were subsequently proletarianized: no longer protected by their rights of common, economically dependent upon their farmer employer's wages for survival, and forever losing their direct ties to the land as agriculture's purpose shifted from subsistence to commercial enterprise.[24] Consequently, Thompson characterized the 18th century as "the century in which liberties become properties, and use-rights are reified," a period in which traditional rights and liberties were restricted to maximize individual profit. Anything could be commodified for this purpose, those in power merely required a justification to do so.[25]

Basic Rights of Common and their Rudimentary Importance

While the rights and responsibilities associated with the commons differed from community to community, there are some notable aspects that unite these various local customs. The rights of common available to plebeian tenants regarding common-field farms and common wastes were both paternalistic and communal, prioritizing a pragmatic and localized form of subsistence rather than individual profit.[26] Use of the commons' natural materials was deemed protected by a series of customary and legal rights: access to firewood (though not timber), soil, and the land itself (for pasture post-harvest or growing small amounts of crops in the wastes) are all notable examples of beneficial rights of common exercised by commoners. Associated rights such as gleaning, sifting through fields post-harvest and taking any leftover grain, were also notable for their value to the common good, allowing poorer families some extra grain to either sell or use for food. While it is impossible to determine an exact economic value for many of these rights (with the possible exception of

[24] Jones, "Property," 191-194, 201; Foster, Clark, and Colleman, "Marx," 5; and Marx, *Capital*, 363-364.
[25] Thompson, *Custom*, 25. William Blackstone, 18th century Tory MP and legal theorist, characterized British law from that century as focused on "the Rights of Things," emphasizing the importance of an individual's relationship with property rather than other people. See Thompson, *Custom*, 35.
[26] Ibid, 3-4.

gleaning, as families could record the value of gleaned grain) their value as a bulwark against wage dependency and artificial scarcity cannot be understated.

Often conservative in nature, these rights and customs of these peasants were typified by their resistance and ideological opposition to the socio-economic 'freedoms' of liberal capitalism. A rejection of ideological 'liberty' in favour of paternalistic authority and traditional modes of production, values more likely to ensure communal stability and survival, was common amongst dissatisfied agrarian labourers who saw enclosure as a threat to their traditional way of life and economic subsistence.[27] In his work on common-field farm agriculture, J.A. Yelling notes that this resistance to enclosure and emphasis on subsistence was a source of contemporary criticism by enclosure advocates. Writers like H.S. Homer and Arthur Young argued that sufficient commercial production was impossible due to the structure of the common-field system. The need for majority or universal consent amongst the tenants to enact any meaningful changes, they argued, discouraged innovation thus limiting production. Yelling refutes this point, arguing that modern scholarship has proven a surprising flexibility and production efficiency was present in the common-field system despite contemporary insistences to the contrary.[28]

Explicit references to the commons and common rights as integral to *res publica* (the common good) were frequent amongst anti-enclosure scholars of the period and often took on a classical republican bent in their ideology. The economic boons granted to the commoners via common lands and common-field farming were of great importance to ensuring their subsistence and relative economic security. Stephen Addington and Richard Price (a dissenting English clergyman and a Welsh minister and moral philosopher, respectively) argued that maintaining the commons was crucial to the survival of the British nation. Both

[27] Thompson, *Customs in Common*, 8-10.
[28] J.A. Yelling, *Common Field and Enclosure in England* (Hamden: Archon Books, 1977), 146.

men regarded the Roman Republic and ancient Greek *poleis* (city-states) as ideal states brought down by laws which favoured the enrichment of the few at the expense of *res publica* and only through the maintenance of a strong and subsistent labouring-class would Great Britain remain strong and prosperous. If the law continued to favour the property-owning gentry and middle-class, Price argued, Britain would be reduced to "a nation of only gentry and beggars, or of grandees and slaves," indicating the value of common lands to their tenants economically as well as their importance in maintaining economic independence from their employers.[29]

A similar argument was levied in 1732 by John Cowper, a Surrey farmer, who wrote a treatise on the potential dangers of enclosure to the English public. Cowper argued that the economic success of a nation was determined by the "numbers of industrious people" and that enclosure had a detrimental effect on the nation by hampering universal economic growth. By restricting the commoners from their rights Britain would, Cowper believed, see an increase in beggary, vagabonding, and reliance upon poor-rates.[30] He emphasized that:

> "The good of the whole ought constantly to be preferr'd to that of a part, and the private interest of a few, give way to publick advantage: Inclosures are a present benefit to some particular persons; but then a greater number of families must be ruined… whatever Improvement is made while the parish continues to be an open-field, a hundred families may partake of the advantage; but when inclosed the benefit is confin'd to two or three."[31]

Cowper's view of the commons as crucial to the maintenance of the agrarian poor's socio-economic stability and their being beneficial to the most amount of people conforms with this

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[29] Thompson, "Classical Republicanism," 627-631.
[30] John Cowper, *An Essay Proving that Inclosing Commons and Common-Field-Lands is Contrary to the Interest of the Nation*, Manuscript (London: E. Nutt, 1732) from Queen's University Library, *W.D. Jordan Special Collections and Music Library*, 1-2.
[31] Cowper, *Interest of the Nation*, 9.

classical republican trend. Classical agrarian laws were interpreted as a method of alleviating unequal land distribution and slowing "political corruption and civil decay" and it was through the continued presence of these laws, these men believed, that the greatest number of people could be helped and enriched.[32] This interpretation of the commons and their value, both socially and economically, to the agrarian poor stands in stark contrast with the Lockean/liberal conception of land value and economic extraction. Given this disparity it is hardly surprising that these values went either dismissed or ignored in justifying parliamentary enclosure. The *res publica* of classical republicanism meant little to a state whose socio-economic policies and laws were predicated upon an immense distaste for "the messy complexities of use right," instead favouring "the notion of absolute property ownership."[33]

It is worth noting that there is a noticeable flaw within the classical republicans' views of British agrarian society (regardless of one's economic or political beliefs): the presence of a moralistic critique, rather than a factual one. For example, Matthew Peters, an Irish writer who supported Price's work, believed that the consolidation of land within the hands of a privileged few would lead to rampant economic inequality and give undue political power and influence to prominent, wealthy landowners. Peters, akin to Price and Addington, made unfavourable comparisons between the fall of the Roman Republic (and later Empire) and enclosure as betraying *res publica*, but his arguments are tainted by antiquated moralistic arguments about Rome's succumbing to luxury and pride.[34] This critique is not surprising if we recognize the origins of republicanism and radical politics within Great Britain as inherently linked with the puritan movement of the 17th century. While the politics of the

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[32] Thompson, "Classical Republicanism," 622, and Cowper, *Interest of the Nation*, 11.
[33] E.P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (New York: Pantheon Books, 1975), 241.
[34] Matthew Peters, *Agricultura: Or the Good Husbandsman*, Manuscript (London: W. Flexney, 1776), Gale Primary Sources, *Eighteenth Century Collections Online*, xxvi, 175-176, and Thompson, "Classical Republicanism," 633-634.

radical puritans may have been, for their time, remarkably egalitarian, their emphasis on purity and humility are likewise well-known.[35] It is possible that Peters, in a continuation of these beliefs, inherited both the radical spirit and judgemental nature of republican puritan radicalism of a bygone century.

Traditional Historiography vs Counter-Historiography

The traditional view of the 18th century as a period of stability and relatively minor unrest is built upon two flaws within the historiography: an unwillingness to analyze the lives of labourers/commoners and a tacit acceptance that economic growth inherently resulted in social stability. Both are the result of historians accepting the ideological justifications for enclosure and likewise demonstrate a willingness to dismiss the labouring poor in a comparable manner to the landlords and farmers of the 18th century who engaged in the process. The Whig/liberal historiographic approach to enclosure is/was a continuation of the same ideological and economic principles of the 18th century that capitalist beliefs in land improvement and resource extraction are inherently justified by common sense and profitability. This results in a deterministic view of British history in which the delanding and proletarianization of the agrarian poor is treated as inevitable, therefore their struggle against the deleterious consequences of enclosure is reduced to ignorance or a dogmatic adherence to custom. The reality of the situation, that the labouring-class' customs were ever-evolving in resistance to impositions from their economic 'superiors,'[36] is made irrelevant within this historiography because any forms of resistance can be dismissed as anti-modern or conflicting with whiggish understanding of history as a path towards enlightenment.

[35] Geoffrey Holmes, *Politics, Religion, and Society in England: 1679-1742* (London: The Hambledon Press, 1982), 258-259, and Ariel Hessayon, "Restoring the Garden of Eden in England's Green and Pleasant Land: The Diggers and the Fruits of the Earth," *Journal for the Study of Radicalism* 2, no. 2 (2008): 3-4.
[36] Thompson, *Custom*, 6-7.

The dismissal of the labouring poor is visible in numerous high-profile works in British history from much of the 20th century including (but not limited to) J.H. Plumb's *England in the Eighteenth Century (1714-1815)*, Robert K. Webb's *Modern England: From the Eighteenth Century to the Present*, and Paul Langford's *A Polite and Commercial People: England 1727-1783*. Plumb's work, for example, is aristocratic in its focus. While this is not an issue in and of itself, it means that much of his work is based upon the actions and reactions to contemporary events by a specific class of people who enjoyed at least some level of economic prosperity. Plumb is not alone in this focus, as much of the primary material from the 18th century is sourced from the wealthy gentry and aristocracy as many of the poor were illiterate/semi-literate and did not keep records of written correspondence or personal accounts. Plumb is not unsympathetic to the plight of some lower class figures such as poorer merchants, noting the initial difficulty for them to compete against monopolistic trade companies or form joint-stock companies without an expensive royal charter, but typically ignores the concerns of those without land or capital.[37] Notably, when referencing enclosure, Plumb cited the process' tendency to result in higher yields and increased profitability for landlords and farmers but wholly dismisses the concerns of the labourers and tenants who actually farmed the crops and lived on the enclosed lands in question. Plumb blames any hesitation towards the enclosure process on human nature, claiming that "aversion to change" as well as "obstinacy, stupidity, and ignorance" were the sole obstacles to innovation and 'improvement.'[38] Plumb is not wholly dismissive of the rural poor's plight. He does note the existence of violence among the rural poor of the late-18th century, recognizing that wages lagged behind high food prices and that rural cottage industries had begun to decline, but he refuses to tie this development as a result of capitalist ideology

[37] Plumb, *Eighteenth Century*, 22, 25-27.
[38] Ibid, 82-83.

which did not place value upon Britain's agrarian labouring-class.[39] Discontent and proletarianization are regarded as inevitable aspects of modernization and liberalization, rather than deliberate policy choices justified by political economy. This demonstrates a key ideological bias in how Plumb addresses the history of the 18th century; the concerns of the unlanded poor are of lesser or no importance in comparison to the potential innovation and improvement that was propagated by the moneyed class.

A similar issue arises in both Webb's *Modern England* and Geoffrey Holmes' *Politics, Religion, and Society in England: 1679-1742* in which any reference to unrest or "popular radicalism" are limited to discussions surrounding the political elite of Britain, rather than its actual populace. Both authors assert the unwillingness of British MPs to question the hierarchical status quo in which the state operated and helped maintain, noting a lacking demand for reform throughout most of the 18th century, except during periods of strife and then only by a minority of MPs.[40] Brief mentions are given to the reformism which emerged during the 1770s and early 1780s as a brief period of economic decline and food shortage occurred in the wake of the American Revolution. Tellingly, Holmes characterizes these flirtations with radicalism by middle- and upper-class philosophers and Methodists as a "whiff," downplaying their relevance in the broader political sense and ignoring the genuine popular unrest which was widespread amongst the lower-classes during the late-18th century.[41] Both texts are representative of an unwillingness to engage with the poor as a subject, rather than an object of history, instead giving sole focus to those already in the halls of power.

A similar disregard for the poor is visible in Langford's *A Polite and Commercial People*. While more critical of the middle-class and 'new men' than Plumb or his

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[39] Ibid, 152-154.
[40] R.K. Webb, *Modern England: From the Eighteenth Century to the Present* (London: George Allen & Unwin, 1981), 29, 47-48, and Holmes, *Politics, Religion, and Society*, 13, 259.
[41] Holmes, *Politics, Religion, and Society*, 262.

contemporaries, Langford's assertions that the rise of the British middle-class and the growing importance of wealth rather than title constituted a "revolution by conjunction rather than confrontation" is dismissive at best and disingenuous at worst. While his notion of unlanded middle-class professionals "flying from [their] inferiors" and integrating themselves into the halls of power at the labouring-class' expense is an apt description, the belief that this constituted any form of revolution is absurd.[42] If anything, Langford's descriptions of the period are Gramscian in nature, as through their active participation in and integration into the capitalist economic system of 18th century Britain the moneyed middle-class were not revolutionary social climbers but a hegemonic component of the ruling caste, exerting their economic influence over the agrarian poor.[43]

Langford's work likewise emphasizes the second historiographical flaw that economic growth necessarily predicated social stability. While he does not assert that the lower-classes' wealth grew at a comparable level to the middle- and upper-classes, and he is notably critical of the false egalitarianism espoused by those in positions of wealth and power (especially regarding sex and race), he is generally unconcerned with the economic tribulations faced by the labouring classes.[44] This is likely the result of his reliance upon Joseph Massie's 1759 social table on familial wealth in England and Wales and its revision by Peter Lindert and Jeffrey Williamson in 1982. By Langford's interpretation of Massie's table, approximately 19% of the Anglo-Welsh population was of middle-class or higher (annual income > £50) and approximately 80% lived at or above subsistence levels of wealth (annual income =/> £20).[45] However, despite citing Lindert and Williamson's revisions, Langford ignores their comments on the polemical nature of Massie's table and its

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[42] Paul Langford, *A Polite and Commercial People: England 1727-1783* (Oxford: Clarendon Press, 1990), 66-67.
[43] Antonio Gramsci, *Selections from the Prison Notebooks* (New York: International Publishers, 1989), 12.
[44] Langford, *Polite and Commercial*, 59, 68, 113.
[45] Ibid, 62-64.

conspicuous omission of those in poverty. According to Lindert and Williamson's revisions, approximately 412,310 families had an average income of £20 or lower. This means that, by Langford's own interpretation of income necessary for subsistence, 26.4% (1,539,140 total) of Anglo-Welsh families were just at or below the poverty line.[46] By failing to address this issue with Massie's table the poor are immediately removed from any argument regarding economic growth and stability and call into question how stability could be predicated by economic growth if just over one quarter of the population was living at or in abject poverty.

Linda Colley's *Britons: Forging the Nation 1707-1837* exhibits interesting similarities to Langford's work, in which she is likewise more critical of 18th century Britain and its foundational myths than previous liberal historians but is either unable or unwilling to call exploitative capitalist policies by their name. Much of Colley's discussions on instability in Great Britain are predicated upon the religious divide between Protestantism and Catholicism which had permeated British society for centuries. She characterizes the British poor as monolithic in structure with much of their violence a result of anti-Catholic sentiment; their values linked by Protestantism regardless of individual sect or nationality [i.e., Anglican, Dissenter, or Presbyterian or English, Welsh, or Scottish].[47] Colley emphasizes these religious linkages as crucial to both instances of violence and stability. For example, the anti-Catholic Gordon Riots (the largest urban riots in British history) which plagued London in 1780 were just as tied to the othering of Catholics within publications and politics as the religious superiority complex which supposedly placated the British poor by asserting their moral superiority over their Catholic neighbours.[48] Colley discusses how generally disparaging attitudes towards Catholicism amongst the British public indicted

[46] Peter H. Lindert and Jeffrey G. Williamson, "Revising England's Social Tables: 1688-1812," *Explorations of Economic History* 19, no. 4 (1982): 394-397.
[47] Linda Colley, *Britons: Forging the Nation 1707-1837* (New Haven: Yale University Press, 1992), 23.
[48] Colley, *Britons*, 33, 332.

Catholics as backwards and ignorant, "to be Catholic" she argues "was to be economically inept: wasteful, indolent and oppressive if powerful, poor and exploited if not."[49] The Protestant rhetoric on display is notably similar to the Lockean liberal-capitalist arguments used against the poor in situations of enclosure: the emphasis on plebeian backwardness, the disparaging of waste and wastefulness, and presenting poverty as a moral failure rather than a systemic flaw.[50] Colley never commits to linking these two facets together and, in fact, dismisses the criticisms of historians such as E.P. Thompson and Douglas Hay that British society was dominated by a limited aristocracy. She instead describes a steady growth of working-class political participation and social awareness, rather than the de-landing and emerging wage dependency of poor labourers.[51] Protestantism is critical, its values and their impact on the poor are discussed, but the obvious linkages between Calvinist criticism and Lockean political economy are disregarded in favour of traditional views of the poor's place in the 18th century.

While traditional historiography, as demonstrated, tacitly accepts many of the ideological and economic beliefs that promoted enclosure, the counter-historiography in contrast rejects these beliefs in favour of a more critical, typically more left-leaning, approach. This rejection comes in numerous forms. The first is a rejection of enclosure as inherently necessary for ensuring agricultural innovation and improvement. This facet of historiography is explored in works such as J.A. Yelling's *Common Field and Enclosure in England 1450-1850* and M.A. Havinden's "Agricultural Progress in Open-Field Oxfordshire," the former drawing heavily on the research of the latter. While neither work is

[49] Ibid, 34-35, 158.
[50] Neil J. Smelser, *Social Change in the Industrial Revolution: An Application of Theory to the British Cotton Industry* (Chicago: University of Chicago Press, 1959), 67-68. Smelser underlines the importance of independence to Protestant theology; noting that a greater loyalty to God, rather than community or crown, could justify the pursuit of individual gain without undue restrictions.
[51] Ibid, 55-56, 227-228.

openly hostile to parliamentary enclosure as a process, their questioning of the process and its supposed necessity for improvement of land and agriculture is crucial in offering a counter-perspective to the classist belief that improvement was only possible from the top-down and without the support of agrarian labourers. Both Havinden and Yelling place greater emphasis upon the improvements to agricultural production made in the common-field system and the means by which tenants could exercise authority over the lands upon which they lived and worked, such as through local parish by-laws and husbandry agreements.[52] Yelling particularly draws a crucial distinction in his discussion of common vs. enclosed field farming, arguing that the subsistence of the common-field system and its inhabitants were its primary purposes, rather than production. Economic concerns, in contrast with enclosed fields, were subject to matters of subsistence and survival in the closed-field system. By emphasizing these disparate purposes, Yelling effectively characterizes the liberal argument not as one simply decrying waste and potential development but one also attacking the inherent limitations of common-field production, accentuating the ever-present dissatisfaction with how customary-use and common rights interfered with unfettered economic growth and the consolidation of wealth.[53]

The second rejection is of enclosure's justifying principles as understood through a liberal of history. E.P. Thompson, Douglas Hay, and Roger Wells' work, among many others, is critical in this field as they undermine and discredit the ideological beliefs that cooperatively justified parliamentary enclosure as a process and dismissed its opponents and their representation in the historiography. Thompson's work in books like *Whigs and Hunters: The Origins of the Black Act, Customs in Common, The Making of the English*

[52] M.A. Havinden, "Agricultural Progress in Open-Field Oxfordshire," *The Agricultural History Review* 9, no. 2 (1961): 74, and Yelling, *Common Field*, 147, 174. Forms of tenant control over their lands and the commons will be discussed in greater detail in a later section.
[53] Yelling, *Common Field*, 174-175, 216.

Working-Class were crucial in re-evaluating and redefining the relationship between the wealthy, propertied classes of 18th century Great Britain and the subaltern labouring class. In contrast to the Whiggish narratives of progress and forward momentum offered by Plumb or Colley; Thompson's Britain is typified by unequal power structures, the economic dominance of labouring Britons supported by Parliamentary acts, and a dogmatic adherence to private property rights at the expense of their traditional and communal counterparts. Thompson goes as far as to argue, in *Whigs and Hunters*, that "the British state, all legislators agreed, existed to preserve the property, and incidentally, the lives and liberties of the propertied." Law and social structure, Thompson argued throughout his writing, were intrinsically linked with socioeconomic beliefs shaping law and law reinforcing socioeconomic beliefs.[54] Thompson frequently cited enclosure as a catalyst and/or cause of social unrest amongst the agrarian labouring class, upending the notion that economic growth resulted in social stability, and analyzed the poor as key agents in their history rather than subjects, bucking the aforementioned determinism latent within many liberal narratives surrounding enclosure.[55]

Existing alongside Thompson's criticisms are those of Douglas Hay, famous for his work on British law and notably Britain's bloody penal code enshrined in the 18th century. While not directly discussing enclosure, Hay's work is equally critical in how it re-evaluated the relationship between the wealthy and the poor during the period, depicting a Britain dominated by a patrician class with an iron grip over the legal system. In "Property, Authority, and the Criminal Law" Hay draws similar conclusions about the nature of law and capitalist conceptions of property as Thompson and other critical historians. He outlines a Great Britain in which property was the paramount right in England after the Glorious Revolution (1688) and was equitable, if not superior, to life and liberty in terms of its

[54] Thompson, *Whigs and Hunters*, 21, 81.
[55] Thompson, *Whigs and Hunters,* 134, and *Customs in Common*, 120-121.

importance.[56] The right to property, and its social value, was enshrined through both natural and religious justifications by Locke and contemporary liberal theorists who argued that the right to accumulate individual capital free from moral or legal restraint was justified by natural law. Capital punishment and the ever-looming threat of execution as prescribed by an increasingly violent British penal code were used to promote social order and an adherence to this new property-based hierarchy.[57] The notion of an equitable society in which the "all men are equal" and the working-class could ascend the social ladder, while a powerful image for conjuring stability and faith in the British law and state, was a fantasy carefully constructed to minimize popular unrest. Criminal law was the "law of property," meant to enshrine property and prevent incursion against individuals with property and designed by the wealthy of Britain with the explicit purpose of protecting their interests.[58]

Works such as these offer a counter-narrative to the one of progress and pseudo-libertarian egalitarianism often posited by traditional historiography. Through this perspective a much darker and more complex version of Britain is thrown into sharper relief. Characterizing eighteenth century Great Britain as libertarian, troubled by only mild civil unrest, is woefully simplistic and ignores both the inequalities and hypocrisies latent within the burgeoning power.[59] More accurately, Great Britain could be described (as demonstrated

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[56] Douglas Hay, "Property, Authority, and the Criminal Law," in *Albion's Fatal Tree* (London: Verso, 2011): 17.

