

# **Communal Property: A Libertarian Analysis**

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## INTRODUCTION

The dominant market anarchist view of property takes for granted individual, fee-simple ownership through individual appropriation as the only natural form of property. Although common or collective ownership is grudgingly accepted as a legitimate—if inefficient—form of “voluntary socialism,” it’s taken for granted that such forms of ownership can only come about through some sort of special contract between preexisting owners of fee-simple individual property. Land can only be appropriated, runs the usually tacit assumption, by individuals.

Right-wing libertarian and Objectivist forums are full of statements that “there’s no such thing as collective property,” “all property rights are individual,” and the like. Ayn Rand argued that it was impossible for European settlers to steal the land of American Indians, because the latter had no valid property rights:

Now, I don’t care to discuss the alleged complaints American Indians have against this country. I believe, with good reason, the most unsympathetic Hollywood portrayal of Indians and what they did to the white man. They had no right to a country merely because they were born here and then acted like savages. The white man did not conquer this country. And you’re a racist if you object, because it means you believe that certain men are entitled to something because of their race. You believe that if someone is born in a magnificent country and doesn’t know what to do with it, he still has a property right to it. He does not. Since the Indians did not have the concept of property or property rights—they didn’t have a settled society, they had predominantly nomadic tribal “cultures”—they didn’t have rights to the land, and there was no reason for anyone to grant them rights that they had not conceived of and were not using. It’s wrong to attack a country that respects (or even tries to respect) individual rights. If you do, you’re an aggressor and are morally wrong. But if a “country” does not protect rights—if a group of tribesmen are the slaves of their tribal chief—why should you respect the “rights” that they don’t have or respect? ...[Y]ou can’t claim one should respect the “rights” of Indians, when they had no concept of rights and no respect for rights. But let’s suppose they were all beautifully innocent savages—which they certainly were not. What were they fighting for, in opposing the white man on this continent? For their wish to continue a primitive existence; for their “right” to keep part of the earth untouched—to keep everybody out so they could live like animals or cavemen. Any European who brought with him an element of civilization had the right to take over this continent, and it’s great that some of them did. The racist Indians today—those who condemn America—do not respect individual rights.”<sup>1</sup>

But as Karl Hess argued in *Libertarian Forum*, libertarian property can take on a wide variety of legitimate forms:

Libertarianism is a people’s movement and a liberation movement. It seeks the sort of open, non-coercive society in which the people, the living, free, distinct people,

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<sup>1</sup> Ayn Rand, in question and answer session following “Address To The Graduating Class Of The United States Military Academy at West Point,” New York, March 6, 1974.

may voluntarily associate, dis-associate, and, as they see fit, participate in the decisions affecting their lives. This means a truly free market in everything from ideas to idiosyncracies. It means people free collectively to organize the resources of their immediate community or individualistically to organize them; it means the freedom to have a community-based and supported judiciary where wanted, none where not, or private arbitration services where that is seen as most desirable. The same with police. The same with schools, hospitals, factories, farms, laboratories, parks, and pensions. Liberty means the right to shape your own institutions. It opposes the right of those institutions to shape you simply because of accreted power or gerontological status.<sup>2</sup>

Communal ownership of land is a legitimate and plausible model for property rights in a stateless society based on free association.

Roderick Long, in particular, has argued for what he calls “public property”—as opposed to state property: “I have no interest in defending public property in the sense of property belonging to the organized public (i.e., the state). In fact, I do not think government property is public property at all; it is really the private property of an agency calling itself the government.”<sup>3</sup> Common property, he says, can come about through collective homesteading:

Consider a village near a lake. It is common for the villagers to walk down to the lake to go fishing. In the early days of the community it’s hard to get to the lake because of all the bushes and fallen branches in the way. But over time, the way is cleared and a path forms — not through any centrally coordinated effort, but simply as a result of all the individuals walking that way day after day.