[57] Hay, "Criminal Law," 18-19. As Hay discusses, the social value of property is also visible in the increased number of capital statutes introduced into British law between 1688-1820 (aka 'The Long Eighteenth Century'). Said number increased from 50 to 200+ by 1820, the vast majority of which explicitly related to "offences against property."

[58] Hay, "Criminal Law," 33, 35, 52, and Job Nott, "Job Nott's Humble Advice, With a Postscript," Manuscript (Birmingham: Publisher Unknown, 1792-1793[?]), Gale Primary Sources, *Eighteenth Century Collections Online*, 1.

[59] James J. Willis, "Punishment and the Cultural Limits to Power in Late-18th Century Britain," *Punishment and Society* 10, no. 4 (2008): 414. Willis' comments on Britain's political ideology as "libertarian" in character, while broadly accurate as fear of state encroachment was prominent in unrest, is questionable solely because of how inconsistent these values could be. For example, in 1716 the Whig government dispersed, arrested, and shot at a number of Jacobite protestors who supported James VIII's claim to the throne. The state's tolerance for liberty ended when one

above) as a state willing to subordinate the rights, privileges, and subsistence of its working-class to the rights, privileges, and subsistence of its propertied men. Consider the hypocrisy in how the *Riot Act* (1715) was broadly condemned as a violation of English liberty and the right to popular demonstration, while the equally draconian *Waltham Black Act* (1723) was deemed necessary legislation to protect against "loose and disorderly people" who might upset the status quo.[60] Only through an understanding and rejection of the beliefs used by the wealthy in the 18th century to justify delanding their agrarian labourers and rescinding their common rights can any competent historiography about this topic continue to develop. Tacit acceptance of the socioeconomic beliefs that promoted parliamentary enclosure will inevitably lead to similar dismissals of subaltern groups and their rights; exploitation remains justified and rights subject to the whims of a privileged few.

espoused anti-state views. See Nicholas Rogers, *Whigs and Cities: Popular Politics in the Age of Walpole and Pitt* (Oxford: Clarendon Press, 1989), 28-29.

[60] Rogers, *Whigs and Cities*, 29-30, and Thompson, *Black Act*, 22, 197.

Chapter Two: Rights of Common, Their Value, and Reactions to Their Loss

Rights of Common and Agrarian Commoner Culture

In his book *The Culture of Capitalism,* British historian Alan MacFarlane discusses the evolution of eighteenth-century Great Britain from a "peasant society" to a semi-modern capitalist state. In said discussions MacFarlane outlines a crucial socioeconomic component of the term "peasant" and how it differentiates from agrarian labourer post-enclosure or their farmer employer in terms of definition. For peasants, in contrast with post-enclosure labourers, the farm was the central unit around which all else in their lives stemmed. The farm was not merely a source of income through labour but was crucial for the subsistence of the peasants who occupied them.[61] This argument can be logically extended to include both common-field farms and 'waste' commons (as defined in Chapter 1) as the rights associated with both were crucial sources of livelihood for their tenants. Rights of common like pasturage and tillage, estover and turbary (gathering wood and turf for fuel, respectively), common soil (extracting minerals), and piscary (fishing), and associated rights like gleaning, were often integral to working-class agrarian culture and lifestyle, offering economic boons and necessary means of subsistence.

The dependent relationship between the poor and common lands was a recognized facet of any discussion regarding commons and their fate in a modernizing Great Britain. Poverty was often at the centre of enclosure debates with both advocates and opponents of enclosure citing poverty as a justification for their actions. Advocates, citing well-worn capitalist beliefs of individuality and work-ethic, claimed the commons made the poor lazy and dependent, and simultaneously dismissed the lands in question as 'wastes,' believing them to be of little to no economic worth. One early proponent of enclosure as a solution to

[61] Alan MacFarlane, *The Culture of Capitalism* (Oxford: Blackwell, 1987), 3-5.

the supposed problems of the commons was Samuel Hartlib. An agricultural reformer, Hartlib directly linked the commons and poverty, claiming they "maintained idleness" and trained the poor for the "gallows and beggary, [rather] than the Commonwealth's service." Hartlib even acknowledged that his use of the term 'wastes' would anger the poor who benefitted from the commons but dismissed their potential complaints as irrelevant.[62] Hartlib's beliefs are mirrored in the moralistic criticisms of 18th century Methodist reformers such as Joseph Priestly, who often targeted the "idle poor" as his favourite subject of ire.[63] Similar arguments were made as early as the reigns of the Stuart Kings James the I and VI and Charles I. One unknown author's caricature of a poor, anti-enclosure commoner was that of someone comparable to the "blind, deaf, and lame," an "envious man who [would be] content to lose one of his eyes that his neighbour might lose both his."[64] His paternalistic and anti-poor depiction, common throughout the early-modern period, would only be enhanced by the developing liberal-capitalist ideology present in eighteenth-century Britain. By continually promoting the moralistic capitalist critique that the poor were somehow of lesser moral value because of their poverty, which was deemed to be self-inflicted, men like Priestly and Hartlib justified enclosure and the subsequent restriction of rights of common as part of the 'greater good,' only affecting the morally and economically backwards.

This moralistic criticism of the commons and commoners was also extended to criminality. Not only were the commons a source of idleness or dependence, they were also a source of criminals. Winchester describes contemporary descriptions of commons, by

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[62] Samuel Hartlib, *Samuel Hartlib His Legacie, or, An Enlargement of the Discourse of Husbandry Used in Brabant and Flanders*, Manuscript (London: R.W. Leybourn, 1652), from *The Wellcome Library*, The Internet Archive, 41-42.
[63] J.H. Plumb, *Eighteenth Century*, 135.
[64] Author Unknown, "An Account of the Benefits Which Would Arise from the Inclosing, and Improving the Forests, Parks, and Chaces Belonging to the Crown, Not Only to the Publick in General, but to the Respective Claimants Interested Therein, as the Same were set Forth, and Explained by the Ministers and Officers of his Late Majesty King James the 1st, in Their Many Attempts to Enclose the Same," Document, early-1600s [compiled mid-1700s], Manuscript, CRES 40/27, 44, 47.

enclosure advocates, as "hotbeds of lawlessness and immorality, 'edgy' places on places on the edge of parishes, where clandestine or illegal activities took place."[65] This belief was no doubt enhanced by the prevalence of the Windsor Blacks during the 1720s; a group of men who committed numerous property-related crimes such as poaching, property destruction, and arson.[66] E.P. Thompson described the Windsor Blacks as possessing something of an early class-consciousness, and their attacks as something akin to proto-class warfare. They targeted the upper-class gentry, humiliating the ruling-classes with their initial inability to be caught and subsequently sparked a massive increase in capital sentences for 'property crimes' that demanded a violent response from the state and local elites to save face.[67] Windsor Forest specifically, a massive common stretching over numerous parishes, was noted by Thompson as "the heart of hard-core Blacking" [specifically Winkfield parish, Berkshire] and it is likely that this connection between lawlessness and the common 'wastes' was a prominent inspiration of pro-enclosure rhetoric throughout the eighteenth century.[68] It is unsurprising then that by the 1780s enclosing Windsor Forest was so popular with both local elites and King George III. The forest's conversion from common land [and all that entailed] into a pleasant park, ideal for the gentry to hunt or merchants to traverse, is perhaps the ultimate culmination of the 'criminal critique' of the commons.[69]

Even the notion of the common good was used by proponents of enclosure, though inverted to favour the landowners and wealthy of England and Britain rather than the actual commoners. The above noted anonymous author wrote that "The life of the Commonwealth depends upon corn and cattle; these are the vital nutrients without which the veins and nerves

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[65] Angus J.L. Winchester, *Common Land in Britain: A History from the Middle-Ages to the Present Day* (Woodbridge: Boydell and Brewer, 2022), 111.
[66] Thompson, *Whigs and Hunters*, 22-23.
[67] Ibid, 190-192.
[68] Ibid, 89.
[69] Mr. Rose to Mr. Payne, 8 June 1797, Letter, Winkfield, Berkshire, CRES 2/63, NA, and Mr. Rose to Mr. Payne, 11 June 1797, Letter, Winkfield, Berkshire, CRES 2/63, NA.

cannot be [secured] and relieved." He believed that if every commoner were to use their parcel of land and their allotted commons as they wished it would be detrimental to the Commonwealth, dismissing the needs of the commoners as contrary to the good of the "general good" and an affront to their lords' property rights to enclose and 'improve' land as they saw fit.[70] 180 years later, a Mr. Harrison Esquire would make a complementary argument in favour of enclosure. He noted, in a letter, that successfully proposing enclosure was a matter of 'spin' as much as practicality or potential benefit; believing that enclosing the commons of Holbeach, Lincolnshire, would be successful if both parliament and the commoners believed that it was for "public utility, and of general advantage to the parties interested."[71]

Hypocrisy was never far from the arguments these men so ardently defended, and neither were logical contradictions. James Donaldson, an agricultural reformer in the vein of Arthur Young, made similar arguments regarding the common of Geddington Chase in Rockingham Forest, Northamptonshire. He admitted the commons there was a crucial source of timber and firewood for commoners but would claim that the grazing of cows and the free range of deer prevented "even the smallest of obtaining a regular succession of oak timber" and caused "a daily diminution in the growth of the underwood" that was detrimental to the forest's ecology. Two issues, however, arise from this premise that contradict Donaldson's point. The first is that it is unlikely that conditions in Geddington Chase would ever become this bad. Commoners relied upon the commons for resources so there was both a moral reason and pragmatic necessity to maintain the commons so that they could continue to provide said resources. The second is that if this destruction was so rampant, this "injury

[70] Unknown, An Account of the Benefits Which Would Arise from the Inclosing, and Improving the Forests, Parks, and Chaces Belonging to the Crown, CRES 40/27, NA, 47-49.
[71] Mr. Harrison Esquire to George Maxwell, 10 December 1793, Letter, CRES 2/499 Office of Woods, Forests, and Land Revenues and Predecessors: Unfiled Correspondence and Papers, Box 1, Whaplode and Holbeach Enclosure, NA.

sustained by the deer" and "the destructive havock [sic] made by the devouring jaws of a herd of hungry cattle" so prevalent that only enclosure could prevent the destruction of the chase's trees, how was there still undergrowth and trees available for timber and firewood?[72]

This language was not restricted to writers on enclosure and is similarly visible in the parliamentary acts that legalized the process. The Articles of Agreement for enclosing a section of land in Winkfield Parish, Berkshire, described the commons there as "tracts of wasteland… unprofitable… [and] capable of improvement," reinforcing the British government's belief that land only had value to the commonwealth should it be economically exploited and turned into private property.[73] The irony of defending the "general good" or "public utility" whilst dismissing the commoners' use of their own land and promoting the consolidation of land and wealth within the hands of a few landlords was apparently lost on both our unknown writer and Mr. Harrison Esq.

Opponents, contrasting Hartlib and his ideological descendents, thought it morally wrong to deprive commoners of the goods they secured from their rights of common.[74] Protestant ministers Stephen Addington and Richard Price are typical in their defense of the commons and utilize many of the frequently cited arguments from the period. As noted in the introduction, Addington and Price weaponized the concept of *res publica* [common good] specifically in their attacks on enclosure and economic inequality it fostered. The ministers argue that a system of land ownership and division must exist in which a majority of British subjects were able to live comfortably without submitting to "a mean and miserable

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[72] James Donaldson, *General View of the Agriculture of the County Northampton, with Observations on the Means of its Improvement*, Monograph (Edinburgh: Adam Neill and Company, 1794), Gale Primary Sources, *Eighteenth Century Collections Online*, 39.
[73] Author Unknown, "Grant of a Piece of Waste Ground to Mary Squire in Winkfield Parish, Berkshire," 1792, Document [Copy], CRES 2/63, NA, 1.
[74] Winchester, *Common Land*, 111-112.

vassalage."[75] They likewise dismissed the 'trickle-down' economic theory (embodied in Adam Smith's 1776 book *The Wealth of Nations*) which posited enclosure's inherent good because "it enriched individuals" and "whatever enriched individuals must be 'an advantage to the nation.'" Addington and Price disputed this claim by arguing that any practice that enriches one at the expense of twenty, especially when that one is already wealthy, is neither moral or economically viable as it encourages monopolization of land by the wealthy and the destitution of its tenants.[76] One anonymous "Old Fashion'd [sic] Farmer" made a similar argument in a 1772 newspaper column addressed to then Prime Minister, Lord North. He asks:

> [W]hat advantage is it to King or kingdom to enrich ten thousand men at the expense of impoverishing millions? And is not the case nearly so with enclosing our open fields and commons, where multitudes of industrious poor men are ruined for the sake of enriching a few engrossers of land?[77]

Like Addington and Price, the anonymous farmer emphasizes the hypocrisy of any 'greater good' arguments, stressing that enclosure served only to profit a select few at the expense of the many and likewise argued the importance of the commons for the agrarian poor and the potential devastation should their access be restricted.

Anti-enclosure advocates would even refute the moralistic criticisms offered by men like Hartlib and Priestly, rejecting the liberal concept that individual wealth was somehow equitable to moral fibre and instead argued that the "frugality and industry" of British farmers was not only essential for the kingdom and empire to function, but that said values should see

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[75] Stephen Addington and Richard Price, *An Enquiry Into the Reasons for and Against Inclosing the Open Fields*, Manuscript (London: T. Luckman, 1767), From Gale Primary Sources, *Eighteenth Century Collections Online*, 11.
[76] Addington and Price, *Enquiry*, 10, 14, 22.
[77] "News," *London Evening Post*, 15 December 1772 - 17 December 1772, Gale Primary Sources Online, *Seventeenth and Eighteenth Century Burney Newspaper Collection*. https://link-gale-com.proxy1.lib.trentu.ca/apps/doc/Z2000683954/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=c5570b40.

wider adoption for the strength of both.[78] If enclosure was for the public good, for the purpose of tree-planting for example [as was occasionally cited], it would have been ordered by the Commons, not brought up by private landowners.[79] Arguments such as these indicate a rich debate between the pro- and anti-enclosure advocates of the eighteenth century as well as an accurate awareness, for better and for worse, of the commons' centrality to agrarian culture and commoners' lives.

The Value of Common Rights to Communities

Regardless of the moral or economic stance taken towards rights of common, what is not in dispute is the importance of the commons to its tenants, the "owner-occupier[s]" of the lands in question.[80] As Angus Winchester argues in his recent work on the British commons, *Common Land in Britain: A History from the Middle-Ages to the Present Day*, the commons provided "vital resources" to England's agrarian poor; resources which were often essential in making ends meet. Limited diets could be supplemented by fruits, nuts, and herbs which grew on the commons; buildings could be repaired with sod or thatch dug and cut from the commons, respectively; and fuel in the form of turf or firewood could be cheaply acquired.[81] Two similar benefits available through the commons were the rights of pasture and tillage. As the names indicate, pasture and tillage allowed commoners to graze animals and grow crops, respectively, on allotted areas of the commons for their personal/familial benefit. Tillage allotted families extra grain for food or sale, providing small but important bulwarks against high grain prices or poor harvests. During a period in which exporting grain and/or farmers hoarding supply could create artificial scarcity and could encourage food riots, extra

[78]Addington and Price, *Enquiry*, 21-22
[79] Ibid, 9.
[80] Thompson, Classical Republicanism," 626.
[81] Winchester, *Common Land*, 113.

foodstuffs could make a notable difference in quality of life.[82] Pasturage, in contrast, was far more relevant to wealthier commoners such as yeomen, rather than most simple labourers due to the cost of maintaining animals. The cost, however, could be alleviated by using resources provided by the commons. In Sandy Parish Bedfordshire, for example, "gardeners" often pastured their cows on the marshy common and cut ferns for the cows' bedding. The need to buy feed for the animals was lessened and the cows' manure provided excellent fertilizer for the gardens, illustrating a healthy cycle that was of great benefit to the gardeners.[83] As both Winchester and J.A. Yelling emphasize (along with contemporary agricultural reformer Arthur Young) the prevalence of livestock amongst the commoners was romanticized and many had seen livestock rise to unaffordable prices before rampant parliamentary enclosure during the mid-to-late eighteenth century. However, the loss of any benefits brought by common pasture (such as those in Sandy) could still be detrimental to the community regardless of one's own lack of livestock ownership.[84]

While it is difficult, if not impossible, to configure an exact quantitative value for many of the rights available through the commons, their qualitative worth was self-evident. For commoners, who were often extremely poor, dependency (or at least a reliance upon) upon the boons brought by the commons was not a sign of laziness or economic failure, it was a simple aspect of life. Access to cheap goods or food through common ownership allowed commoners a higher quality of life than would be possible otherwise and saved them vital income which often proved necessary in times of food shortages or grain price hikes.

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[82] John E. Archer, *Social Unrest and Popular Protest in England, 1780-1840* (Cambridge: Cambridge University Press, 2000), 28, 38.
[83] Thomas Batchelor, *General View of the Agriculture of the County Bedford* (London: Sherwood, Neely, and Jones, 1813), 240. Note: Batchelor's work is mostly based on a revised version of Arthur Young's *Annals of Agriculture*, originally published in the 1780s-1790s.
[84] Winchester, *Common Land*, 113; J.A. Yelling, *Common Field and Enclosure in England 1450-1850* (Hamden: Archon Books, 1977), 229-230; and Batchelor, *County Bedford*, 235.

For more quantifiable examples of common rights, one must look to fuel and gleaning. Fuel was perhaps the most notable of the legal benefits afforded by rights of common, as buying fuel could cost a labourer up to 1/5 of their annual wages. Winchester notes that in 1806 Buckinghamshire it cost labourers 16s annually to cut turf for fuel from the commons whilst buying the same amount of coal cost around six times more (£4 16s 3d).[85] Here, Winchester offers a measurable example of the value which commons had to their inhabitants, illustrating how something seemingly mundane like the cost of fuel could increase exponentially should rights of common be restricted in the case of enclosure. Yelling makes a similar observation regarding wood-gathering, noting an increase in fuel shortages in counties with high rates of enclosure as access to cheap, essentially free, sources of fuel disappeared when commons were enclosed.[86]

Like estover or turbary for fuel, gleaning was another crucial custom which historians can more easily measure its value. Gleaning, while not technically a right of common, was still a widely supported agrarian custom supported by both customary use-rights and moralistic arguments. The customary right to gather leftover grain post-harvest was well-established and provided crucial extra grain for food or sale to numerous poor families throughout agrarian England. In *Steel v. Houghton et Uxor*, the "Great Gleaning Case" which saw gleaning rendered a form of trespassing and theft by law, dissenting Justice Gould cited the works of Sir. Matthew Hale and William Blackstone as authoritative precedent which supported gleaning as a component of English law protected by common rights.[87] Likewise, the financial value of the customary practice could not be easily dismissed. In his 1797 report on the English poor, pioneering writer Sir Frederick Eden did a national survey in which he

[85] Winchester, *Common Land*, 113. 's' and 'd' refer to shillings and pence respectively: 12d = 1s and 20s = £1.
[86] Yelling, *Common Field*, 228.
[87] "Norfolk Circuit," *Bury and Norwich Post*, 18 June 1788, 2. For note, Gould was the only justice who dissented in *Steel*.

recorded a great deal of support for gleaning as a practice of immense importance to local agrarian labourers. In the village of Roade, Northamptonshire, for example, Eden reported that one family made £1.10s in grain from gleaning, a sum worth more than 1/4 of the £4 poor relief doled out by the parish annually. He added that "The Poor make a great deal gleaning [in Roade]" and that "several families will gather as much wheat as will serve them for bread the whole year."[88]

The moralistic defenses for gleaning drew from different customs than use rights; those of religion. Custom, in contrast with common law, could be deeply linked to religious beliefs of which gleaning was merely one example. Addington and Price, in their defense of customary gleaning, cited "Divine Legislature" from the Old Testament that demanded farmers leave available foodstuffs for the poor so that they would not starve:[89]

> "When you reap the harvest of your land, you shall not wholly reap the corners of your field; neither shall ye gather the gleanings of your harvest: And thou shall not glean thy vineyard, neither shalt thou gather every grape of thy vineyard; thou shalt leave them for the poor and stranger: I am the Lord your God."[90]
>
> "Six years thou shalt sow thy land, and shalt gather the fruits thereof: but in the seventh year thou shall let it rest, that the poor of thy people may eat; and what they leave, the beasts of the field shall eat: In a manner thou shalt do with thy vineyard and thy olive-yard."[91]
>
> "He that oppresseth the poor to increase his own riches, and he that giveth to the rich, shall surely come to want" and "Rob not the poor because he is poor: neither oppress the afflicted in the gate."[92]

Gould J. posited a similar justification in his dissenting opinion in *Steel*. Along with the aforementioned citation of English legal theorists, Gould J. argued that if England were to

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[88] Sir. Frederick M. Eden, *The State of the Poor; a History of the Labouring Classes in England with Parochial Reports*, ed. A.G.L. Rogers (New York: E.P. Dutton and Company, 1929), 265-266.
[89] Addington and Price, *Enquiry*, 24.
[90] Leviticus 19:9-10 (KJV; all subsequent citations are from this version as it is the official Bible of the Anglican Church).
[91] Exodus 23:10-11.
[92] Proverbs 22:16, 22.

base laws or social standards upon the scripture of the New Testament, then surely it could not dismiss the entirety of the Old Testament as Jewish law when legally convenient. Justice Lord Loughborough, writing on behalf of the majority opinion, decided that the gleanings were the property of the landowner and therefore allowing the poor to glean on one's fields "was an act of humanity [i.e., charity] on the part of the farmer" and that gleaning "could not be claimed as a right." Because, Loughborough J. wrote, there was "no temporal law to compel a man to exercise the virtues of charity" and gleaning was "inconsistent with the nature of property, which imports exclusive enjoyment" the ancient custom could be easily dismissed as simply a form of trespassing and theft of the farmer's property.[93] While Loughborough and the majority are correct, there is no religious obligation [within reason] that should affect secular law, the majority opinion's dismissal of "Mosaic law" presents an interesting hypocrisy in the inconsistency of British values during this period. While Lockean natural rights or economic individualism could be supported by Protestant rhetoric with ease, religious doctrine could be just as easily dismissed should it promote *res publica* or anti-individualism.[94] While this is not unique to religious aspects of English culture during this period, many an Englishman found their 'natural rights' trod upon in some form be they economic or personal, it is merely an interesting observation that so crucial a component of English society in the eighteenth century,[95] Protestant Christianity, could be easily dismissed in the name of profit or convenience.

Given the value, both quantitative and qualitative, it is not difficult to imagine how agrarian society would develop around the commons, both farms and 'wastes.' The centrality

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[93] "Norfolk Circuit," *Bury and Norwich Post*, 18 June 1788, 2, 4.
[94] Linda Colley, *Britons: Forging the Nation 1707-1837* (New Haven: Yale University Press, 1992), 43, and Addington and Price, *Enquiry*, 25.
[95] Nicholas Rogers, *Whigs and Cities: Popular Politics in the Age of Walpole and Pitt* (Oxford: Clarendon Press, 1989), 15, 19, 21. Rogers spends more time emphasizing how traditional livery companies in English cities found their rights disregarded rather than the hypocrisy of proselytizers, but his points do demonstrate how the 'rights of an Englishmen' could be easily ignored or removed if inconvenient to state policy.

of land to peasant life was undeniable, and it therefore should not be surprising that these commonly owned tracts of land would provide the backbone to agrarian culture and economic subsistence. The commons were likewise not just a source of necessary goods for commoners, they also offered a level of independence that was undermined during the enclosure process.

Rights of Common and Tenant Independence

Despite pre-capitalist systems of agriculture and tenancy being incredibly paternalistic in structure there exists compelling evidence of tenants' relative collective bargaining power when dealing with their manorial lords/landlords and employers. Rights of common and the presence of common land ownership, in this regard, helped tenants maintain a level of independence despite paternalistic power-structures and in stark contrast to the wage-dependency of post-enclosure agrarian life in which living conditions were wholly subject to the wages and generosity of one's employer.[96] Because "owner-occupier" tenants had greater power over the common 'wastes' and fields than they did an enclosed tract of land, commoners were able to collectively bargain for more equitable methods of field management and/or regulation. Yelling notes three ways in which they did this: By-laws, piecemeal procedures, and husbandry agreements; the most radical of the three.

By-laws were local laws issued by the manor courts or parish vestry for the purpose of ensuring the smooth operation of the common-field system. They were typically negative in function, meant to prevent rather than promote, and were especially strict regarding pasturage rights as to avert animals destroying tilled land or crops on the common fields. By-laws were the most commonplace form of regulation until the mass adoption of parliamentary enclosure. Piecemeal procedures and husbandry agreements, by contrast, were far more

[96] Roger A.E. Wells, "Rural Proletariat," 36.

radical in nature. The former allowed specific individuals or small groups to make unilateral decisions regarding small (piecemeal) tracts of land, typically regarding their consolidation or alteration to allow for specific crops. Husbandry agreements were direct contracts between the commoners, typically men of minor wealth or influence (like husbandsmen or yeomen, hence the name), designed to promote wider growth or change in farming methods. Piecemeal procedures and husbandry agreements, under extreme circumstances, could result in limited enclosure in a given parish but unlike parliamentary enclosure this tended to be smaller-scaled and did not result in the unilateral curtailing of common rights.[97]

Husbandry agreements are the most notable of this category because they epitomize how common-field farms could be effectively improved and regulated without necessitating lost rights of common. Unlike enclosure, the changes brought on by husbandry agreements were dependent upon mutual agreements between tenants and their landlords which could be renegotiated at the tenants' will rather than being fixed via parliamentary act. One important historian in this field is that of M.A. Havinden whose "Agricultural Progress in Open-Field Oxfordshire" was a crucial first step in deconstructing the myth regarding the 'wastefulness' of 'unimproved' and unenclosed fields. Havinden focused explicitly on how husbandry agreements had been a cornerstone of agrarian Oxfordshire life during both the seventeenth and eighteenth centuries and how the county's role in feeding the growing metropolis of London demanded constant improvements to agricultural production. These improvements, however, were made whilst being "an almost entirely open-field county," refuting any inherent link between productivity and enclosure and dismissing a contrasting link between common ownership and stagnation.[98]

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[97] Yelling, *Common Fields*, 147-148.
[98] M.A. Havinden, "M.A. Havinden, "Agricultural Progress in Open-Field Oxfordshire," *The Agricultural History Review* 9, no. 2 (1961): 73-74.

In his article, Havinden cites numerous parishes throughout Oxfordshire in which communal husbandry agreements produced beneficial changes that allowed for increased agricultural yields and smoother operations of the common fields without resorting to enclosure and the consolidation of land within a select few. The introduction of leys, temporary tracts of various grasses sewn on the sides of fields, throughout the country was one such improvement. Often comprised of both indigenous and newly introduced grasses (such as "ryegrasses, clover, trefoil, lucerne… [and] sainfoin"), leys allowed livestock a place to graze in the fields, being either tied to or penned on the leys, which prevented them from eating the farmer's and/or other tenants' crops. This allowed the continued dual use of common fields for both tillage and pasture and permitted the introduction of new crops and plants without fear of them being destroyed by grazing livestock.[99] Most importantly, while leys were often enclosed on a small scale to prevent animals from escaping, their introduction and use still allotted far greater independence to tenants as their maintenance was dependent upon negotiable agreements between owner-occupier tenants and their manorial lords; common rights were not a necessary casualty of improvement with the husbandry agreement in the same way they were with parliamentary enclosure.[100]

One notable example cited by Havinden of husbandry agreements' effectiveness was in the Oxfordshire hamlet of Taston. In Taston, 1700, a husbandry agreement was made between the manorial lord - Sir Edward Henry Lee, Earl of Lichfield - and his twenty-two tenants to enclose "one part of the open fields consisting of five furlongs [approx. 1 km square], and to sow it with sainfoin. Each tenant would sew their field with a small stretch of the sainfoin to allow for the common grazing of animals, depending on some seasonal restrictions, and under the condition that no tenants' individual strips of common field

[99] Havinden, "Oxfordshire," 75. Sainfoin was the most important of these 'new' grasses. Introduced to Oxfordshire during the 17th century, sainfoin had deep roots that encouraged high nitrogen levels in soil, increasing soil fertility and production.
[100] Ibid, 76, and Yelling, *Common Fields*, 187-188.

farmland would be enclosed by the Earl of Lichfield. During the Summer months, to alleviate any concerns regarding drinking-water for the grazing livestock, an agreement was likewise struck that "all persons having right of common on the sainfoin" had to aid in digging a pond for said purpose. Three fieldsmen were appointed to monitor and regulate the digging and the sewing of sainfoin and fines of up to £10 per furrow were administered should anyone plough the sainfoin plots.[101] Taston is illustrative of the adaptability of the common-field system and the power granted to tenants by husbandry agreements. In contrast to the complete loss of common rights under enclosure and the subordination to total ownership of land by the manorial lord, the Taston agreement allowed for: continued grazing of livestock without total conversion of land from tillage to pasture, the planting of beneficial sainfoin in the common fields, and a system of regulation controlled by the tenants rather than local officials.

No less notable was the nearby town of Fulwell, where the power allotted to tenant labourers via husbandry agreements is again on full display. In the local fields it was agreed that a portion should be enclosed and sewn with sainfoin for the similar purpose of grazing livestock. In 1715, seven yeomen struck an agreement with their manorial lord to continue this practice because it was, in their own words, "advantageous" for them to do so, indicating that these agreements were negotiable and were not necessarily permanent like enclosure often was.[102] Communities such as Taston and Fulwell are representative of the difference between common land management, even in its most extreme form, and singular land ownership under a singular landlord/ manorial lord.

The flexible bargaining power allowed by husbandry agreements allotted commoners far greater independence from their employers than was allowed in heavily enclosed communities. The joint ownership and occupier status prevented arbitrary action by the lord

[101] Havinden, "Oxfordshire," 76-77.
[102] Ibid, 77.

and offered commoners far more influence over the development and regulation of their land than if it were under the direct ownership of a singular person, free from restrictive customs that limited maximization of profit. These forms of pre-capitalist common land regulation were predicated upon a common sense approach that empowered tenants and accepted the tacit understanding that the destruction of the commons for the benefit of a few would be detrimental to the whole community; preventing a communal "free-for-all" without necessitating its conversion into private property.[103] It is in the flexibility of customary agreements and their occasionally nebulous quality that the divide between custom and law was aggravated. Custom, described by E.P. Thompson as the "interface" between law and agrarian practice in eighteenth-century Britain, was based upon necessity and tradition rather than legal code.[104] This marks a stark contrast with common law, of which the centrality of property and individual property rights have often been criticized as evidence of supporting and maintaining the class hierarchy rather than an egalitarian legal code.[105] Enclosure would tip the scales in favour of common law, legitimating the view of land as property and providing a legal basis to erode rights of common for the maximization of profit, upending traditional customary agreements and rendering labourers at the mercy of their landlords and employers.

In tandem to collective agreements encouraging tenant independence, rights of common likewise offered commoners means of substituting their annual wages; presenting small or occasionally substantive means of income that were imperative for the economic

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[103] E.P. Thompson, *Customs*, 107-108, and Antonio Gramsci, *Prison Notebooks*, 419-425. Thompson explicitly references Garret Hardin's influential 1968 essay "The Tragedy of the Commons," noting the deliberately Malthusian context in which both it and pro-enclosure polemics were written. He also notes the inherent anti-poor and pro-capitalist perspectives inherent to Malthusian beliefs.
[104] Thompson, *Customs*, 97.
[105] Pëtr Kropotkin, *An Appeal to the Young*, trans. H.M. Hyndman (Chicago: Charles H. Kerr Publishing Company, 1886), 7-8, and Douglas Hay, "Criminal Law," 25.

security of many agrarian commoners and helped prevent the ever-encroaching wage dependency encouraged by liberal reforms. Some simple, small-scale, examples of this are noted by Winchester in his brief description of cottage industries. He notes that the same raw materials extracted by commoners from the commons for repair or fuel could often be used to create goods for sale, such as baskets. While typically not a family's main source of income, cottage industries could provide meaningful income to working-class families during times of economic hardship, similar to the small reprieve granted by common tillage or estover.[106] In her book *Cottage Industries*, historian Marjorie Filbee notes that straw weaving of hats, baskets, and boxes had become a major cottage industry in the south-east Midlands and northern Home Counties by the 1680s and continued to grow throughout the eighteenth century. This is evidenced by cottagers' opposition to a 1689 bill that would have allowed the wearing of woollen caps, noting it would impoverish numerous rural families. By 1719 the cottagers were petitioning against the importation of straw hats from continental Europe, fearing the negative impacts it would have on their business. The success of this industry was noted by Arthur Young during his tour of Dunstable, Bedfordshire, who claimed it achieved "great perfection and neatness," an impressive commendation given Young's own proclivity towards agricultural reform and enclosure.[107]

Filbee notes similar successes in East Anglia. The region's heavy agricultural focus saw commoners using excess straw for crafting buttons and headgear, with many forms of the latter becoming incredibly popular in the nineteenth century such as the straw boater. The popularity of tillage fields pre-enclosure, and the availability of commons for using one's right of common to tillage, allowed commoners to obtain straw for a mere few pence or grow it of their own accord on the common 'wastes.' Women, who were typically the weavers in

[106] Winchester, *Common Land*, 113,
[107] Marjorie Filbee, *Cottage Industries* (Newton Abbot: David & Charles [Publishers], 1982), 96.

their household, could sell their crafts from anywhere from 3s - 10s per week, often making the industry more profitable for families than the actual farm work done by men.[108]

On a smaller but, no less noteworthy, scale was the manufacturing of kelp on the commons of Holy Island. The right to "manufacture the sea ware[s] into kelp" was a notable source of revenue for the freeholders and commoners of Holy Island. According to one anonymous freeholder, in a letter opposing enclosing the commons and ceding the right to manufacture kelp, renting sea ware manufactory rights to the crown or other interested parties netted the parish of Holy Island "hundreds of pounds per annum."[109] This revenue, he rightly asserted, would be lost should the commons be enclosed and the land necessary for kelp production be allotted to the crown. The proposed enclosure bill, he argued, was solely in "favour of the crown against the freeholders and stallingers to their great injury" and would leave "freeholders with an allotment not worth more than £3.6.0 per annum, and a stallinger's worth about £0.13.1," a noticeable drop in value compared to the value brought in by simply renting land and production rights.[110]

These encroachments upon the commoners' sources of revenue were not solely restricted to Holy Island. To the southwest in the country of Derbyshire, the commoners of Macclesfield had already faced a comparable threat to those on Holy Island. Their lord - William Stanhope the second Earl of Harrington - had attempted numerous times to encroach upon the rights of those on his estate. In Stanhope's opinion, "a coal mine… all mines of copper, lead, tin… and all quarries limestone and iron stone, found or to be found within the said wasts [sic]" of Macclesfield could be more effectively utilized should they be under the

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[108] Filbee, *Cottage*, 97, 99-100.

[109] "Copies of Printed Anonymous Letters Supposed to be Written by the Attorney Employed by Those Freeholders who Wish to Oppose a Division of Common of Holy Island," Document, 20 December 1790, CRES 34/122, Box 1, NA, 3-4.

[110] "Copies of Printed Anonymous Letters Supposed to be Written by the Attorney Employed by Those Freeholders who Wish to Oppose a Division of Common of Holy Island," CRES 34/122, NA, 4-5.

direct control of the manor, rather than the commoners who possessed the rights to their use and revenues. Enclosure was viewed by Stanhope as a tool to justify his "additional encroachments" which fell outside the stated powers in his lease, offering him a legal basis to circumvent rights of common and increase his own manorial/personal revenues without requiring him to development the commons and/or split the potential mineral revenues with the commoners (whose rents made up the majority of Macclesfield Manor's revenues - 26.9.8/70.2.6).[111] The increased value of the Macclesfield coal mine from 3.10.8 to 20.0.0 between 1761-1790, along with it no longer being listed among the resources of the commons, indicates that enclosure initiatives were eventually successful in those 29 years and were evidently profitable for the manorial lord.[112] Like Holy Island, enclosure can be seen as an efficient means for curtailing common rights and obtaining full legal support in the process, effectively restricting commoners and ensuring complete legality under common law.

While many of these small industries did continue in earnest after the widespread application of parliamentary enclosure in the 1780s-90s - Filbee provides numerous examples of straw weaving/plaiting, pottery making, etc. that continue to the modern day - there is quantifiable evidence of the value brought to the commoners by the presence of cottage industries and local manufactories. While these industries were not reliant upon the commons, and were not ended by enclosure, the importance of cheap materials from the commons or the ability to simply grow or dig-up relevant materials due to rights of tillage or the soil cannot be understated. These industries and commonly owned manufactories, because of the money they provided, granted commoners a vital shield against wage

[111] G. Grey, "Produce of Encroachment & Mines at Macclesfield - Earl of Harrington, 1755-1761," Document, 1761, CRES 2/153, Macclesfield: Miscellaneous, NA, and William Stanhope to Robert Herbert Sawyer, Letter, 22 October 1765, CRES 2/153, NA.
[112] Grey, "Produce of Encroachment & Mines at Macclesfield - Earl of Harrington, 1755-1761," CRES 2/153, NA, and Mr. Hawkins, "Rental of the Cottages & Enclosures Within the Manor of Macclesfield," Document, 5 June 1790, CRES 2/152, NA.

dependency and proletarianization, allotting them greater independence from their employers and a modicum of bargaining power not allowed by the capitalist employer-employee relationship that proliferated in agrarian communities post-enclosure.

Reactions to Lost Rights of Common

While parliamentary enclosure could spark local unrest in numerous ways, this section will focus solely on the restriction of common rights and the effects of said restrictions. The restriction and abolition of rights of common was swift post-enclosure and the value for any given rights of common, and their importance to a given community, can be easily measured in how tenants responded to losing said customary rights. Unsurprisingly, limiting the rights of common post-enclosure was the source of much ire and unrest in the 18th century rural communities; riots and related crime were not an uncommon response. One common reaction to losing common rights was to simply continue to exercise them regardless of their new legal status. While most of these attempts to preserve or continue practicing rights of common were unsuccessful, this did not stop peasants or anti-enclosure activists from trying. Archer notes that, despite being defined as a form of theft in the 1788 *Steel v. Houghton et Uxor* case ("no person has, at common law, a right to glean in the harvest field"), gleaning continued mostly unabated into the 19th century, despite the constant complaints of farmers and their attempts to press charges against 'trespassing' peasants.[113] King makes similar observations, noting that labourers in Cumbria continued to glean the fields despite farmers' opposition. The labourers avoided fines by eliciting sympathy from local legal officials and institutions such as the parish, local magistrates, and local jurors; federal law may have had no sympathy for the working-class in eighteenth century Britain, but the prevalence of custom in local law could prevent what were seen by

[113] Archer, *Social Unrest*, 14 and "Norfolk Circuit," *Bury and Norwich Post*, 18 June 1788, 2.

labourers as arbitrary fines and restrictions.[114] Likewise, collective protests by gleaners against farmers indicate that attacks against the pre-enclosure moral economy and the common rights associated with it were not taken willingly by the peasantry.[115]

Archer likewise notes that numerous commoners continued (throughout the mid- and late-18th century) to exercise their dissolved right of estover in the acquisition of firewood from what were previously common lands. Poaching would similarly continue in earnest, despite the harsh punishments for such crimes laid out in the 1723 *Black Act*, as wild animals still being seen as valid targets for hunting by many commoners.[116] Despite the nominally amoral character of poachers, farm animals were not typically targeted for the purposes of hunting/poaching as they were unambiguously the property of their owners. Some commoners would also continue pasturing their animals on lands which they possessed no legal title to do so, relying on custom and convention to protect them from legal consequences. Archer refers to these acts committed by the commoners as "social crimes," emphasizing that those who perpetrated illegal pasturing, trespassing, poaching, gleaning, or wood-theft were not viewed by themselves or their commoner peers as criminals because said acts had popular sanction and were interpreted as an expression of valid common rights.[117]

Restricting rights of common and their continued practice by many commoners had the simultaneous effect of artificially increasing crime rates and local unrest, justifying further restrictions of rights and harsher treatments of commoners. One notable example of this ouroboros-like effect was the restricted right of estover. Most exercised by wood-gathering, the practice was made effectively illegal by *An Act for the Better Preservation of*

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[114] King, "Customary Rights," 281-283.
[115] Ibid, 283-284.
[116] E.P. Thompson, *Whigs and Hunters*, 22.
[117] Archer, *Social Unrest*, 14-15; Wyke House to Mr. Payne, Letter, 5 November 1798; and Yelling, *Common Field*, 228. Unfortunately, there is a lack of statistics regarding how many commoners engaged in this illegal pasturing, "only the judgement of contemporaries" exists as a source for this behaviour. See Yelling, *Common Field*, 228.

Timber Trees, and of Woods and Underwoods; and for the Further Preservation of Roots, Shrubs, and Plants [6 George III, c. 48, 1766]. The act rendered it illegal to:

> Cut or break down, bark, burn, pluck up, lop, top, crop, or otherwise deface, damage, spoil, destroy, or carry away, any timber or trees, or trees likely to become timber… without consent of the owner… or, in any of His Majesty's forests or chases, without consent of the surveyor [or other government official].[118]

First offenses were punishable by a fine up to, but not exceeding, £20. Third offenses were deemed a felony charge and those guilty were sentenced to seven years transportation to one of Great Britain's colonies [typically the penal colony of Botany Bay, Australia].[119] Contention towards the law by the agrarian poor was exacerbated by its liberal-capitalist framing that dismissed wood-gatherers as "idle and disorderly" and stigmatized them as thieves and criminals.[120] The act's allowance for landlords to withdraw consent for wood-gathering sparked increased controversy during the numerous wars with France [1789-1815] as lords could prevent the poor from woodlands, making it simpler to commercialize forests and their timber for sale to the Royal Navy.[121] This convenient side-effect, contemporaneous to increased parliamentary enclosure, perhaps reveals the purpose of the act more than its actual name. By rendering a practice illegal that was a customary right to so many commoners, and a crucial method of both saving money and providing fuel for one's family, the British parliament and gentry effectively created a new source of crime. Because of 6 George III, c. 48, in tandem with the anti-trespassing components inherent to enclosure acts, wood-theft became a crime of necessity that arbitrarily inflated crime rates and dissent as

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[118] *The Statutes at Large, from Magna Charta to the End of the Eleventh Parliament of Great Britain, Anno 1761*, Manuscript (London: John Archdeacon, 1767), from Oxford Library, *Internet Archive: European Libraries*, 258.
[119] *Statutes*, 258-259, and James J. Willis, "Punishment and the Cultural Limits to State Power in Late 18th-Century Britain," *Punishment and Society* 10, no. 4 (2008): 402, 404.
[120] *Statutes*, 259-260.
[121] R.W. Bushaway, "Custom, Crime, and Conflict in the English Woodland," *History Today* 31, no. 5 (1981): 38.

there were no comparably cheap and/or simple ways to acquire fuel. It should hardly be a surprise that wood-theft rates were at their highest in parishes that experienced heavy amounts of land enclosures indicating the practice's tendency to increase local crime and unrest that were ironically associated with the commoners, rather than limit them.[122]

This phenomenon is also visible in 'food-related' crimes such as food-theft and poaching. As noted above, both crimes would continue regardless of the 'waste' commons and common fields being enclosed; risk of criminal charges were deemed preferable to the commoners than starvation. The propertied classes were viewed as excellent targets for theft, their gardens and fields providing easy sources of food for impoverished labourers who had, by the 1790s in enclosed communities, lost the right to glean and the right to grow food on the commons.[123] The already dire economic situation of many commoners was exacerbated by the spiralling agrarian labourer wages (which shall be discussed in greater detail next chapter) and the notoriously sporadic wheat prices sparked by market instability and inflation due to the ongoing wars with Revolutionary France. In contrast to previous decades and centuries in which labourer wages were determined by the price of wheat, rising according to increased prices during times of shortage, farmers in the 1790s disliked raising wages because of the difficulty in lowering them. They believed that the burden of providing adequate wages to their working-class labourers would be covered by the local Poor Relief, meaning employers had no incentive, moral or financial, to pay wages necessary for subsistence.[124] A quarter (12.7 kg) of wheat had cost 25-45 shillings between 1710-1765 - in 1795-1796 a quarter of wheat cost 70 shillings, in tandem with stagnating wages this spelt catastrophe for the agrarian working-class. It is because of these falling wages and hyperinflated wheat prices that Neil Smelser coined the war years (1792-1814) as the

[122] Archer, *Social Unrest*, 13; and Winchester, *Common Land*, 111.
[123] Wells, "Rural Proletariat," 41.
[124] Archer, *Social Unrest*, 9; and Wells, "Rural Proletariat," 35-36.