The cleared path is the product of labor — not any individual’s labor, but all of them together. If one villager decided to take advantage of the now-created path by setting up a gate and charging tolls, he would be violating the collective property right that the villagers together have earned.<sup>4</sup>

Since collectives, like individuals, can mix their labor with unowned resources to make those resources more useful to their purposes, collectives, too can claim property rights by homestead.<sup>5</sup>

Historically, the overwhelming weight of evidence suggests that the first appropriation of land for agriculture was almost universally by peasant villages working as a social unit.

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<sup>2</sup> Karl Hess, “Letter From Washington: Where Are The Specifics?” *The Libertarian Forum*, June 15, 1969, p. 2

<sup>3</sup> Roderick T. Long, “In Defense of Public Space,” *Formulations* (Free Nation Foundation), Spring 1996. Website offline, accessed via Internet Archive July 6, 2011 <<http://web.archive.org/web/20090503091359/http://libertariannation.org/a/f33l2.html>>.

<sup>4</sup> *Ibid.*

<sup>5</sup> Long, “A Plea for Public Property,” *Formulations* (Free Nation Foundation), Spring 1998. Website offline, accessed via Internet Archive July 6, 2011 <<http://web.archive.org/web/20090416204308/http://libertariannation.org/a/f53l1.html>>.

## I. Rise and Persistence of the Village Commune.

The village commune was, almost universally, the dominant property model in societies which, so far in human history, came closest to approximating the libertarian ideal of statelessness and voluntary association. At the highest point of human development before the rise of the state, the stateless villages and small market towns that existed in peace without paying tribute to imperial conquerors, the common ownership of land by the peasant commune was almost universal.<sup>6</sup>

Communal ownership of land was the norm in the stateless village societies of the neolithic period, from the Agricultural Revolution until the rise of the first states. The internal pattern of the village commune, wherever it was found, typically approximated the hypothetical case study of traditional tenure practices described by James Scott:

Let us imagine a community in which families have usufruct rights to parcels of cropland during the main growing season. Only certain crops, however, may be planted, and every seven years the usufruct land is distributed among resident families according to each family's size and its number of able-bodied adults.

After the harvest of the main-season crop, all cropland reverts to common land where any family may glean, graze their fowl and livestock, and even plant quickly maturing, dry-season crops. Rights to graze fowl and livestock on pasture-land held in common by the village is extended to all local families, but the number of animals that can be grazed is restricted according to family size, especially in dry years when forage is scarce... Everyone has the right to gather firewood for normal family needs, and the village blacksmith and baker are given larger allotments. No commercial sale from village woodlands is permitted.

Trees that have been planted and any fruit they may bear are the property of the family who planted them, no matter where they are now growing... Land is set aside for use or leasing out by widows with children and dependents of conscripted males...

After a crop failure leading to a food shortage, many of these arrangements are readjusted. Better-off villagers are expected to assume some responsibility for poorer relatives—by sharing their land, by hiring them, or by simply feeding them. Should the shortage persist, a council composed of heads of families may inventory food supplies and begin daily rationing.<sup>7</sup>

The village commune model traced its origins, in the oldest areas of civilization, back to the beginning of the agricultural revolution, when humans first began to raise crops in permanent village settlements. Before that time, the dominant social grouping was the semi-nomadic hunter-gather group. As hunter-gatherers experimented with saving a portion of the grain they'd gathered, they became increasingly tied to permanent settlements.

In the areas where communal tenure reemerged in Dark Age Europe, after the collapse of Roman power, the village commune had its origin in the settlement of barbarian tribes. (Even in

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<sup>6</sup> Caveats on terminology from P.M. Lawrence via private email.

<sup>7</sup> James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven and London: Yale University Press, 1998), pp. 33–34.

Europe, the village commune was actually the reemergence of a social unit which had previously been partly suppressed, first by the Roman Republic in Italy and later by the Empire in its areas of conquest).