"gloomiest" experienced by the working classes during the 'Long Eighteenth-Century.'[125] Any increase in crime during periods of economic hardship is not unexpected, however the recent loss of gleaning in the *Steel* case and the lost common rights of tillage post-enclosure no doubt worsened the situation, encouraging "social crimes" as a means of survival in opposition to artificial scarcity.

Conclusion

The loss of common rights post-enclosure was a heavy blow to many agrarian communities in England during the late-eighteenth century. The veritable boons the commons offered through land, resources, and financial independence from manorial lords is evidenced both in their quantitative value, such as those on Holy Island, or in the complex and interwoven customary agreements used to maintain them, such as in Taston or Fulwell. Likewise, the prevalence of "social crimes" and the continued exercise of common rights and customs such as gleaning or estover is indicative of their relevance to a given community. Unfortunately for the commoners, lost rights of common were only the beginning. Increased rents, artificial scarcity, inadequate poor relief, and unemployment - these debilitations and more would mark the experience of agrarian communities in a rapidly modernizing and capitalizing Britain, resulting in rampant unrest throughout the countryside.

[125] Neil J. Smelser, *Social Change*, 216.

Chapter Three: Broken Communities and Broken Promises: The Collapse of Commoner Communities

Economic Independence?

With the proliferation of parliamentary enclosure during the late-eighteenth century, the structure of peasant life as Britain knew it was fundamentally broken. In contrast with the common ownership and subsistence based communal structure that defined the use of common lands, the individually owned allotments and commercial agriculture marked a distinct shift in social structure for commoners. Common law and property, rather than custom and survival, would come to dominate in enclosure's wake. John Archer most aptly describes the spiralling situation for agrarian labourers in the late-eighteenth century with three phases: "Proletarianization, pauperization, and disinheritance." Archer's terms work so well because they succinctly summarize how enclosure fundamentally shifted agrarian England away from paternalistic structures of pre-capitalist towards a modern, capitalist system of living.[126]

While enclosure of both the commons and common fields was often proposed to tenants and labourers as a means of securing independence from pre-existing economic restraints and a method of improving the land, this was little more than a facade to allow for the elimination of one group's rights to enrich another, much smaller, group. As Thompson notes, independence in labour was akin to starvation or meagre subsistence for many labourers. These families were still reliant upon the wages paid by their employers, and riots or unrest in opposition to the 'freedom' granted by liberal-capitalism were not an uncommon occurrence during the late-eighteenth century.[127] It is worthwhile to analyze why commoners reacted the way they did to their supposed independence and how the new capitalist

[126] Archer, *Social Unrest*, 9.
[127] Thompson, *Customs*, 10, 18, 41.

understanding of land as property, rather than a source of power and/or survival, was detrimental to the lives of the "labouring poor." This task is admittedly rendered more difficult than it initially seems due to a lack of sources from the poor themselves. However, the reports on the condition of the poor by middle- and upper-class contemporaries as well as the poor's reaction to their changing situation is illustrative of a group either resisting this change tooth and nail, or begrudgingly accepting it and unable to change their situation.[128] It is worth noting that any notion of equal economic growth, growth in favour of the public good, or the boons of supposed economic independence were effectively dismissed, during this period, by Addington and Price. They argued that it was irrelevant if the value of land doubled after enclosure because it did not enrich both parties of landlord and tenant, it merely gave more wealth and economic power to the landlord despite requiring neither. Tenant labourers and poorer farmers who fell into economic hardship and required support from their landlords and/or their communities were less likely to receive it in this newly 'independent' and insular societal structure.[129] Criticisms such as these indicate that anti-enclosure activists had already foreseen the decline of agrarian society and agrarian working-class living standards even before enclosure reached its peak during the 1790s and that enclosure's deleterious effects on the rural working-class were hardly a surprising side-effect of these land policies.

Broken Communities

With the rapid disintegration of common land ownership and the common field system of agriculture in numerous parishes across Britain, the basis of agrarian life was altered. One immediate loss was that of land rights and ownership associated with common

[128] Thompson, *Customs*, 17; and Sir Frederick Eden, *The State of the Poor*, 226.
[129] Addington and Price, *Enquiry*, 7.

lands. Once the enclosure process had divided land into individual parcels/allotments, commoners often found themselves with far more restrictive plots than pre-enclosure. Availability of land shrunk immediately post-enclosure and its value, given its being enclosed and being more likely to be used for profitable pasturage rather than tillage, skyrocketed. Yelling notes that cottagers, who previously had access to large swathes of the commons [realistically, whatever was reached by common agreement] were often limited to > 1 acre - 2 or 3 acre plots, though the former was more common.[130] While cottagers who actually owned their cottages had the benefit of typically receiving financial compensation for the land they lost after enclosure, cottagers who had erected their houses upon the commons without actually owning the land [i.e. squatters] were not so lucky. For example, in the parish of Campton-cum-Shefford, Bedfordshire, allotments of three roods of land were being sold for forty guineas [£40], a sizable sum for commoners who already owned large swathes of land.[131] This is in stark contrast with squatters who received nothing. In the parishes of Hartson and Abington Pigotts, Cambridgeshire, Arthur Young wrote that landlords, rather than divide land equally amongst the cottagers in keeping with their pre-existing lands, simply enclosed and divided land around the cottages with little regard for equal distribution or how restricting land access might hurt survivability. Young lamented the state of post-enclosure Abington Pigotts specifically, writing "a very bad and melancholy account… formerly every poor man had a cow, some by right others by permission; on the enclosure the whole parish belonged to one person, the rights had allotments assigned them and were thrown to farms."[132] While it is unlikely that "every poor man had a cow" before enclosure, Young's account does indicate a widening disparity between the poor and wealthy of the parish.

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[130] J.A. Yelling, *Common Field*, 230.
[131] Yelling, *Common Fields*, 230. 1 Rood = 1002m^2.
[132] Ibid, 230.

This division is excellently described in Thomas Batchelor's work on agriculture in the county of Bedfordshire as most parishes within said county had been enclosed by the time it was written. In Campton-cum-Shefford, which formerly possessed a rich common of seventy acres, after enclosure "the poor were left without stock or property" and ownership of cows and other livestock decreased. In Felmersham the number of cottages dropped by 4-5 after enclosure and there was a labour shortage due to depopulation. In Holcut, Batchelor wrote, "the poor have no houses in this parish." In Maulden there was "much rioting" in response to enclosure, with "an extensive allotment" needing to be set aside for fuel meant to alleviate shortages after rights of turbary and estover had been restricted.[133] While Batchelor is only writing about one county, the effects of enclosure on the poor he describes are fairly consistent throughout. The poor found themselves delanded and hurt by losing many of the boons which their rights of common had previously allowed them.

Boons which were previously accepted rights had now become either illegal or impossible to maintain. Tillage on the commons for extra food? Trespassing. Grazing one's own animals on either the 'wastes' or common fields? Trespassing and, potentially, theft. Estover or turbury for firewood/fuel? Trespassing and theft. With the consolidation of ownership of the commons under the title of one person, or a small group of people, any encroachment upon said individual's property rights was in violation of that which was becoming sacrosanct in Britain, property.[134] A specific example of this change can be seen in Heytesbury, Wiltshire, in which the occupiers of a nearby meadow found their sheep impounded by landowners after grazing them there. They cited their right of common to graze said sheep in the meadow, but the Hereford Assize court ruled in the landowners' favour, ruling that only by special agreement could the sheep graze. That which was

[133] Batchelor, *County Bedford*, 224-225, 228-229, 231, 235.
[134] King, "Customary Rights," 282.

previously a well-established customary right was now a crime.[135] More broadly examples include cottagers who had previously possessed "ancient" rights to their land upon the commons, even if they did not technically own the land, and were granted a sort of customary ownership. These cottagers could sell, rent, lease, or buy land upon the commons accordingly, as they often did for the purposes of pasturing livestock or renting the right to do so upon someone else's land. This was restricted upon enclosure, as landlords used the process to remove cottagers from the former commons without risking the ire of the community or necessitating any legal battle.[136]

The consolidation of land ownership within a singular individual was likewise a change that had a disproportionately negative effect on the poor commoners. Unlike the collective bargaining and cooperative agreements [such as by-laws or husbandry agreements] that had dominated pre-capitalist English agrarian life, the vesting of sole ownership within a single person allotted the given owner an enormous amount of power over the land and its tenants. This disproportionate division of power and land is visible in the Articles of Agreement for enclosing the commons in Isleworth Parish, Middlesex. The Articles, describing the enclosure as an for the "preservation of Timber and underwood," do clearly outline that all commoners who lost their "right of common pasture or other right of common" would be financially compensated with £105 to be distributed among them, making the enclosure seem, perhaps, more equitable than previously anticipated.[137] This compensation however, though mandated by 29 George II. c. 36, was wholly inadequate upon closer inspection. Unlike the negotiable husbandry agreements or by-laws mentioned in

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[135] "News," *The Sun* (London), March 27, 1794, *Seventeenth and Eighteenth Century Burney Newspapers Collection*, Gale Primary Sources Online, link.gale.com/apps/doc/Z2001461820/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=245e810f.
[136] Yelling, *Common Field*, 228.
[137] Author Unknown, "Articles of Agreement for Isleworth Parish," Document, 1797, CRES 2/63, NA, 1-2.

last chapter the lands granted by enclosure were to be held in perpetuity; all rights of common were to be rescinded/abandoned forever. The Articles state throughout that the allotment's owner, King George III himself in this instance, and his descendants possess total authority over the land lest they fail to pay rent or decide to return it to its former owners, the commoners.[138] This marks a stark contrast in the division of power regarding land. While never equal to their landlord, before enclosure the commoners at least possessed a degree of collective power, able to dictate how commons, wastes or fields, were to be used. Previously, the ability of the landlords to use or abuse the land as they saw fit was limited by the collective ownership which they technically shared with their tenants.

This trend is also visible in the aforementioned parish of Holy Island, in which the crown and/or crown lessee [someone granted control over crown lands by lease] were granted 1/16th of the commons for the sake of preserving the "coney warren" upon the island. The warren had initially been part of the Holy Island commons, but numerous encroachments and reports of poaching sparked a discussion regarding enclosure for the sake of its preservation and maintenance.[139] While the conservation of the rabbit warren on Holy Island may have been a noble motivation for enclosure, though one should remain doubtful for reasons which will be discussed later, like Isleworth the perpetuity of ownership over a given allotment raises similar concerns. The Crown's claimed allotment of the Holy Island commons, like that in Berkshire, was to remain under the owner's direct control so long as he and his descendants possessed direct ownership over it.[140] This means that, like Isleworth, any notion of cooperation between the denizens of Holy Island and the given landlord was no longer necessary, as the landowner now possessed total authority over their given allotment.

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[138] "Articles of Agreement for Isleworth Parish," CRES 2/63, 3.
[139] George Pearson to Henry Collingwood Selby, 17 July 1789, Letter [Copy], Durham, CRES 34/122, NA; and William Harrison, "The Manor of Holy Island - The Claim of His Majesty on the Allotments of Said Manor," [likely] August 1791, Document [copy], CRES 34/122, NA, 1-2.
[140] Harrison, "Manor of Holy Island," CRES 34/122, NA, 1.

Enclosure thus rendered the system of cooperative communal ownership and collective bargaining effectively non-existent as there was no longer any reason for a given lord/landowner to actively cooperate with their tenants when they possessed sole ownership over a given allotment of land.

With their loss of collective power over their [former] lands and the consolidation of ownership within a singular landlord/estate, the parliamentary enclosure process' allotment and division of land was critical in delanding the labouring poor from the plots they occupied. As MacFarlane notes, the pre-existing linkages between the economic and the political, represented by the owner-occupier tenant and the common ownership over a given piece of land, were shattered by capitalist innovations. Divorcing the peasants from the commons and common fields allowed for the development of private property laws and the growth of the commercial farm.[141] Because there was no system of collective ownership there was likewise no economic or socio-political obligation to maintain the subsistence of tenants. With all constraints upon production and profitability removed, landowners and farmers no longer being bound to the collective action of their tenants and labourers, agrarian economies had lost their moral element; maximizing individual economic gain had become paramount.

The delanding of tenants, and their reduction to simple labour, is most visible in the post-enclosure decline of the "live-in system" of farming. Traditionally in English farming, agrarian labourers were able to 'live-in' the lands of or surrounding a given farmer or manorial lord for a given year; if they were competent workers they would be hired on for another harvest. This relationship was highly beneficial for the labourer, receiving some form of accommodation as well as wages and potentially foodstuffs, either from gleaning or from the lord/farmer. This system however, due to its often relatively high overhead costs for

[141] MacFarlane, *Culture of Capitalism*, 179-182; and Foster, Clark, and Colleman, "Marx and the Commons," 23.

lords/farmers, was under attack as early as the 1750s. Thomas Turner, a bookkeeping diarist and small-time farmer from Sussex, complained in 1756 that rich local landlords and employers were bringing in poor men from other parishes as a source of cheap labour, hoping to avoid overhead costs and limit the wages they were required to pay. Bringing these men in, Turner argued, would hamper the development of the parish as the poor wages paid by these farmers would mean higher poor rates for the incoming labourers, meaning it would hurt everyone's wallets except for those actually hiring non-local day-labourers.[142]

This situation had worsened by the 1790s. As tenants were no longer connected to the land they occupied there was no incentive/justification for using live-in labourers when paying day-labourers and/or weekly labourers was much cheaper. This cheap labour was so preferable to farmers and manorial lords that they would begin to form most agrarian labourers by the late-1790s, displacing live-in labourers and accentuating the traditional system's decline.[143] In Kibworth-Beauchamp, Leicestershire, Sir. Frederick Eden noted there were persistent concerns of "monopolizing farmers" amongst the labouring class. They cited their transition from live-in to day-labour, and the accompanying loss of pay and privileges, sparked by enclosure as the source of their reduced living condition and a source of much discontent in the parish.[144] This displacement would subsequently harm many older members and families of agrarian communities as there was no incentive to employ them in favour of younger, single men, who made ideal workers due to their strength and employers not having to pay enough wages to feed a whole family. These families, who were already hurt by their loss of access to materials from and rights to the commons, now faced greater economic hardship, now contending with potential unemployment and homelessness.[145]

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[142] Roger A.E. Wells, "Social Protest, Class, Conflict and Consciousness in the English Countryside, 1700-1880," in *Class, Conflict, and Protest in the English Countryside, 1700-1880*, ed. Mick Reed and Roger Wells (London: Frank Cass and Co. Ltd., 1990): 132-133.
[143] Archer, *Social Unrest*, 9; and Wells, "Social Protest," 133-134.
[144] Eden, *State of the Poor*, 226-227.
[145] Wells, "Social Protest," 134-135.

With the collapse of pre-capitalist agrarian society occurring due in no small part to the effects of parliamentary enclosure, the agrarian labouring-class found themselves in a rapidly changing world. The commons were gone, and their boons could no longer be relied on to supplement income or diet. Power was being consolidated within the hands of a few select landowners as yeomen and husbandsmen lost their land-granted status. Traditional systems of living and employment were cast aside as landlords and farmers realized the profitability of a wage-dependent day-labourer. It should be no surprise then that the late eighteenth century was a period of immense economic hardship for the agrarian poor as they found themselves pushed to the metaphorical brink in the wake of parliamentary enclosure and commercial farming.

Inadequate Compensation

Despite numerous advocates for parliamentary enclosure claiming the process would serve the public good, enhance agricultural yields, and limit poverty, the realities faced in its wake were often quite dire for the agrarian labouring poor. While the detrimental effects of enclosure were not solely a product of the process itself (the justifying property-based ideology was present regardless), its benefits were distributed in heavy favour of the already wealthy - manorial lords, landowners, and farmers.[146] Parliamentary enclosure was thus something of a double-edged sword for many parishes. Two dilapidated wooden bridges that spanned a river in the Windsor Forest common, within both Winkfield and Sunninghill parishes, were "greatly complained of" by locals. By enclosing the tract of land in question, the bridges would be replaced with a stone bridge that would allow for safer travel for both travellers and locals.[147] This would assuage complaining locals, but commoners would also

[146] Yelling, *Common Fields*, 232.
[147] John Robinson to Mr. Batson, 22 October 1796, Letter, London, Great Britain, CRES 2/63, Enclosure: Berkshire, NA.

forfeit all rights of common after the land was enclosed. The proposed sum of £105 to be distributed amongst the parishioners of Sunninghill and Winkfield, whom local elite J. Thistlethwaite believed "[would] be unanimous in accepting," was indeed accepted by all present at the vestry meeting, but was this really a fair trade?[148]

Also, in Sunninghill and Winkfield there was a tract of land that had been enclosed and converted into a royal dog kennel. The total value of the land before its conversion was appraised at around £40, after the kennel was built the value would more than double to £105.[149] When land and the rights to it were purchased from commoners for its future enclosure only its current value was taken into consideration. Any improvements or developments made to the land were for the sole profit of its current owner. Locals may have seen a temporary influx of cash, but their forfeiture [willing or otherwise] of the commons and its associated rights had lasting impacts that could not be remedied by a small pile of money. The new ownership of an enclosed tract of land was to be held in perpetuity, a sharp contrast to the less concrete and more egalitarian understanding of property present in common ownership. The issue of appropriate compensation was also present in Macclesfield. The Bill for dividing, allotting, and enclosing the Macclesfield commons gave George III, and "his heirs and successors," clear and sole ownership "from time to time, and at all times for ever hereafter [i.e. forever]" over all "mines, veins, and seams of coal, cannel, and slack whatsoever." on his allotment[150] Any form of compensation is effectively inadequate given the conditions of the agreement demanded commoners lose any potential revenue from the

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[148] J. Thistlethwaite to Wyke House, 26 October 1796, Letter, Isleworth, Middlesex, CRES 2/63, Enclosure: Berkshire, NA, and J. Thistlethwaite to Wyke House, 7 November 1796, Letter, Isleworth, Middlesex, CRES 2/63, NA. Wyke House was the residence of John Robinson, Surveyor General of Woods, Forests, Parks, and Chases [1786-1802]. All letters addressed to or from Wyke House are meant for, or written by, Robinson or his staff.

[149] William Martin to Unknown [recipient unlisted], 28 July 1798, Letter, CRES 2/63, NA.

[150] "A Bill for Dividing, Allotting, and Enclosing the Commons and Waste Grounds, Within the Manor and Borough of Macclesfield, in the County of Chester," 1796, Bill, CRES 2/152, NA, 34. Interestingly, the only people who would receive any financial compensation after enclosure had occurred were other landowners should their land or digging equipment be damaged during mining. Landless tenants and delanded commoners were out of luck. See "Borough of Macclesfield," CRES 2/152, NA, 35.

minerals now enclosed within the royal allotment. No amount of immediate cash in exchange for the commons could be adequate compensation for the permanent loss to an already wealthy party, now richer due to its ability to extract minerals from their allotment without restriction.

A similar concern arose on Holy Island upon the division of its commons. As local landowners, freeholders/commoners, and the Crown jockeyed for their preferred conditions, it was decided that the Crown would be "entitled to work coal, lime, and all other mines and minerals" so long as they paid adequate recompense for any damage they might do during the extraction process. The problem becomes evident when no explicit value is given for how much the Crown must compensate the commoners.[151] Even within the parliamentary Act itself, no concrete value is given for what qualifies as appropriate compensation for those who lost their rights during the enclosure process, leaving the matter almost entirely in the hands of the land's new sole owners rather than the landowners and tenants. One silver lining for the commoners of Holy Island was that, at least regarding limestone quarries and other minerals, cottagers and commoners whose allotments included access to said quarries were given the right to mine and process limestone.[152] Why the Crown and the enclosure commissioners decided upon such relative generosity in their allotment is mysterious, though it was likely to limit unrest amongst the freeholders and stallengers of Holy Island whom

[151] "At a Meeting of freeholders, and others interested in the common of Holy Island, in the County of Durham, held at the House of Mrs. Sarah Selby… for the purpose of taking into consideration the report of the Surveyor General of the Crown Lands," Document [Copy], 19 January 1791 [Original: 16 July 1790], CRES 34/122, NA, 3. Note: All documents from CRES 34/122 dated 19 Jan. 1791 are copies collected in a single correspondence from Henry C. Selby to the Surveyor General of the Land Revenues of the Crown.

[152] Great Britain, Commons, *An Act for Dividing, Allotting, and Inclosing a Certain Large Open Tract of Land, Within the Manor of Holy Island, in the County Palatine of Durham; and for Extinguishing the Right of Common Upon the Ancient Infield Lands Within said Island*, Inclosure Act, 31st Parliament George III, introduced 20 May 1791, CRES 34/122, NA, 16.

both Crown lessee Henry Collingwood Selby and the text of enclosure Act note was quite outspoken in the years preceding enclosure.[153]

The Decline of Working-Class Living Standards

Most of the notably negative consequences of enclosure came not from how the land was divided, the loss of the commons was often detrimental enough in and of itself [as noted in Ch. 2], but in the process' after-effects. One of the most pronounced changes that occurred was the conversion of land from tillage to pasture. The pasturage of cattle and other grazing animals was far more profitable than growing crops and it should not be surprising that, once free of inconvenient customary land rights and restrictions on production placed by communal subsistence, landlords and farmers began immediately converting their land for an easy economic boost.[154] This conversion had numerous immediate and deleterious effects on the agrarian poor even if they owned or rented their own plots of land. Two effects stand out in particular: Higher rents and increased unemployment.

Due to a land allotment's post-enclosure status as enclosed, its property value was immediately increased. This meant a sharp increase in rent regardless of whether it was converted to pasture or remained tillage, though conversion also increased the land's value. Increased rents were catastrophic to poor labourers whose economic situation was often shaky at best. These increases in tandem with the lost access to the commons spelt disaster for the rural working-class and contributed massively to their delanding and pauperization during the late-1700s, transforming English tenant farmers and agrarian commoners into "landless agricultural labourers."[155] Batchelor's report on Bedfordshire again offers insight

[153] Henry C. Selby to The Freeholder and Stallengers of the Manor of Holy Island, 19 January 1791 [Original: 5 May 1789], Letter [Copy], CRES 34/122, NA, and *An Act for the Dividing, Allotting, and Inclosing a Certain Large Open Tract of Land, Within the Manor of Holy Island*, 31 George III, 1791, 5.
[154] Yelling, *Common Fields*, 189, and Hartlib, *Discourse of Husbandry*, 43.
[155] Wells, "Rural Proletariat," 29-31.

into how land value drastically increased in enclosure's wake and how new rates could easily become unmanageable for tenant labourers. In Lidlington Parish pre-enclosure rents were "9s an acre average, three rood measure"; after enclosure rents averaged 22s and most enclosed lands saw their rents increase by at least 10s. The untenability for tenants is best represented by the conjunctive rise in parish poor rates, growing from 2s. 3d in 1785-1790 to 4s. 6d by 1800, the increased financial burden indicating a growth in poverty and unemployment during the 1790s.[156] In Marston Parish pre-enclosure rents were 6s, post-enclosure rents were 10s; in Dunton 8s increased to 17s; in Eaton Socon average rents of 10-12s [smaller lots going for a mere 6-8s] grew to 16s for a plot of arable land and 20s for arable land + grass; and in Risley rents ballooned by 150% from 7s to 18s on average. It is not difficult to see how these marked increases could be an issue for poor tenant labourers who were completely unable to accommodate such hikes and saw themselves delanded as a result. Unable to afford their rents and wholly dependent upon the wages granted by their employers, agrarian communities began experiencing something of a 'rural decay' with tenant farmers forced to move or become homeless while their houses, cottages, and barns were left to rot abandoned by their former occupiers. Cost of living simply became untenable for poor many tenant labourers in post-enclosure parishes.[157]

Addington and Price were also quick to attack enclosure for the process' tendency to increase rents and noted how expectations that land be converted to pasture for monetary gain were unrealistic. In defense of both tenant labourers and poorer and smaller-scale farmers, Addington and Price proposed that any potential economic growth from grazing animals on or enclosing one's plot was disincentivized by high rents and even higher costs of enclosure. They cite the increased cost of 30-40s/month for a larger tract of enclosed land, in contrast to

[156] Batchelor, *County Bedford*, 232-234.
[157] Addington and Price, *Enquiry*, 29.

10-12s for unenclosed, as impossibly expensive for poorer farmers and labourers. Despite enclosure proponents often cited benefits of innovation and land conversion into more profitable uses, it was less practical for tenant labourers to engage in said practices because of their unaffordability. Even smaller parcels of land, because of the value increase brought on by enclosure, now cost as much as larger plots had pre-enclosure, meaning many tenants saw themselves losing acres of land yet paying a similar rent to their manorial lords despite the objective loss of value.[158] These contemporary views would later be supported by Jerome Blum's 1981 work on parliamentary enclosure. In Blum's "English Parliamentary Enclosure" he noted that in addition to so-called "public costs" necessary to start and continue the enclosure process; such as "solicitors fees, parliamentary fees, commissioners' and surveyors' fees, costs of fencing allotments of tithe owners, and costs of roads, drainage, and other public improvements," necessary infrastructure investments after land was allotted placed massive financial strain on smaller owner-occupier tenants. Of special note were "interior fences, drains, and roads," all of which needed to be constructed post-enclosure. Unable to meet this financial demand, poorer tenants were forced to sell their land, most often to their landlord, allowing said lord to further increase their property value and hold over their lands.[159]

The rising rents in combination with the conversion of land from tillage to pasture had the combined effect of sparking large waves of unemployment in agrarian communities throughout England during the late-18th century. While the 1740s-1750s had been remarkably positive for labourers - notably witnessing a decline in endemic diseases, large population growth, and the effective end of subsistence farming - because of the immense

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[158] Ibid, 7, 10.
[159] Jerome Blum, "English Parliamentary Enclosure," *The Journal of Modern History* 53, no. 3 (1981): 487-488.

population boom, numerous rural populations would become dependent upon agrarian labour as the only reliable source of income/employment as people began outnumbering available jobs. This phenomenon was especially noticeable in England's southeastern counties [e.g. East Anglia], many of which had failed to industrialize on a significant level compared to the proto-industrial and manufactory-laden counties in the Midlands or London.[160] In many parishes, this brewing labour crisis was pushed into full-blown catastrophe by enclosure and the conversion of common fields into grazing pasture. Unlike tillage farms which required substantial amounts of labour for planting, maintenance of crops, and [especially] harvest, grazing animals required a much smaller number of labourers. Tillage, contemporary anti-enclosure advocates argued, was necessary in ensuring high levels of rural employment that were critical in maintaining the public good, as more prosperous labourers rather than individually wealthy landlords helped maintain stability and prevent consolidation of wealth and land ownership within a select few.[161]

While some regions were able to retain fairly high employment and steady growth - Yelling cites the village of Raunds, Northamptonshire, as one that steadily grew post-enclosure between 1797-1811 despite earlier protests against it - fears of depopulation and mass unemployment were visible among the peasantry as an outcome of enclosure throughout the 1790s.[162] In Kibworth Beauchamp, Leicestershire, Eden noted that only 1/4 - 1/3 of labourers usually were required for the harvest as 20 years previous, with many now working in the county's growing wool industry instead. This is indicative of a massive demographic shift and reduction in agricultural employment in a relatively brief period of time.[163] Archer described unemployment as a "staple" of English agrarian life during the late-

[160] Wells, "Rural Proletariat," 32-33.
[161] Addington and Price, *Enquiry*, 8-9, and Thompson, "Classical Republicanism," 628-629.
[162] Yelling, *Common Field*, 214.
[163] Eden *State of the Poor*, 227. Notably, Eden does not provide figures to back up how many agricultural labourers had proletarianized and become industrial workers in Kibworth Beauchamp. It is

18th century, especially during the Napoleonic Wars. After the destruction of the live-in system, winter saw lay-offs and unemployment as labourers were not needed until the planting and harvesting seasons.

One purported result of enclosure, depopulation, will also be mentioned here because of how persistently it was discussed by contemporaries. In contrast with unemployment, depopulation has much less evidence supporting it as a notable fallout of enclosure; what is far more likely is that a notable demographic shift occurred within rural communities, akin to proletarianization. Early-twentieth century demographic work done by J.D. Chambers and E.C.K. Gonner found little proof of the claim that enclosure resulted in the mass depopulation of parishes. Both men's studies found that there was little evidence of a given parish or county having its population notably change post-enclosure. Gonner's work especially does have one notable flaw: its focus on the populations of towns and counties (more broadly) does not account for intra-county migration. While he does disprove the myth that the yeomen were fleeing to towns and cities for employment, citing a lack of conspicuous population growth, he fails to account for the movement of populations between agrarian communities and parishes.[164] We know from Roger Wells' book chapter "Social Protest, Class, Conflict and Consciousness in the English Countryside 1700-1880" that intra-county immigration was a common occurrence during the 18th century and that it was, in fact, so common during the 1790s that a certification system was created to allow labourers to settle in other parishes and prevent unmitigated and illegal immigration from one parish to another. Wells even remarks that local authorities would go so far as to provide certificates to their unwanted poor in hopes of easing their own financial contribution to the local poor relief and

therefore frustratingly unclear how many agrarian labourers obtained employment in Leicestershire's growing industry.

[164] Yelling, *Common Fields*, 222-223.

that said poor would find work somewhere else, or that they would simply become some other parish's problem.[165] All this is to say that while there were few examples of massive, county-wide, depopulation, or towns experiencing massive population growth due to enclosure's impacts, intra-county immigration was prominent and any arguments that the demographics of agrarian communities remained stagnant during this period are patently false. The population was shifting and demographics were changing. Labourers and commoners alike were coming to terms with the often-harsh realities of post-enclosure agriculture and agrarian community life. Alienated and dissatisfied by the liberal-capitalist justifications for parliamentary enclosure and the process' aftermath, tenants and labourers were struck by the unfavourable and occasionally disingenuous conditions attached to promises of 'modernization' and 'improvement.'[166]

Broken Promises:

The notion of 'broken promises' can be interpreted quite literally regarding parliamentary enclosure. The problem was not that enclosure commissioners and advocates were intentionally malicious in their actions, - they mostly followed the law to the best of their abilities to achieve the desired outcomes of the enclosure process. The problem was the fundamental inequality of the process itself. English property law, along with the enclosure act, were tailored by wealthy men of means for the purposes of enhancing said means, rather than the growth of public wealth.[167] Some commissioners, Yelling notes, thought of enclosure as a means to "reverse the apparently remorseless trend towards a completely dependent and landless labour force." By 1801, Arthur Young (despite still maintaining the positive benefits of parliamentary enclosure regardless of the evidence in front of him)

[165] Wells, "Social Protest," 133.
[166] R.W. [Bob] Bushaway, *By Rite: Custom, Ceremony, and Community in England, 1700-1880* (London: Junction Books Ltd., 1982), 83; and Yelling, *Common Fields*, 222.
[167] Yelling, *Common Fields*, 232.

contrastingly argued the opposite had occurred - "Instead of giving property to the poor, or preserving it, or enabling them to acquire it, the very contrary effect has taken place."[168] Enclosure had only accelerated the trend towards landlessness and poverty amongst the agrarian labouring-class in Great Britain, redistributing wealth from the pockets of tenants farmers and labourers into the hands of landowners.[169]

One example of this most literal of broken promises was that of the aforementioned Holy Island and the commoners' production of kelp. As noted in the previous chapter, there was immediate contention between the commoners and freeholders of Holy Island and the local landowners who proposed enclosing the island's commons and this was especially prevalent regarding kelp production. One anonymous freeholder argued that "The rights of freeholders and stallengers of Holy Island will be so very injured by the Bill intended to be brought into Parliament this sessions" and that said rights "[would] be injured, if not utterly annihilated by the Bill." Another freeholder made a similar attack, arguing that the Bill was clearly designed to allot to the Crown the right to manufacture seawares into kelp without renting said privilege from the freeholder and stallingers. The Bill, he argued, was obviously self-serving, meant to enrich the Crown and Crown lessee at the expense of Holy Island's commoners.[170]

This concern had been addressed by H.C. Selby as early as May 1789. In a letter to the freeholders and stallengers of Holy Island, Selby attempted to address the "disputes, which have unhappily subsisted for some few years past between the Lessees of the Crown and some of the inhabitants of this island." He mentions four points specifically, the second being of greatest interest and relevance here. He attempts to mollify the concerns of the

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[168] Ibid, 232.
[169] Robert C. Allen, "The Efficiency and Distributional Consequences of Eighteenth Century Enclosures," *The Economic Journal* 92, no. 368 (1982): 937.
[170] "Copies of Printed Anonymous Letters Supposed to be Written by the Attorney Employed by Those Freeholders Who Wish to Oppose a Division of Common on Holy Island," Document, 20 December 1790, CRES 34/122, NA.

commoners regarding their lost privileges and revenues by writing that "[T]he Lessee of the Crown should continue to enjoy the privilege of laying the sea-weed upon those partes [sic] of the Common, and burning it into kelp, where it had been usually done theretofore, and of taking and carrying away the same to his own use, he paying the freeholders' use the sum of forty shillings a-year."[171] The tradition of renting the right to produce kelp would continue, according to Selby's letter. The commoners would not be deprived of their rights and just dues would be paid unto them for the privileges afforded to the Crown lessee. However, a mere 14 months later, in a meeting between freeholders and other interested parties, Selby reported that:

> [I]n case a division [i.e. enclosure] should take place, that such an allotment as shall be set apart for the Crown, shall be laid adjoining the sea shore, and that it be understood by the Lessee of the Crown, that the privilege of manufacturing the sea ware into kelp, shall be confined and exercised upon the allotment to be made to the Crown only, and not upon any of the allotments belonging to, and to be made proprietors or freeholders; and in case the allotments made to the Crown shall be insufficient for the above purposes, the said Henry Collingwood Selby… agrees at this meeting, that the allotment made to him, as a freeholder of Holy Island, may be laid adjoining and contiguous to the allotment of the Crown, for the above purposes.[172]

In direct contrast to his earlier promises to the freeholders and stallengers, the land allotted for the production of seawares into kelp would be directly controlled by the Crown or, if impossible, the Crown Lessee rather than the traditional owners. Selby's earlier claim was, in essence, a blatant lie. He and the Crown had reneged on their promise within less than two years, and this was only made more obvious by the text of the enclosure Act itself and a letter

[171] Henry C. Selby to The Freeholder and Stallengers of the Manor of Holy Island, 19 January 1791 [Original: 5 May 1789], Letter [Copy], CRES 34/122, NA.
[172] "At a Meeting of freeholders, and others interested in the common of Holy Island, in the County of Durham, held at the House of Mrs. Sarah Selby… for the purpose of taking into consideration the report of the Surveyor General of the Crown Lands," CRES 34/122, NA, 3.

from surveyor John Fryer that likewise confirmed the Crown's "exclusive right to all seaware of every kind."[173]

The Act acknowledges the contention between the Crown and the freeholders and stallengers over the right to produce kelp, citing the latter's insistence upon their rights of common to the seawares (along with access to the "coney warren"). All cases, the Act states, regarding right to soil and the seawares will be equitably brought before either the Durham County Assizes or the King's Bench in Westminster, nominally against Selby as Crown Lessee.[174] Any notion of a fair trial in these matters was a façade. Judges and juries, regardless of locality, almost always decided in favour of the propertied classes and opposed any case that posed potential damage to property statutes. Poverty, it was argued, could not be an adequate legal defense in property related crimes as it would delegitimize the supremacy of property and its role as the absolute cornerstone of eighteenth-century British law.[175] While the presence of immense legal formality, along with its nominally egalitarian character, provided a great deal of legitimacy for the law amongst all Britons regardless of class, it could evidently be very easily bent or contoured by those in positions of power. This does not mean that the law was an arbitrary system with no relevance, merely that its design and implementation almost solely by men of money and authority means it was an effective tool in enforcing a liberal capitalist understanding of property and property law.[176] Holy Island is an excellent example of this fact. Selby and the Crown had effectively lied to the

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[173] John Fryer to William Harrison, 8 September 1791, Letter, CRES 34/122, Holy Island: Inclosure, Division of Common, NA, and Henry C. Selby to William Harrison, 10 September 1791, Letter, CRES 34/122, NA.

[174] *An Act for the Dividing, Allotting, and Inclosing a Certain Large Open Tract of Land, Within the Manor of Holy Island*, 31 George III, 1791, 5-6.

[175] Hay, "Criminal Law," 36, 39. Assertions of legal equality and fair trials regarding the status of the commons post-enclosure were not limited to Holy Island and can be seen in numerous contemporary acts. These sections were crucial in presenting an image of fairness without needing to commit to any moral principle of fairness. See: Great Britain, Commons, *An Act for Dividing and Inclosing the Several Open Arable Fields, Meadows, Heath, Commons, and Waste Grounds, within the Manor and Parish of Wandon, otherwise Wavendon, in the County of Bucks* [Buckinghamshire], Inclosure Act, 28 George III, introduced 1788, CRES 2/104, Wandon (Wavendon) Enclosure Act, NA, 3-4.

[176] Ibid, 32-33.

freeholders and stallengers of Holy Island and curtailed their rights, let alone those common rights automatically lost upon enclosure, but any case made against Selby would reliably end in his favour. The letter of British common law had effectively superseded any notion of justice during this period, twisting the concept into "no[thing] more than the outworks and defenses of property and of its attendant status."[177]

Subjects of History and Harsh Realities

Despite the numerous injurious aspects of parliamentary enclosure upon commoners and the agrarian poor, traditional liberal historiography has often whitewashed the process as either necessary for capitalist growth, and therefore inherently justifiable, or as an inevitable result of modernization rather than the deliberate consequence of policy and ideology. Plumb, for example, does not mention the economic destitution brought upon the labouring poor or small-scale farmers by enclosure, instead citing "individual improvements in crops and breeding," the growth of commercial farmers and their annual incomes, and the economic values of independence rather than cooperation.[178] What Plumb does not mention is the "high prices, taxation, wartime shortages, high rents, high interest rates, and other inflationary features" responsible for enriching farmers during the late-18th century, nor does he properly attribute this wealth to the sapping of wealth and collective power from labour.[179] Gonner was similarly reductive, claiming that the English peasantry's "discontent was so small and satisfaction so general" in response to enclosure, reducing them to little more than tacit pawns in the 'modernization' process.[180] Both Plumb and Gonner's works read like a liberal-capitalist checklist: Beneficial because it enriched landowners and businessmen, weakened

[177] Thompson, *Black Act*, 197.
[178] Plumb, *Eighteenth Century*, 82-83, 151-152.
[179] Smelser, *Social Change*, 216.
[180] E.C.K. Gonner, *Common Land and Inclosure* (London: McMillan Co. Ltd., 1912), 83.

labour and helped cement individual property rights, and equate supposed passivity/deference with tolerance and/or acceptance. The peasantry is thus reduced to little more than subjects of history, their rights a roadblock in the necessary improvement of the English countryside and its agricultural production. They are given no objective agency in their actions (while their employers and landlords are deified as gentlemen farmers) and if their suffering is mentioned at all it is rationalized as critical to the growth of the late-18th century industrializing British economy.[181] A community like Holy Island, whose inhabitants, according to Selby himself in a 1793 letter, required increased financial aid from parliament (and a decreased duty on coal imports) in parliamentary enclosure's aftermath can be justified as a necessary step in English modernization rather than an affront to economic equality and a refutation of parliamentary enclosure's supposedly inherent benefits.[182]

The notion of enclosure as a deliberate attack on the peasantry, their communities, and their common rights, rather than the side-effects of liberal capitalist policy, is bolstered by analyses offered by economic historians Gregory Clark and Robert C. Allen. In his 1982 article "The Efficiency and Distributional Consequences of Eighteenth Century Enclosures," Allen found that the difference in production between common, partially enclosed, and fully enclosed fields was negligible. Specifically, Allen cited land use patterns compared to production yields and found that the mean difference in crop yields was a mere 5%; hardly the revolutionary improvement hailed by the "agricultural improvers."[183] Sixteen years later, in an article that heavily cites Allen, Clark described enclosure as "mainly the expropriation of the peasantry." This commentary, along with his estimates that net returns from enclosed land were approximately a slim 2.8% (1720-1840), offers clarity on the joint purpose of

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[181] Gregory Clark, "Commons Sense: Common Property Rights, Efficiency, and Institutional Change," *The Journal of Economic History* 58, no. 1 (1998): 74-75; Plumb, *Eighteenth Century*, 153-154; and Archer, *Social Unrest*, 10-11.
[182] Henry C. Selby to William Harrison, 12 January 1793, Letter, CRES 34/122, NA.
[183] Robert C. Allen, "The Efficiency and Distributional Consequences of Eighteenth Century Enclosures," *The Economic Journal* 92, no. 368 (1982): 937, 948-949.

enclosure.[184] This is in stark contrast to the deterministic approach of liberal historiography noted above that so often parrots the classist attitudes and flimsy justifications for exploitation used by landowners from the late-1700s. Exploitation of the agrarian working-class, breaking them along with the limitations placed upon the landed gentry and commercial farmers by paternalistic systems of authority and customary rights, is illuminated as a deliberate consequence of parliamentary enclosure. If "improvement" was illusory, then what explanation remains for the continued practice (and growth) of parliamentary enclosure during the late-18th and 19th centuries?

Poverty, social instability, and homelessness were rendered acceptable in the name of cheap labour and greater power over owned land. Regardless of whether the agrarian working-class was aware of the broader connotations of enclosure's exploitative aspects, the labourers and commoners of rural England did not passively accept their newfound status quo. It was only logical that the decline in living standards directly precipitated by liberal-capitalist changes in agrarian communities would culminate in increased violence and social unrest.

[184] Clark, "Commons Sense," 76-77, 97.

Chapter Four: The Logical Conclusion – Poverty, Unrest, and Crime

Was Violence and Unrest Even Related to Enclosures?

There is little doubt amongst historians regarding the prevalence of "collective disturbances" [i.e., riots] during the late-18th and early-19th centuries.[185] For example, "food riots" were endemic throughout both rural and urban England during the 1780s-1790s in particular. Rioters attacked millers, farmers, and grocers/shopkeepers, treating said group as an affront to the moral economy, supposedly hoarding food during times of high grain prices, low yields, and French blockades on imported wheat.[186] Inter-county sale and reallocation of grain was likewise a notable source of unrest with both Oxfordshire and East Anglia both seeing increased rioting during the 1790s as grain began being exported in greater amounts to urban counties and cities like London.[187] Evidence of agrarian unrest, in the form of the food riot, is well-documented while unrest in response to enclosure remains a more divisive topic. Historical arguments range on every response from enclosure related unrest was nearly non-existent to enclosure riots being a common occurrence [though not in comparison to its food or anti-industrial counterparts). Why is there so much disagreement over something that seems relatively simple to quantify? There are three issues that form the basis of this debate.

The first problem arises from historical disagreement on whether enclosure tended to provoke unrest at all. As noted in the previous chapter, early- to mid-20th century work by Gonner and W.E. Tate reduced enclosure riots and related unrest into something negligible. Described by J.M. Neeson as "optimistic historians," these academics' dismissals were

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[185] Archer, *Social Unrest*, 15-16, and Carl J. Griffin, "Rural Workers and the Role of the Rural in Eighteenth-Century English Food Rioting," *The Historical Journal* 64, no. 5 (2021): 1230. Archer also gives mention to the prominent anti-industrial riots that plagued factory laden towns, cities, and counties during the late-18th and 19th centuries (the Luddites being notable examples). However, these fall outside the scope of this work and mostly peaked during the 1830s with the "Captain Swing" riots.

[186] Ibid, 28-29.

[187] Archer, *Social Unrest*, 31-32; and Hay, "Criminal Law," 21.

typically accepted in historiography until the 1970s and parroted contemporary accounts of enclosure's benefits and/ or emphasized the peasantry as simply too weak to actively resist enclosure as a social and legal process.[188] Chambers and G.E. Mingay are perhaps the most obvious proponents of this belief, arguing that the proletarianization of agricultural labour via enclosure was necessary to increase production [something disproven in the last chapter] and that the process' negative effects must have been minimal judging by the relative passivity with which enclosure was met in England.[189] Even "more pessimistic historians" critical of enclosure and its justifying framework were not immune to this fatalism regarding commoners' ability to oppose enclosure. Paul Mantoux, W.G. Hoskins, and even E.P. Thompson believed that resistance was limited because of the poverty and relative powerlessness of commoners and labourers in the face of ever-growing landowner power and economic dominance. While the growing economic dominance of wealthy landowners, along with commercial farmers, post-enclosure is not in dispute, the supposed passivity of the commoners most certainly is.[190] Neeson counters these arguments with one of her own, "that commoners were much more active in their own defence than historians… have allowed… [and] commoners thought themselves strong enough to disrupt and delay enclosure." Both of his beliefs shall be elaborated upon and proven correct in later sections on protest itself.[191]

The second problem comes from how peasants and agrarian labourers are typically viewed within the ever-evolving socio-economic conditions of late-18th century Britain. As noted above, peasants and agrarian labourers were usually described as inactive in episodes

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[188] J.M. Neeson, *Commoners: Common Right, Enclosure, and Social Change in England, 1700-1820* (Cambridge: Cambridge University Press, 1993), 260-261. Notably, Thompson did stress, in contrast with his contemporaries, that the fatalist way in which the peasantry was described should not be overstated. His beliefs were also resultant from a contemporary lack of local information on the subject of enclosure related unrest which he believed should be studied.
[189] J.D. Chambers and G.E. Mingay, *The Agricultural Revolution, 1750-1880* (London: B.T. Batsford, 1966), 77-105 quoted in Archer, *Social Unrest*, 11.
[190] Neeson, *Commoners*, 261-262.
[191] Ibid, 262.

of unrest despite being the largest single occupation during the period.[192] Thompson described the peasants as fairly inactive compared to the French peasants who attacked *l'Ancien Regime* leading up to and during the French Revolution. Meanwhile, the independence of labourers is comparably questioned, as agrarian labourers were supposedly only rioting or destroying property when encouraged to do so by outside influences such as colliers [coal miners] or bankers [embankment diggers].[193] On Holy Island, Selby, in a letter and document expressing the growing financial untenability of his role as Crown Lessee, expressed a similar belief. He complained that a man named Collingwood had "endeavoured to persuade the poorer and less informed freeholders and has prevailed with several of them to believe that this division will prove injurious instead of being beneficial to them." Any legitimate dissent or dissatisfaction could not have, in Selby's paternalistic opinion, originated from within the commoners and islanders themselves but from a malicious outside source, thus providing us with an excellent historical example of how such attitudes were able to survive in the historical discourse.[194] The dismissal of agricultural labourers is a paradoxical one. It ignores the size and importance of agricultural labourers' beliefs and opinions despite their being the primary occupation of the period and plays into already discussed liberal-capitalist tropes that diminish the agency and objectivity of those without wealth.

Even historians critical of 18th century England's socio-economic development and its rampant inequalities are not immune to these beliefs. Andrew Charlesworth and Adrian Randell, in an article discussing industrial labourers' resistance to capitalism and economic exploitation, argue that only urban and industrial workers "lived at the sharp end of an ever-

[192] Griffin, "Rural Workers," 1231.
[193] Ibid, 1232.
[194] Henry C. Selby, "Holy Island Division - State of What are Conceived to be the Real Motives of the Opposition to the Measure," 8 February 1791, Document, CRES 34/122, NA, 3. [Attached to: Northumberland House to Surveyor General's Office, 8 February 1791, Letter, CRES 34/122, NA].

evolving capitalist market economy and experienced exploitation not only in the marketplace but, more crucially, at work." It was, in their minds, solely said labourers whose actions attempted to fight exploitation and preserve the decaying moral economy of Britain.[195] Here Charlesworth and Randell draw an unnecessary distinction between agrarian and industrial workers, over-emphasizing industrial workers as the sole core of plebeian resistance and downplaying the comparable resistance of agrarian labourers [and any non-urban subject] against gentry-led exploitation and pauperization. These arguments, perhaps in spite of their intentions, further the belief that agrarian unrest was fairly muted and again dismiss any notion of class consciousness amongst agrarian labourers and belittle their importance in the contemporary social fabric of Great Britain and reduce their reactions to social change to simple passive acceptance.

The third problem originates from the nature of protest itself, rather than historiography and academic disagreement. The unrest and violence that sprung from parliamentary enclosure was, in contrast to the loud protest of food and anti-industrial riots, often far more subtle and diverse. As Neeson notes in her work on opposition to enclosure in eighteenth century Northamptonshire, "Opposing parliamentary enclosure was a matter of time and opportunity, and of patience and staying power." Riots and public displays were not only rare but were an ineffective means of opposing enclosure in both Northamptonshire and England in general.[196] More often than open hostility, parliamentary enclosure was met with non-compliance and discontent before it was enacted. Refusing to cooperate with enclosure commissioners, failing to mark land for surveyors, and delayed responses to summons and demands were common.[197] This raises historiographical issues because those who opposed

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[195] Andrew Charlesworth and Adrian J. Randell, "Morals, Markets, and the English Crowd in 1766," *Past and Present* 114 (1987): 206-207.
[196] J.M. Neeson, "The Opponents of Enclosure in Eighteenth Century Northamptonshire," *Past and Present* 105 (1984): 117.
[197] Neeson, "Opponents of Enclosure," 118; and Neeson, *Commoners*, 263.

enclosure via non-compliance were unlikely to find themselves before a judge in the assizes, meaning they had no impact on criminal trial records. Larger newspapers from this period encourage this version of history, often lacking coverage due to their smaller scale and frequent lack of military involvement.[198] Because the efforts of enclosure opposition typically failed it becomes easy to view the attitudes towards parliamentary enclosure in a reductive and deterministic manner, assuming simply that because the process was broadly successful, there must have been little opposition towards it.

Once land was allotted and the enclosure processes had finished the methods of opposition typically remained discrete in nature; especially favoured were arson, property destruction, and the writing of threatening letters.[199] According to Archer these forms of unrest and discontent often shocked local elites and landlords who "had simply misread deferential behaviour for deferential attitudes," and previously believed their poorer counterparts to be content and subservient with the current system.[200] Because of its relatively discrete nature (in contrast with open protest), and the unwillingness of local elites to acknowledge the legitimate frustrations of the local working-class, as noted above, it becomes simpler to downplay post-enclosure violence as minimal, unrelated, or the result of bad actors rather than socio-economic concerns amongst the poor.

Unrest and 'Moral Failings'

It was far simpler for the contemporary gentry and aristocracy to interpret any crime that followed enclosure as a 'moral failing' of the poor, rather than a deliberate result of their policies. Moral failings fell neatly in line with the 'economically Calvinist' and anti-democratic beliefs of men like Joseph Priestly [whose beliefs were previously discussed in

[198] Thompson, *Customs*, 116, 120.
[199] Wells, "Rural Proletariat," 43.
[200] Archer, *Social Unrest*, 10.

Ch. 2] and Timothy Nourse.[201] Nourse, like Priestly, was distinctly anti-poor, blaming poverty on those experiencing it rather than societal inequality or hierarchical power structures that limited advancement. He broadly described the poor as "very rough and savage in their Dispositions, being of levelling Principles, and refractory to Government, insolent and tumultuous." He continued by arguing that the best way for the gentry to control the poor was to "bridle them," comparing them to "nettles" which must be "squeez'd hard" to prevent them from hampering/ harming the propertied classes.[202] It was the fault of the poor, according to these beliefs, that allowed for them to be in a position in which they could be exploited. It was their "idleness," to use a favourite phrase of the day, which had failed them and landed them in their sorry state. Called a "nuisance," a "burden to the publick [sic]," "profligate," "indolent," and worthy of being sent to a "house of correction to be employed on hard labour," the title of idle had devastating connotations during this era.[203]

Even those who supported the poor against the rising tide of economic inequality and exploitation often relied upon moralistic, rather than systemic, criticism. One concerned columnist for the *Morning Chronicle* decried the arbitrary detentions and executions meted out by the British penal code but treated them as if they were the product of individual failings by bad actors in the local government, rather than systemic inequality. This was followed by criticisms of the "lewdness and debauchery that abounds among the lowest

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[201] Priestly was actually so hated that, despite the tendency of peasants to avoid open protest, he was often burned in effigy by mobs. His house in Birmingham was eventually destroyed by just such an angry mob. See Plumb, *Eighteenth Century*, 135.

[202] Timothy Nourse, *Campania Foelix or, A Discourse of the Benefits and Improvements of Husbandry* (First Edition), Manuscript (London: Tho. Bennet, 1700), ProQuest, *Early English Books Online*, 15-16, 274.

[203] "News," *Public Register or the Freeman's Journal* (London), October 6, 1770 - October 9, 1770, *Seventeenth and Eighteenth Century Newspapers Collection*, Gale Primary Sources Online, https://link-gale-com.proxy1.lib.trentu.ca/apps/doc/Z2001238482/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=1f0afa39; and "News," *Morning Chronicle* (London), June 2, 1781, Newspaper, *Seventeenth and Eighteenth Century Burney Newspaper Collection*, Gale Primary Sources Online, https://link-gale-com.proxy1.lib.trentu.ca/apps/doc/Z2000858616/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=6e79f024.

people, which keeps them idle, poor, and miserable, and renders them incapable of earning an honest livelihood for themselves and families."[204] Another article from the *Gazetteer and New Daily Advertiser* posited helping the 'idle poor' as a necessary consequence of "enourag[ing] the industrious" poor. The dichotomy between 'idle' and 'industrious' is still present even amongst those who hoped to rectify "the distresses of the poor."[205]

The notion of 'moral failings' justified anti-poor rhetoric and exploitative economic policies like enclosure by portraying Britain's impoverished men and women as the source of their own problems, rather than systemic inequality. They offered the economic elites of 18th century Britain a convenient narrative, justified by unregulated liberal-capitalist beliefs enshrined during the Glorious Revolution of 1688 and the individualism of Protestant theology.[206] In a kingdom Thompson described as akin to a "banana republic"; marked by political corruption, bribery, nepotism, anti-democratic political structures (despite the nominally democratic character of 1688 and the "puritan revolutions" of the mid-17th century), and unregulated accumulation of capital, the labourers and commoners of agrarian England were not going to quietly disappear into history, even if that marked them as 'moral failures.'[207]

Covert Protest

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[204] "News," *Morning Chronicle*, March 14, 1775, Newspaper, *Seventeenth and Eighteenth Century Burney Newspapers Collection*, Gale Primary Sources Online, https://link-gale-com.proxy1.lib.trentu.ca/apps/doc/Z2000836108/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=f3ec76dd.

[205] "News," *Gazetteer and New Daily Advertiser* (London), December 10, 1772, Newspaper, *Seventeenth and Eighteenth Century Burney Newspapers Collection*, Gale Primary Sources Online, https://link-gale-com.proxy1.lib.trentu.ca/apps/doc/Z2000373611/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=9e04fdee.

[206] Plumb, *Eighteenth Century*, 138-139; and Thompson, *Whigs and Hunters*, 198.

[207] Thompson, *Whigs and Hunters*, 197-198.

A notable component of anti-enclosure violence and unrest was its difference from the loud and open food and industrial riots commonplace throughout much of the eighteenth century. In terms of scale, enclosure-related unrest was far smaller than these often town/city defining protests; the tearing down of gates and fences, or removal of enclosure meeting notices on church doors were far more likely than the storming of government buildings.[208] Wells coined these actions as a form of "covert protest," in response to the inability for many parishioners to openly engage in overt protest against their landlords and/or employers.[209] Understanding the necessity for protest to remain covert is crucial in understanding why enclosure-related unrest was seemingly so minimal. Unlike modern societies, the charity and economic relief programs of late-18th century Britain, as well as local Poor Laws [poor relief], were administered solely by local elites (typically prominent landowners and the parish vestry) rather than a government bureau or ministry.

This meant that all those reliant upon poor relief or economic assistance needed to maintain an image of deference and industriousness to their employers and their contemporaries lest they lose their financial aid. This dependence upon poor relief was exacerbated by aforementioned economic conditions for the agrarian poor [described in ch. 3] in the late-18th century, particularly their declining wages. Farmers, as well as villatic employers and landowners generally, were more than willing to exploit local poor rates to accommodate for the low wages of their post-enclosure workforce, reducing wages as much as possible and creating a landless and restricted labouring class dependent on both wages and poor relief.[210] In the 1792 *Annals of Agriculture* contributor Thomas Ruggles Esq. wrote

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[208] Thompson, *Customs*, 116.
[209] Wells, "Rural Proletariat," 45.
[210] Archer, *Social Unrest*, 10. Traditionally, farmers and landowners had tied wages directly to the price of wheat, a traditional method of preventing suffering and ensuring some level of communal subsistence amongst labourers. However, with the introduction of Smithian supply and demand-based economics wages would plummet as wheat prices skyrocketed, enhancing the poor's dependence upon economic relief.

that attempts to displace or alter the local parochial dominance over poor relief had been in place since at least 1735. William Hay (MP for Glynde, Sussex) forwarded bills on the matter from 1735-1751. Hay's bill would have implemented county-standard poor relief and allowed for twelve, elected, and rotating landowners to collectively buy and operate land for employment and settlement of the delanded poor. "No good," Hay argued "is ever to be expected till parochial interest is destroyed, till the poor are taken out of the hands of their overseers, and put under the management of persons wiser and more disinterested."[211] Hay's bill proposed to end the pre-existing system of vestry dominance that ensured the alienation of the extra-parochial poor and the impoverished's dependence upon local elites with vested interests; two phenomena that only became more visible during the latter decades of the eighteenth century. Ruggles does not say why the bill never passed in the House of Commons but given the political climate of the period, it was seen as an encroachment upon local elites' autonomy and encouraging economic dependence upon the state.

Why having a wholly labour-dependent and subservient workforce was compatible with the ideological tenets of liberal-capitalism, which often espoused values of independence from unnecessary constraints, is a valid question; the answer is reliant upon a double-standard that again prioritized the needs/wants of the wealthy. When an independent pauper or labourer failed, it was due to his "improvidence and unthriftiness." When a wealthy farmer failed, or was suffering, it was due to undue limitations on his success, such as Poor Laws, minimum wages, or boards of control rather than any individual flaws.[212] Dependence, despite the professed beliefs of much of the English gentry, was economically valuable so long as it was to the 'right' dependent.

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[211] Thomas Ruggles, "On the Police and Situation of the Poor," in *Annals of Agriculture and Other Useful Arts* [vol. 17], ed. Arthur Young (Bury St. Edmunds: J. Rackham, 1792): 79-81.
[212] Smelser, *Social Change*, 210-212, 247.

The image of an "industrious poor" that knew its place, and understood to "take what was offered" by their social and economic betters, was a popular one amongst British elites as it confirmed the *laissez faire* economic approach that enhanced and maintained their wealth.[213] In explaining the conditional nature of economic relief, and its reliance upon kowtowing to those who likely created and/or exacerbated the economic hardship in the first place, Wells cites the example of a pauper who entered the parish church without permission and was subsequently both kicked out and denied aid. He was later arrested by the local magistrate for refusing to apologize to the vestry for his 'improper' behaviour.[214] If improper behaviour such as refusing to apologize warranted arrest and the refusal of economic aid, one can imagine why agrarian labourers and commoners overtly protesting against enclosure was inadvisable or even, debatably, economic suicide.

With deference becoming a necessity in receiving ever more important poor relief, open protest against enclosure became an impossibility. Protest, though traditionally a form of political expression, was met with criminalization and coercion. Crime, understandably, became a logical counter to this criminalization as a method of expressing discontent with the post-enclosure status quo. One anonymous person wrote in to the *London Gazette* and explained the situation quite well: "And as we can't have a Riot, We'll do things more quiet, As provisions get higher, The greater the Fire."[215] Locals in West Haddon, Northamptonshire, who had opposed enclosure of the commons there during its initial stages turned to this form of crime-based protest after their efforts were unsuccessful. After a football game, these "gentlemen gamesters" removed and burned £1500 worth of fence posts and rails in an attack

[213] Wells, "Rural Proletariat," 37-39, and Smelser, *Social Change*, 211.
[214] Wells, "Rural Proletariat," 39.
[215] Anonymous, *London Gazette*, 22 March 1800 quoted in Wells, "Rural Proletariat," 46.

on the physical representation of enclosures.[216] Also in Northamptonshire, commoners in Raunds, Werrington, and Wilbarston similarly took to rioting following the rejection of their parliamentary petition opposing enclosure.[217] In Sanderfoot, Pembrokeshire, the trespass and property destruction against a Mr. Loveden Esq. was limited to the destruction of an enclosing wall along the seashore demonstrating a clear intent to oppose Loveden's enclosure (or at least it extending all the way to the shore).[218] Even within the parliamentary bills and acts proposing and enacting enclosure there are references to this targeted destruction. The enclosure bill for Macclesfield for example directly references the destruction of landowner property during and after the process of parliamentary enclosure. Specifically mentioned are the "Damage [of] … lands, crops, or fences, by or in consequence of the making of the Division of Allotments under this act." The mention of potential for destroyed fences post-enclosure, in tandem with how often this act is mentioned in other primary sources, is demonstrative of how widespread the practice must have been as a form of covert protest to receive direct mention with a parliamentary bill.[219]

It is telling that people targeted by these forms of covert protest, along with their property, were seen by the lower-classes as symbols of their oppression. Farmers, landlords, and overseers were specifically targeted for arson, property destruction, and the receiving of threatening letters as these crimes had become a form of class protest rather than private acts of vengeance or dissatisfaction.[220] Violence was not random when it came to enclosure, there were specific targets and justifications for any action against them. This nuance was, and

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[216] Neeson, "Opponents of Enclosure," 119-120. One commoner, David Cox, went as far as to say that enclosure would "ruin ye nation."
[217] Briony McDonagh and Stephen Daniels, "Enclosure Stories: Narratives from Northamptonshire," *Cultural Geographics* 19, no. 1 (2012): 114.
[218] "News," *Sun* (London), March 27, 1794, Newspaper, *Seventeenth and Eighteenth Century Burney Newspaper Collection*, Gale Primary Sources. link.gale.com/apps/doc/Z2001461820/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=245e810f.
[219] "A Bill for Dividing, Allotting, and Enclosing… Borough of Macclesfield," CRES 2/152, NA, 6.
[220] Wells, "Rural Proletariat," 43-44; Archer, *Social Unrest*, 11; and Neeson, "Opponents of Enclosure," 118.

would be, unfortunately ignored by contemporary elites and historians who parrot their views. As Thompson noted, it was far simpler for those in power, and the magistracy who served their interests, to blame violence or criminal activity on "gangs" of malcontents rather than face the possibility that their policies were disaffecting people and these were the consequences. In Thompson's work on the Windsor Blacks from the 1720s - whose pseudo-class warfare would be adopted more broadly during the 1780s-1790s - he argues that it was willful ignorance towards the nuance of their actions that led to such harsh anti-crime laws in response to their crimes. The Waltham Blacks were criminals, rough and violent ones that should not be unduly romanticized; however their organized attacks against the gentry and their effrontery to growing private property law had the distinct purpose of protecting their way of life against economic exploitation and the loss of their pre-existing rights.[221] It is hardly a coincidence that of sixty-four Windsor Blacks convicted of crimes between 1722-1724, thirty-two were labourers.[222]

The covert protestors of the late-18th century (and those who sympathized with them) should be seen as the Blacks' ideological descendants. They opposed enclosure and the harm it would do to their rights and privileges and the "perfidy" of men who would restrict these "birth-rights" which many commoners relied on for survival and did so through specific forms of targeted violence and unrest.[223] Reducing their actions to crimes without context discredits their often-distinct ideological motivations. These people were not the leftist revolutionaries and activists of the 19th century, in fact their aims were inherently conservative in nature, but treating them as anecdotal, unrelated, or unimportant because of the method of their protest does a disservice to them and to our understanding of this period.

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[221] Thompson, *Whigs and Hunters*, 190-194.
[222] Ibid, 84.
[223]"News," *Gazetteer and New Daily Advertiser*, January 1, 1780, Newspaper, *Seventeenth and Eighteenth Century Burney Newspaper Collection*, Gale Primary Sources Online. link-gale-com.proxy1.lib.trentu.ca/apps/doc/Z2000391576/BBCN?u=ocul_thomas&sid=bookmark-BBCN&xid=6822f858.

The Criminalization of Protest and the Nature of English Justice

Another critical factor in limiting the direct protest of enclosure in contrast to its covert and clandestine counterparts was the primacy of property within the hierarchy of English law. Property was, as Hay described, protected by an especially bloody legal code; a legal code that, if violated, could have disastrous and brutal consequences for the given offender.[224] Open protest against, or the destruction of, property statutes like parliamentary enclosure acts were considered an attack on the natural capital-based hierarchy of eighteenth-century Britain. Numerous intellectuals from this period excellently summarize contemporary views on this subject in their writings. Clergyman and barrister Martin Madan wrote in his 1786 treatise on English justice that judges utilized the law as an effective means of eliminating those who sought to destroy public industry and upend the public good. Execution via the death penalty was, in Madan's opinion, necessary for protecting the good and honest citizens of Great Britain from the actions of criminals. It was also a valid deterrent, he claimed, ensuring that fellow criminals would abstain from crime lest they meet "the same fatal and ignominious end."[225] A similar belief was posited by late-18th century justice Daines Barrington in defense of Britain's bloodstained legal code. Barrington claimed that the legal code of England needed to be "bloody" to adequately protect the wealth and property of its denizens; a wealth he claimed had been growing exponentially since the reign of King Henry VIII.[226] It was because wealth had grown so exponentially that capital

[224] Hay, "Criminal Law," 19.
[225] Martin Madan, *Thoughts on Executive Justice, With Respect to Our Criminal Laws, Particularly on the Circuits* (London: J. Dodsley, 1785), 26-30.
[226] Daines Barrington, *Observation on the More Ancient Statutes from Magna Charta to the Twenty-First of James I. cap. XXVII. With an Appendix, Being a Proposal for the Honouring of New Statutes* [Fifth Edition], Monograph (London: J. Nichols, 1796), *Eighteenth Century Collections Online*, Gale Primary Sources, 482, 484-488.

offences needed to increase accordingly. Legislation mandating capital punishment as main the sentence for larceny and similar crimes had been continuously extended from the reign of William III and Mary II to the time of Barrington's writing; legislation that Barrington admits was designed to protect merchants and gentry due to their perceived social value. 9 George III, c. 29, a law initially punishing food rioters with death that eventually extended to include enclosure rioters, is an notable example of such a statute.[227] Finally, English poet and priest Thomas Gisborne wrote that a judge passing fatal judgement on a prisoner guilty of a capital crime would impart a "deep and salutary impression" on both them and those who would break the law.[228] Regarding the audiences that gathered to witness the assizes, Gisborne continues:

> [A judge] will dwell with peculiar force on those such causes as appear to him the most likely, either from general principles of human nature, or from local circumstances, to exert their contagious influence on the persons whom he addresses. And whatever the crime which is the subject of his animadversions, he will not content himself with considering it in a political light… but will direct the attention of his audience to those views of the nature and consequences of vice, which are revealed in the awful denunciations of the Gospel.[229]

Death sentences were, according to Gisborne, a profound tool for the magistracy to reinforce the core values of British society and emphasize that vice and/or crime could easily lead to death. It was thus imperative that one should not wander outside the legal boundaries or make too much fuss or the consequences could be fatal.[230]

One issue of this image of English justice is that, despite the abundance of capital statutes and those elites willing to extoll their necessity or virtue, executions were exceedingly rare. Royal pardons and leniency immediately saw transportation supplant

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[227] Barrington, *Ancient Statutes*, 487-489, and Hay, "Criminal Law," 21.
[228] Thomas Gisborne, *An Enquiry Into the Duties of Men in the Higher and Middle Classes of Society in Great Britain, Resulting from Their Respective Stations, Professions, and Employments*, Monograph (Dublin: J. Exshaw, 1795), *Eighteenth Century Collections Online*, Gale Primary Sources, 233.
[229] Gisborne, *Duties of Men*, 233-234.
[230] Hay, "Criminal Law," 28-29.

execution as the main form of punitive justice for violating property laws. Even as demands for prison and legal reform intensified and a federal penitentiary system was instituted in 1779, transportation to New South Wales, Australia, would begin in 1787 and continue until 1868, a testament to its popularity as a criminal sentence.[231] Striking a balance between consent and coercion, done through the explicit evasion of either outright brutality or overt leniency, was crucial for British justice to survive and maintain its legitimacy. After the anti-Catholic Gordon Riots (1780), for example, Anglo-Irish MP and philosopher Edmund Burke (despite his own support for Catholic emancipation) advised that only "six executions with maximum publicity" be performed, despite the thousands who had participated in the riots. These executions, Burke argued, would project the image of legal strength without resorting to widespread punishments.[232]

Moreover, brutal punishments like execution or transportation (or, at least the promise of invoking them) did little to curtail crime during the 1780s-90s.[233] In the mid- to late-1790s the opposite effect is visible, particularly as grain prices, agrarian poverty, and unemployment rose; some regions' assize records illustrate growing levels of larceny and grand larceny in contrast to previous years. In the Western Assize records for example, covering the southwestern region of England, of all cases that were granted mercy and sentenced to transportation, only two cases of larceny or grand larceny brought before the public assizes between 1789-1794. In contrast, between 1795-1799 thirteen cases of larceny or grand larceny were brought before the public assizes, a sizable increase from the preceding

[231] Hay, "Criminal Law," 22, and Willis, "State Power," 404-406.
[232] Hay, "Criminal Law," 50-51, and Machiavelli, *The Prince*, 80-81. This view of English justice also conforms with Machiavelli's commentary on the nature of being loved versus being feared. He wrote that: "[A] prince ought to inspire fear in such a way that, if he does not win love, he avoids hatred; because he can endure very well being feared whilst he is not hated." Executions and not demonstrating overt leniency maintained fear, avoiding 'unnecessary' cruelty and fewer attacks against the gentry prevented hatred. See, Machiavelli, *The Prince*, 76-77.
[233] Hay, "Criminal Law, 23-24.

five years.[234] Likewise, the expansion of the aforementioned 9 George III, c. 29 mandating enclosure rioters be sentenced to transportation did little to stop covert protest or anti-enclosure property destruction. If 'bloody' punishments were sparse [at least in comparison with their massive role in the penal code] and punishments were broadly ineffective as deterrents, why did English law continue to employ these punishments (and what does it have to do with enclosure)?

The answer is predicated upon social control, rather than having an efficacious legal and judicial system. Like giving local elites control over Poor Laws and thus the economic relief of employees, labourers, and [former] commoners, legally mandated execution and transportation at the behest of a gentry dominated magistracy and parliament offered the wealthy and propertied of Great Britain an effective means of social control. Whether the punishments were effective or not (and whether such punishments like the death penalty actively deter crime) is/was irrelevant.[235] The law was a tool to aid in economic exploitation, providing a legal basis for the consolidation of power within the wealthy by rendering property sacrosanct and fully protected by the powers of the state. Enclosure was protected not just by parliamentary acts or the wills of local elites, but by the very foundation of English common law that had property [and, by extension, the conversion of common land into property via enclosure] at its centre.

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[234] "Transportation Orders: This Volume Contains Some Orders Committing Prisoners Reprieved from the Death Penalty to Hard Labour," collected documents, 1789-1804, Assizes: Western Circuit: Miscellaneous Books, ASSI 24/27, NA, 18, 26, 30-35, 37, 39-40, 42-44; and Archer, *Social Unrest*, 30. This is not including five additional cases in which either manufactured goods [i.e. wool and cloth, in these instances] or government property was stolen. Only included are cases in which larceny [petty or grand] are the recorded convictions.

[235] Thomas A. Long, "Capital Punishment: Cruel and Unusual?," *Ethics* 83, no. 3 (1973): 222. I am not a criminologist nor a psychiatrist so this paper will not offer much comment on whether these sorts of punishments are broadly effective or not. It is worth noting that in the United States (one of the few developed nations that has retained the death penalty), 7/10 states with the highest murder rates in the country [Mississippi, Louisiana, Alabama, Missouri, Arkansas, S. Carolina, and Tennessee] are all states in which the death penalty is still legal. See: "Murder Rate by State," World Population Review, accessed 03/21/2023, https://worldpopulationreview.com/state-rankings/murder-rate-by-state, and "State by State," Death Penalty Information Center, accessed 03/21/2023. https://deathpenaltyinfo.org/state-and-federal-info/state-by-state.

Consider the aforementioned Black Act (1723) that introduced over fifty new capital offenses, most of which were property-related, and the wording of which was vague enough to allow for potential expansion of the Act's parameters without legal or constitutional overreach. The Black Act's powers ranged so broadly that anyone even accused of a crime by a "credible witness" had to be brought before the Privy Council to defend themselves, and if they did not they would be found guilty by default and executed.[236] An Act offering such wide-ranging power and introducing such a multitude of capital statues surely must have been temporary, introduced to prevent or perhaps assuage an ongoing crisis? Both Plumb and noted criminologist Leon Radzinowicz argued this point, claiming the Act was only supposed to be in effect for three years as a temporary response to an emergency.[237] In this rather favourable interpretation, the Black Act could be seen as comparable to the 1970 Canadian use of the War Measures Act; a desperate time that called for desperate measures, even if those measures were highly controversial. In his research on the subject, Thompson found no record of any emergency that could spark such a punitive and frankly draconian Act. He goes as far as to note that neither Plumb nor Radzinowicz were able to provide an emergency to justify the Act [outside of poaching, a long-standing and ever-present crime in pre-18th century England] and both cited different years for the peak in English poaching that justified the Black Act's creation and continuance.[238]

The Black Act's successful implementation and subsequent renewals throughout the eighteenth century can be interpreted in some ways as precursors to the enclosure acts that dominated the 1780s-1790s: consolidation of previously broad and diffused powers within

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[236] Thompson, *Whigs and Hunters*, 21-23.

[237] Thompson, *Whigs and Hunters*, 23; and Leon Radzinowicz, "The Waltham Black Act: A Study of Legislative Attitude Toward Crime in the Eighteenth Century," *The Cambridge Law Journal* 9, no. 1 (1945): 74-75.

[238] Thompson, *Whigs and Hunters*, 24. Thompson remarks in his footnotes that Radzinowicz cites 1722 while Plumb cites 1726. Unless poaching hit emergency levels twice within 4 years, justification for the Act as an emergency response feels hollow.

individuals, curtailing of pre-existing and highly valued land rights, and designed with the explicit purpose of protecting and enriching those of property. As noted in comparisons between the production yields of enclosed and common fields, efficacy of a given policy was less relevant for those in positions of power than the social effects it could have. Limiting, if not outright removing, the ability for the disenchanted agrarian poor to legally oppose enclosure by restricting protest, threatening heavy punishments, and restructuring the legal code to emphasize property rather than egalitarian justice was worth far more than the shift from tillage to pasture. The penal code of eighteenth-century Britain, and the men of means who shaped it, reframed opposition not as valid dissent or dissatisfaction, but as criminality. It allowed the *laissez-faire* British state to encourage more frugal spending habits amongst the hungry and pauperized peasantry during a period of rampant inflation and unemployment. It justified the dismissal of numerous bills meant to expand or meaningfully codify poor relief after land was enclosed rather than address the inequalities encouraged by the destruction of communal farming and common land ownership.[239] The poor who opposed enclosure were criminals in opposition to Britain's improvement, at odds with the new hierarchy of British law, justifying the dismissal of their wants and needs as irrelevant in a modernizing Great Britain.

The Right to Riot?

A critical issue for those who risked open protest against enclosure was the distinction amongst parishioners between riot and right. Open protest, which often devolved (or evolved, depending on one's point of view) into a riot, was a time-honoured means for the poor to express their dissatisfaction with ruling elites. It was an inherited practice guided by moral principle and designed to provoke concessions from local elites and authorities. Those who,

[239] Smelser, *Social Change*, 350-354.

according to Thompson and John Bohstedt, "cheated the moral economy" and imposed unfair economic practices were the prime targets of violence, indicating the presence of explicit purpose rather than random occurrences of mob violence.[240] Parishioners believed that, under law, "demolishing any building or fence which had been raised upon the common or waste" was well within their rights of common, preventing the destruction of the commons and their common ownership over them. Whether a judge and jury supported these beliefs was a different matter entirely, however.

In the parishes of Porlock, Somerset (1774), and Feckenham, Worcestershire (1789), two groups of men were arrested for destroying hedges and fences in enclosed gardens, respectively. Whether these men were 'riotous,' engaging in covert protest, or committing crimes to intentionally raise questions about the continuance of common rights post-enclosure is unknown, the fact that both groups were convicted for their actions is not.[241] A similar case was brought before the 1793 Winchester Summer Assizes in which a Mr. Bryant was tried for destroying the fences and opening up the enclosed farm of the plaintiff Mr. Barfoot. Bryant cited his right to do so, claiming that "the farm had been clandestinely taken out of the forest," displaying his outright opposition to the notion that the commons had been legally enclosed. His argument, and the fact that he did not deny destroying the fences, indicates confidence in his self-assured right to prevent undue encroachment into and building upon the commons.[242] This tells us that the right to oppose undue enclosure remained in late-18th century England regardless of parliament and landowners' assertions otherwise.

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[240] Archer, *Social Unrest*, 38, and Wells, "Rural Proletariat," 41.

[241] Thompson, *Customs*, 117-120. Thompson does not elaborate on what sentence the men were given for their actions. The death penalty is a potential outcome, though they were more likely to be given mercy and instead transported to the American colonies and later Australia for seven or fourteen years.

[242] "News," *True Britain* (London), July 19, 1793, Newspaper, *Seventeenth and Eighteenth Century Burney Newspaper Collection*, Gale Primary Sources. link.gale.com/apps/doc/Z2001552379/BBCN?u=ocul_thomas&sid=bookmarkBBCN&xid=cd7f5460.

Like the "social crimes" of those who trespassed on or stole from the commons after they were enclosed or the enraged tenant labourers who engaged in covert protest against their employers it is likely that those who engaged in these 'new' crimes did not think of their actions as illegal but rather as a continuance of their pre-existing rights. It is also possible that these social criminals simply preferred their own subsistence to their lord's and/ or employer's legally enforced property rights. Unfortunately for the landless, poor labourers, and small-time land-owning commoners, parliament had grown to favour the interests of larger landowners. Petitions presented before both the House of Commons and House of Lords were repeatedly denied and gentry judges were more than content to prosecute those who failed to uphold 'sacred' property statutes.[243] The destruction of traditional systems of living and the rights and privileges associated with the commons sparked undeniable unrest throughout England, as any massive social change would, especially one that disaffected large swaths of the agrarian poor.

Commoners could react violently to preserve and often reshape the land into something recognizable in an, ultimately vain, attempt to reassert their dwindling rights and common ownership.[244] However, given the political and judicial context in which parliamentary enclosure was proliferating, is it any surprise that unrest directed against that most important of societal values, property, seems muted in contrast to food or anti-industrial riots? Initiatives for parliamentary enclosure was so successful during the late-eighteenth century not because it was popular amongst a majority of Britons, it was broadly loathed by the commoners and feared by much of the agrarian poor, but because those who supported it

[243] Neeson, *Commoners*, 289-290; Hay, "Criminal Law," 25, 30-31; and Foster, Clark, and Colleman, "Marx and the Commons," 13-14. Hay notes that a visiting French barrister was amused by the sight of the gentry rushing the bench before the assizes began, openly displaying their connection to the judges on said bench. The fact that the English saw nothing abnormal about this illustrates the practice's prevalence and the unquestioned connection between the magistracy and the gentry.
[244] McDonagh and Daniels, "Narratives," 114-115.

were Britons who 'mattered.'[245] Discontent towards enclosure could fester for years in agrarian communities and while its opponents may have learned to live with the practice, there being little they could do to oppose it once implemented, acceptance was another matter altogether.[246]

Lasting Wounds

While open protest against enclosure was either ignored or downplayed by its practitioners or was met with surprise regarding the rage of commoners and labourers at losing their rights, no-one could deny the discontent expressed in enclosure's long-term aftermath. As Neeson notes: "Enclosure had a terrible but instructive visibility" in which commoners were well-aware of their rights and privileges, both small and great, were disintegrating before their eyes. She cites the example of David Hennell, a lace dealer from Wollaston, Northamptonshire, who feared that large and middling landowners would enclose a nearby common field with no regard for the numerous small-scale farmers and labourers who might be harmed by this decision.[247] The commoners and agrarian poor's collective memory of pre-capitalist land ownership was reflected in the often deep-seated loathing of the status quo and, an admittedly idealistic, nostalgia for the rugged and common-laden countryside of previous decades. Though "lobbying, petitions, letters, the mobbing of surveyors, the destruction of records, and… arson, riot, and fence-breaking, which might continue for years after enclosure was completed" remained as evidence of unrest provoked by enclosure, one needs only to examine the writings of both commoner and poet alike to understand what they perceived as a great injustice.[248]

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[245] Neeson, *Commoners*, 286-288.
[246] In Gilbert Slater's 1907 work on enclosure and the peasantry he notes that some enclosure acts did make provisions to allot land for the poor post-enclosure. However, this was fairly anomalous, most acts not having any such provisions, and the ones that did were typically inadequate for the needs of the numerous delanded and pauperized poor. See Gilbert Slater, *The English Peasantry and the Enclosure of the Common Fields* [Second Edition] (New York: Augustus M. Kelly, 1968), 127-128.
[247] Ibid, 290-291.
[248] Thompson, *Customs*, 120-121.

Northamptonshire-born labouring-class poet John Clare is perhaps the most famous example of such a writer. Unlike the Romantics of his day, Clare was the son of a farm labourer rather than an aristocrat, a man of the peasantry who composed rustic and eloquent laments expressing the beliefs of the agrarian poor post-enclosure.[249] In his poem "The Mores," an indictment of enclosure's impact in the land and its people, Clare wrote that:

> Inclosure came and trampled on the grave
> Of labourers rights and left the poor a slave
> And Memorys pride ere want to wealth did bow
> is both the shadow and the substance now…
> And birds and trees and flowers without a name
> All sighed when lawless laws enclosure came
> And dreams of plunder in such rebel schemes
> Have found too truly they were but dreams.[250]

Clare was not subtle in his condemnations. His direct equation of the post-enclosure labourer's life of wage dependency and lacking rights with that of a slave would have struck quite the chord with an increasingly abolitionist British population. In the poem "Remembrances" he personifies the commons and writes that they "seek for freedom still" from their constraints and laments their new role as pasture.[251] In "To a Fallen Elm" Clare again equates the new status of common lands as akin to slavery or prison:

> Thus came enclosure- ruin was her guide
> But freedoms clapping hands enjoyed the sight
> Tho comforts cottage soon was thrust aside

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[249] McDonagh and Daniels, "Narratives," 111.
[250] John Clare, "The Mores," *Poetry.com*, 2011, https://www.poetry.com/poem/22316/the-mores. Note: The grammar errors within the citation are all from Clare's original work.
[251] John Clare, "Remembrances," *Poetry.com*, 2011, https://www.poetry.com/poem/22270/remembrances.

And workhouse prisons raised upon the scite [sic][252]

Clare gave voice to the anger at the values of freedom and independence espoused by the landowners and commercial farmers who had so intently advocated for enclosure, complimenting Thompson's argument that economic independence was a façade for poor labourers and commoners. "Freedom" meant nothing to a people whose land had been taken, their lives upturned, their power over their own lands restricted, and their economic livelihood tied to wages doled out by their employers.

The long-standing suffering for the poor caused or exacerbated by parliamentary enclosure was likewise a constant source of dissatisfaction. Compiled in the 1808 *General Report on Enclosures* (prepared by Arthur Young and the Board of Agriculture) were the effects of enclosure on the poor from 1760-1800, the first forty years of George III's reign. Young and the Board's findings paint a grim picture citing numerous accounts from either Young's own descriptions in his *Annals of Agriculture* or those of former enclosure commissioners. Parishes from across England are referenced with no region left out. Sometimes descriptions are simple observations. For example, in Tolpuddle (Dorset) "Poverty increased," and in Upton Gray (Hampshire) and Totterhill (Norfolk) "The poor [were] injured" is all the information given. Specific reference to a loss of commoners' power over their lands is noted in Lanchester (Durham): "The proprietors do not consult the welfare of the labourer so much as they might, without any injury to themselves, and with very little more trouble to their agents."[253] Enclosure's most frequent effect on the poor listed by the Board was the loss of cows and other livestock, appearing in the descriptions of numerous parishes across England. In the parishes of Cranage (Cheshire) and Offley (Hertfordshire) the

[252] John Clare, "To a Fallen Elm," *Poetry.com*, 2011, https://www.poetry.com/poem/22351/to-a-fallen-elm.
[253] Arthur Young [Board of Agriculture], *General Report on Enclosures* (London: B. MacMillian, 1808), 151. The *Report* does include information on counties such as Bedfordshire, Buckinghamshire, and Berkshire, however because they [along with Northamptonshire] have been mentioned throughout this paper I thought it would be prudent to include some lesser discussed counties.

poor's cows and sheep had no place to graze once the common fields and 'wastes' were enclosed. In Norton (Hertfordshire) cottagers were "deprived of cows, without compensation" while commoners in Donnington and Ussington (Lincolnshire) lost large swaths of their entire herd.[254]

These findings are enhanced by subsequent reports quoted from former enclosure commissioners and the effects which they believed the process of parliamentary enclosure had on the poor in a given parish. Mr. Forster of Norwich gave an account in which he "lamented that he had been accessary [sic] to injuring 2000 poor people, at the rate of 20 families per parish." The productivity of enclosed fields, Forster argued, was irrelevant as neither the now landless labourer nor the small-scale farmer could afford the increased rents and cost of enclosing their property/rented land. A Mr. Burton from Berkshire made a similar observation regarding the cottager's situation post-enclosure. He argued that enclosure alienated cottagers from their land and restricted their ability to graze their animals and grow a sufficient number of crops.[255] Damning indictments from the men who had spearheaded the enclosure process in their given parishes.

Young would argue that it was not enclosure that had impoverished these people, but "inattention to the customs and property of the poor."[256] This is not entirely false, as Young and the Board are able to cite parishes/villages in which enclosures were successful. The Norfolk parishes of Brancaster, Salt House, Sayham, Langley, Shropsham, Shottesham, Old Buckenham, and Northwold [all enclosed between 1755-1800] saw the lives of their poor increase in quality. The parish of Nasening, Essex, is notable for seeing an increase in livestock, against typical trends in communities post-enclosure, and the conversion of "a

[254] Young, *General Report*, 151-152.
[255] Ibid, 158.
[256] Ibid, 155.

worthless crew changed to industrious labourers."[257] However, an issue arises regarding the scale of parliamentary enclosure in terms of positive versus negative impact and the unequal distribution of enclosure's benefits. Young and the Board cite far more communities whose poor had been harmed by enclosure than those who had benefited from it, and, as Yelling argued, even when successful in raising up the poor, enclosure's benefits were always lop-sided in the wealthy's favour.[258]

What Young and his contemporaries, those who believed enclosure would be a general good to the British poor, did not realize was that enclosure and the subsequent reification of individual private property laws were both incongruous with the "customs and property" of the poor and designed with the explicit purpose of destroying said customs. The *General Report* was compiled up to 40-50 years later than many of the enclosures referenced within and yet the economic destitution faced by the poor is an ongoing issue. For the landowners, commercial farmers, and country elites that enclosed their lands, parliamentary enclosure was a simplifying process or a revenue scheme, something meant to consolidate land and/or increase profitability. It was not a straightforward process (as seen with the examples of Holy Island and Mill Gate referenced in this paper) but its inconveniences and drawbacks were minor. It was small-scale farmers and small landowners who lost their properties due to enclosure's cost. It was labourers who found themselves stripped of land, rendered landless and wage-dependent without the privileges and boons of the commons. It was poorer commoners who had their rights usurped and their control over the land restricted as power became consolidated within a select few. Dissatisfaction towards parliamentary enclosure remained because its negative consequences for the poor did not evaporate. The long-lasting consequences of parliamentary enclosure and the beliefs that it embodied cast a

[257] Ibid, 156. Whether this is a valid observation, or the standard moralizing of eighteenth-century British writing/rhetoric, is unknown.
[258] Yelling, *Common Fields*, 232.

long shadow, debatably to this day, and even if dissent was no longer embodied by riot or arson, which does not mean it simply disappeared once enough time had passed.

Chapter Five: Conclusion – Why Does This Matter?

In Summary

In the first chapter of this thesis, it was argued that the late-eighteenth century was a period marked by class conflict. Poverty, exploitation, pauperization, and landlessness were not the unfortunate results of capitalist land reforms and policies embodied in parliamentary enclosure, but were instead the practice's deliberate consequences, meant to destroy collective rights and weaken commoner communities to more easily 'improve' upon the land they inhabited. This is a critical distinction to make because it re-emphasizes and re-contextualizes the anti-enclosure unrest that was prolific during the late-eighteenth century, even if it was not being performed in the open like other forms of unrest. Understanding enclosure's impact on social unrest in Britain gives far greater agency to the agrarian poor (who were most likely to suffer from its negative side-effects and deliberate policy aspects) as deeply involved actors regarding that which affected their livelihoods. It helps limit the paternalistic and dismissive approach to history that disregards the poor as mere subjects in their narratives, or obstacles stubbornly resistant to supposed 'improvements.' The agrarian poor are not reduced to the 'ignorant masses' that contemporary landowners or historians like Plumb characterized them as, rather their anger and criminal actions (crime being defined by those in positions of power at the time with a distinctly property-centric flavour) had a distinct purpose of self-preservation and protection for the mutually beneficial system of common land-ownership and production enjoyed for centuries previous.

It is imperative to understand that while social unrest in the late-eighteenth century did come from a myriad of sources such as proto-industrialization and food shortages, the seemingly smaller scale of anti- and post-enclosure unrest does not diminish its importance. It challenges the teleological narrative of Whig/Liberal history that emphasizes a humanity

which ever-progresses towards enlightenment with the stark fact that the nominal freedoms granted by economic and political liberalization, along with the nominally freer capitalist practices said liberalization grew alongside, instead spelt disaster for a wide swath of the British population. And while historians have broadly agreed that "Whig history" has mostly fallen out of fashion, becoming something of a pejorative in historiographical discussions, since the 1931 publication of Herbert Butterfield's influential *The Whig Interpretation of History*, issues of access to common land and the privatization and consolidation of public lands within wealthy landowners remain present today.[259] How can anyone say, with any degree of sincerity, that the history has moved past the supposedly outmoded arguments of whiggish or liberal historiography when the same beliefs that justified the reduction of the commons and the exploitation of lower- and working-class people have thrust themselves back into contemporary policy discussions? So much for advancement.

Why This Matters Now: The Greenbelt

Numerous times throughout the researching for and writing of this thesis, questions were raised regarding the relevance this topic had in the modern day. What possible application could the lives of the bygone English peasantry have on our contemporary world? It was in the early stages of writing that the current (2022-2023) Ontario government enacted a plan in which it would begin housing development on protected lands known as the Greenbelt in order to alleviate an ongoing housing crisis.[260] The issue of public land ownership, and how precarious that ownership can be, has suddenly been thrust back into relevance by this recent policy. In the provincial government's own words, the Greenbelt was

[259] Oscar Moro Abadìa, "Beyond the Whig Interpretation of History: Lessons on 'Presentism' from Hélène Metzger," *Studies in History and Philosophy of Science* 39 (2008): 194-195.
[260] Sara Jabakhanji, "The Ford Government Wants to Open Up the Greenbelt for Housing. Here's What it's Proposing," CBC, November 8, 2022, https://www.cbc.ca/news/canada/toronto/ontario-greenbelt-proposal-to-cut-land-for-homes-1.6643299.

officially created in 2005 to protect "farmland, communities, forests, wetlands and watersheds. It also preserves cultural heritage and supports recreation and tourism in Ontario's Greater Golden Horseshoe."[261] The provincial government's *Greenbelt Plan* (2017) continues by stating that the areas in the Greenbelt "clean the air, provide drinking water, provide diverse flora and fauna habitats, including pollinators, and they provide opportunities for recreational activities that benefit public health and overall quality of life." The document also notes that the lands contain "some of Canada's most important and productive farmland. Its fertile soil, moderate climate and abundant water resources support agricultural production that cannot be duplicated elsewhere in the province and the country."[262] According to the provincial government's own description, by past and current administrations, the Greenbelt is a crucial source of highly beneficial agricultural lands and publicly owned natural spaces, such as trails, parks, and campgrounds, along with private businesses such as ski hills and golf courses.[263] Despite its importance in these regards large swaths of the Greenbelt are now subject to potential housing development.

This proposal represents a stark shift from previous government plans to avoid developing on the Greenbelt or removing any land from Greenbelt designation to simplify construction. Despite previous claims by Housing Minister Steve Clark (February, 2021) stating that: "I want to be clear: [the government] will not in any way entertain any proposals that will move lands in the Greenbelt, or open the Greenbelt lands to any kind of development," the immediate aftermath of this plan's announcement saw consultations being planned for the removal of 7400 acres of land from the Greenbelt and replace it with 9400 acres in other plots for the purposes of residential development.[264] When Addington and Price

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[261] "Ontario's Greenbelt," Ontario.ca, August 6, 2019 (updated November 7, 2022), https://www.ontario.ca/page/ontarios-greenbelt.
[262] Canada, Ontario, Ministry of Municipal Affairs, *The Greenbelt Plan* (Toronto: Ontario): Queen's Printer, 2017, 1-2. https://files.ontario.ca/greenbelt-plan-2017-en.pdf.
[263] Ministry of Municipal Affairs, *Greenbelt Plan*, 15, 37-38.
[264] Jabakhanji, "Ford Government."

criticized the self-serving conservationist arguments for enclosure they remarked upon the disingenuousness of these claims. They argued that if preservation were the main goal of parliamentary enclosure, why was Parliament not mandating what landowners could do with trees on their properties? If enclosure were to protect trees why were there no national tree planting initiatives ordered by the legislature?[265] Those opposing the Greenbelt have used similar arguments against the current administration, arguing that if the goal were to alleviate the housing crisis, more direct and efficacious methods could be used.

Rocky Petkov, an advocate with More Neighbours Toronto, an advocacy group focused on "the long-term political, social, and economic consequences of unaffordable housing," argued that the transformation of Greenbelt lands into housing land not only breaks previous government promises to not develop the land but ignores the obvious solution of using pre-existing and available municipal space for housing. Mike Schreiner, leader of the Green Party of Ontario, expressed similar reservations, commenting that "We do have a housing crisis, there's no doubt about it, but we have land within our municipal boundaries to build homes for people." Schreiner argues that this proposal will come at the expense of both Ontario's taxpayers and the environment, contributing to urban sprawl and encouraging needless environmental damage.[266] Like enclosure's critics, the current Greenbelt development plan's opponents remark upon the backwards way in which legislative action is being used to solve an issue; this time housing availability rather than 'improvement.' Like Addington and Price, both Petkov and Schreiner note that solving the given problem could be done with more direct government involvement and construction within pre-owned space, rather than allowing new development in previously protected areas.

[265] Addington and Price, *Enquiry*, 9.
[266] Jabakhanji, "Ford Government."

These concerns are exacerbated by the concerning pattern of land ownership in the 'swapped' lands. One notable example is that of the prominent De Gaspiris family that owns, or is connected to companies that own, twenty-eight properties within the 7400 acres of proposed swap land. This is made more concerning by the fact the land developer, and long-time conservative donor, Silvio De Gaspiris sought to hinder Greenbelt development in the early 2000s, working with the city of Pickering to develop on preserve lands despite their protected status and culminating in his taking the province to court.[267] Discoveries such as these should give greater credence to previous criticisms levelled at the Ford administration before the new Greenbelt development plan was announced. For example, in 2020 NDP MPP Jeff Burch (municipal affairs critic for the opposition) postulated that the provincial government's increased use of ministerial zoning orders (MZOs) to immediately approve land development have been used to enrich developers with links to Progressive Conservative Party (PC) insiders or have a history of donating to PC candidates. Between March 2019 - December 2020, of the 38 MZOs issued by the government, nineteen directly benefited those with PC connections. TACC Holborn Corp. and Block 41 Landowners Group, both connected to the De Gaspiris family, and The Cortel Group all donated heavily to Premier Ford's PC leadership campaign according to Elections Ontario.[268]

Like the parliamentary enclosures of the eighteenth century, the swapping of Greenbelt land and its future development represent both a broken promise and the self-

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[267] Ryan Patrick-Jones and Nicole Brockbank, "Who are the GTA Developers Set to Benefit from Ford Government's Greenbelt Land Swap?," *CBC*, November 11, 2022 [updated November 28], https://www.cbc.ca/news/canada/toronto/gta-developers-own-greenbelt-land-swap-1.6648273 and Ryan Patrick-Jones, "Prominent Developer Family Linked to More Greenbelt Properties Slated for Housing," *CBC*, November 25, 2022, https://www.cbc.ca/news/canada/toronto/developer-greenbelt-additional-properties-1.6664326.

[268] Mike Crawley, "Ford Government Using Special Powers to Help Developer Friends, NDP Alleges," *CBC*, December 9, 2020, https://www.cbc.ca/news/canada/toronto/ontario-doug-ford-government-mzos-developers-zoning-orders-1.5832817. MZOs are a tool allotted to the provincial government allowing them to "immediately authorize development, regardless of local rules for land-use planning decisions." Their use was infrequent before 2018, notably seeing little implementation by previous administrations.

serving way in which liberal-capitalist institutions support the upper-class. Commoners and freeholders were given numerous promises by landowners and parliamentary representatives that their rights would be respected (recall Selby's promises to the freeholders and stallingers on Holy Island), only for their liberties to be savagely curtailed in the name of progress. They saw lands that were previously held in common consolidated under the ownership of prominent landowning elites, all legislated by said landowners' allies in parliament. Ontarians are witnessing a similar phenomenon as promises to maintain the Greenbelt have been broken and many tracts of land that were once public spaces will be converted into single homes on land owned by massive contracting firms, of which some have direct financial ties to the current administration. The Ford administration's plan re-illustrates how fragile public land ownership is and how quickly 'protected' lands can lose that status when it serves specific interests. Issues of land ownership are hardly unique to Canada however, and one recent case had similarly forced the concept of enclosure and land ownership back into the limelight in Britain.

Why This Matters Now: Dartmoor and the Right to Roam

Another issue surrounding common lands and the ongoing struggle regarding land ownership that emerged during this paper's writing process was that of Dartmoor and the right to roam and camp on England and Wales' Dartmoor National Park. A case brought before the high court by Alexander Darwall, hedge-fund manager and Dartmoor's sixth largest landowner, ended the previously established right to roam and camp on the Dartmoor commons without needing landowner permission. It was decided that the Dartmoor Commons Act (1985) did not protect the right to roam and camp and that any implication was arbitrary without concrete confirmation of that right. Darwall's lawyers successfully argued that these rights had never existed to begin with, despite Dartmoor national park lawyer

Timothy Leader's argument that the Dartmoor Commons Act was written as intentionally broad to prevent a restriction like this from occurring.[269]

Both Darwall and his wife, Diana, were quick to note that this was not a selfish means of increasing control over their land. This case, they argued, was for the preservation of Dartmoor's ecology and to create a "mutually satisfactory agreement" in which "those who enjoy the commons legitimately" can have an improved experience.[270] This statement raises several questions and exposes several contradictions in response to Darwall's stated goal (not limited to what constitutes 'legitimate' enjoyment of public spaces). For example: If Darwall has had issues with litter and pollution on his estate, why has there been no record of bylaw appeals in the 36 years they have been active? If his main goal is conservation and preservation of the commons' animals, why does he offer private pheasant hunts and "deerstalking" on his lands?[271] More pointedly, Darwall has been criticized for placing pheasant pens within 250 metres of Dendles Wood; a national nature reserve (NNR), site of special scientific interest (SSSI), and special area of conservation (SAC) that is home to the highly endangered blue ground beetle.[272] If conservation is really Darwall's main aim, why would he do something that threatens an endangered species? Perhaps Darwall fought against the right to roam and camp as a means of encouraging private hunts? It would not be the first time in which English common lands were restricted for such an absurd purpose. Recall the aforementioned cases of Mill Gate and Holy Island, the former seeing common land allotted for a royal deer paddock and the latter for a royal "coney warren." Both were considered vital

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[269] Helena Horton, "Right to Wild Camp in England Lost in Dartmoor Court Case," *The Guardian*, January 13, 2023, https://www.theguardian.com/environment/2023/jan/13/dartmoor-estate-landowner-alexander-darwall-court-case-right-to-camp.
[270] Horton, "Wild Camp," and Sophie Pavelle, "The Dartmoor Wild Camping Ban Further Limits Our Right to Roam. It Must Be Fought," *The Guardian*, January 17, 2023, https://www.theguardian.com/commentisfree/2023/jan/17/dartmoor-wild-camping-ban-right-to-roam.
[271] Horton, "Wild Camp."
[272] Helena Horton, "Dartmoor Landowner Who Won Wild Camping Ban May Be Putting Rare Beetle at Risk," *The Guardian*, January 21, 2023, https://www.theguardian.com/environment/2023/jan/21/dartmoor-landowner-who-won-wild-camping-ban-may-be-putting-rare-beetle-at-risk.

to allow royalty a place to hunt without undue intrusion or encroachment by the formerly entitled commoners.[273]

Regardless of why Darwall chose to fight the right to roam and the right to camp on the Dartmoor commons, his actions can be seen as part of a larger (and concerning) trend in a now thoroughly post-enclosure England. The United Kingdom is a country that has experienced the massive loss of public land and the privatization of large percentages of non-developed lands. Despite only 9% of English land being built upon, 92% of land is impossible and/or illegal for people to access due to its private ownership. Article attacking Darwall and the court's decision in his favour, British journalist Sophie Pavelle calls right to roam's death in Dartmoor a "victory for landowners," and this inability to exercise public guardianship or even access natural spaces a travesty. Britain has, Pavelle notes, "lost more biodiversity than any other G7 nation, and ranks bottom in Europe for nature connectedness" and argues that this ban will only exacerbate these ongoing issues.[274] Described by Lewis Winks, member of pro-public lands advocacy group Right to Roam, as "simply the most recent chapter of enclosure which has blighted England," the end of right to roam and camp on the Dartmoor commons is exactly that; the most recent consequence of a socioeconomic structure that has (for 300 years) prioritized the wants and needs of the wealthy and their property over the broader concerns of the public.[275] Opposition to the Dartmoor decision has been granted an appeal so only time will tell if this "recent chapter" will finally change the narrative.

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[273] Mr. Rose to Mr. Payne, 8 June 1797, NA; Selby, "Holy Island Division," 8 February 1791, NA, 1; and Harrison, "Manor of Holy Island," [likely August] 1791, NA, 2.
[274] Pavelle, "Right to Roam." Pavelle notes that Scotland has attempted to combat these worrying trends, establishing a national "right to roam" despite 60% of Scottish land being privately owned. England, despite having more space, is progressing in the opposite direction with this recent decision.
[275] Helena Horton, "Dartmoor Wild Camping Hopes Rise as Park Wins Right to Appeal Against Ban," *The Guardian*, April 5, 2023, https://www.theguardian.com/environment/2023/apr/05/hope-for-wild-camping-on-dartmoor-as-national-park-wins-right-to-appeal-ban.

Pervasive Ideology

The notion of The United Kingdom being a paragon amongst its European peers or on the forefront of international commerce and diplomacy, even amongst the most hardcore of Anglophiles and British nationalists, seems to be a relic of the past. No historian who has been paying attention since the World Wars ended would argue against the fact that Britain's former rebellious colony, The United States, has firmly supplanted its former overlord on the world stage. Similarly, critical analysis of Britain's past has been encouraged by historians such as Thompson and Hay. They, along with their contemporaries and ideological descendants, have offered Marxist critiques which provide a counterpoint and different framework for analyzing British history without the rose-coloured glasses that often accompanied the traditional liberal historiography. Despite these changes however, geopolitical and historiographical, the liberal-capitalist ideology that helped spur Great Britain/The UK to global dominance in the first place seems more prevalent than ever before.

Contemporary news stories are dominated by headlines of worker exploitation, increased profits for the ultra-wealthy, necessities becoming unaffordable during periods of inflation, and (here in Ontario) public lands being converted into private housing. Protest is met with violence, change with hostility, and idealism with ridicule. It is in times like these that one is reminded of a certain Job Nott. Nott was a buckle maker from Birmingham whose "humble advice" eerily reflects current reactions to open criticisms of the status quo. Nott argued that the British Constitution written in 1689 was imperative to Britain's prosperity. Nowhere else in the "universe," he argued, did the working-class have a better chance at success and a higher quality of life.[276] He encouraged young dissenters, those engaged in protest who railed against the kingdom's inequalities, to "mind your father's and master's business," doing what you could to stop upsetting people. Intellectual affairs, he continued,

[276] Nott, *Humble Advice*, 1.

were meaningless and that it was not the role of middling men to have a role in parliamentary affairs.[277]

What is the relevance of the 1792/3 'advice' given by a Birmingham buckle maker? Nott's "Whiggish centrism" matters because it is indicative of a broader issue that plagues social and political discourse 230 years later - contentment being comparable to perfection. Because Nott sees no flaws with the British constitution in 1792/3 and he can imagine no better system, he actively disparages those who do see flaws and who pursue change via radical action. Nott rejoices in the liberties granted by the Constitution and extolls the virtues of justice's metaphorical blindness but begrudges those who would expand or alter said liberties and virtues. "You've never had it so good" Nott seems to insist on contemporary Britons; this belief however, as UK punk band Redskins sang, was "the favourite phrase of those who've always had it better."[278] The ideology of Nott and his peers remains pervasive because it is easy for those in positions of wealth and power, even if not outright opposed to social change, to ignore or dismiss latent inequalities within the status quo because they are not affected by them. The result is something of an effete liberal-capitalist moderation that downplays the potential necessity for social or political change.

This moral component of Georgian economic theory, that those who protest or rail against systemic injustices and economic inequality, or those who fail are morally inferior to their 'industrious' peers, is buoyed in the modern-day by these attitudes. These attitudes saw the "top-down histories of high politics and social elites" dismiss the active role that the poor and working-class played in British history, only countered relatively recently by historiography emphasizing the poor's capability to resist or survive through unified or

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[277] Ibid, 1.
[278] Redskins, "Bring it Down (This Insane Thing)," Track One on *Bring it Down (This Insane Thing)*, Decca, 1985, Vinyl.

individual action.[279] It is an attitude that was supported by the property-centred and individualist statutes of the English Bill of Rights or the Black Act that enshrined property, rather than people, as most-deserving of legal protection and distinction, while attacks against this new status quo were deemed criminal by the ever-wealthier upper-classes who offered the austere advice of "low wages and starvation" during periods of economic and social unrest.[280] It is an attitude that tacitly accepts economic exploitation and underhanded political deals by the Ontario government regarding the Greenbelt because accepting systemic corruption and the political influence of capital is far simpler, and more socially acceptable, than meaningfully or actively opposing it.

Parliamentary enclosure continues to matter in contemporarily because the ideologies that justified the process are intrinsic within modern liberal capitalism. Wage dependency, moral critique of poverty, landlessness, a justice system more concerned with property ownership that sustenance or equality, the death of any moral limitations on individual economic growth; all criticisms that this paper has levelled against eighteenth century England and have been depicted as a source of social unrest and a deliberate result of capitalist enclosure policies meant to weaken the agrarian working-class and enrich the gentry; all remain as pertinent criticisms of modern politics. The 'what' has changed throughout the last 300 years as enclosure has been replaced by more present concerns. Privatization stands out as one comparable example; that which was publicly owned and regulated was broken-up and sold back piecemeal to those individual persons and/or entities who could afford it. The 'who' and the 'why' are, by contrast, immutable. The poor, the 'commoner, the working-class withstand the worst of these changes while the already

[279] Katrina Navickas, "Protest History or History of Protest?," *History Workshop Journal* 73 (2012): 304.
[280] Thompson, *Whigs and Hunters*, 206-207.

wealthy encourage further accumulation of wealth with no meaningful constraint upon their doing so.

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