In both cases, the hunter-gather group or the clan was a mobile or semi-mobile social unit based on common kinship relations. So the village commune commonly had its origins in a group of settlers who saw themselves as members of the same clan and sharing a common ancestry, who broke the land for a new agricultural settlement by their common efforts. It was not, as the modern town, a group of atomized individuals who simply happened to live in the same geographic area and had to negotiate the organization of basic public services and utilities in some manner or other. It was an organic social unit of people who saw themselves, in some sense, as related. It was a settlement by “a union between families considered as of common descent and owning a certain territory in common.” In fact, in the transition from the clan to the village community, the nucleus of a newly founded village commune was frequently a single joint household or extended family compound, sharing its hearth and livestock in common.<sup>8</sup>

Even after the founding clan split apart into separate patriarchal family households and recognized the private accumulation and hereditary transmission of wealth,

wealth was conceived exclusively in the shape of movable property, including cattle, implements, arms, and the dwelling-house... As to private property in land, the village community did not, and could not, recognize anything of the kind, and, as a rule, it does not recognize it now... The clearing of the woods and the breaking of the prairies being mostly done by the communities or, at least, by the joint work of several families—always with the consent of the community—the cleared plots were held by each family for a term of four, twelve, or twenty years, after which term they were treated as parts of the arable land held in common.<sup>9</sup>

And even where a league of separate families together settled a new village, they soon developed a mythology of a common ancestor as a basis for social solidarity.<sup>10</sup> As we shall see below, the atomized groups of landless peasants which Stolypin deported to set up new village colonies in Siberia spontaneously organized the new villages around the *mir*'s principle of common ownership (despite Stolypin's vision of individual family farmsteads held in fee simple). The village commune was, therefore, an example of the kind of collective homesteading described above by Roderick Long.

In some variations of the village commune, e.g. in India and in many of the Germanic tribes, Henry Sumner Maine argued, there was a theoretical right for an individual to sever his aliquot share of the common land from the rest and own it individually. But this was almost never done, Maine said, because it was highly impractical.

For one thing, the severance of one's patrimony in the common land from the commune was viewed as akin to divorcing oneself from an organized community and setting up the nucleus of a new community alongside (or within) it, and required some rather involved ceremonial for its legal conclusion. And the individual peasant's subsequent relations with the community,

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<sup>8</sup> Pyotr Kropotkin, *Mutual Aid: A Factor in Evolution* (New York: Doubleday, Page & Company, 1909), pp. 120–121, 123, 123 fn1.

<sup>9</sup> *Ibid.*, pp. 124–125.

<sup>10</sup> *Ibid.*, pp. 125–126.

consequently, would take on the complexity and delicacy of relations between two organized societies.<sup>11</sup> So many functions of the agricultural year, like plowing and harvest, were organized in part or in whole collectively, that the transaction costs entailed in organizing cooperative efforts between seceded individuals and the rest of the commune would have been well-nigh prohibitive.

When the great majority of a society considers common ownership as the normal way of doing things, and the normal method of organizing social functions presupposes that background state of affairs, even when there is no legal impediment whatsoever to an individual severing her share of property from the common there are likely to be very powerful path dependencies that make it costly and impractical to do so. A given social system, even if participation in its institutions is formally completely voluntary and there are no coercive barriers to exit, tends to function like ground cover plants that create an interlocking ecosystem and crowd out alternatives, or a forest of one species of trees that exclude other species by overshadowing.<sup>12</sup>

Kropotkin summarized, in sweeping language, the universality of the village commune as a building block of society:

It is now known, and scarcely contested, that the village community was not a specific feature of the Slavonians, nor even the ancient Teutons. It prevailed in England during both the Saxon and Norman times, and partially survived till the last century; it was at the bottom of the social organization of old Scotland, old Ireland, and old Wales. In France, the communal possession and the communal allotment of arable land by the village folkmote persisted from the first centuries of our era till the times of Turgot, who found the folkmotes “too noisy” and therefore abolished them. It survived Roman rule in Italy, and revived after the fall of the Roman Empire. It was the rule with the Scandinavians, the Slavonians, the Finns (in the *pittaya*, as also, probably, the *kihla-kunta*), the Coures, and the Lives. The village community in India—past and present, Aryan and non-Aryan—is well known through the epoch-making works of Sir Henry Maine; and Elphinstone has described it among the Afghans. We also find it in the Mongolian *oulous*, the Kabyle *thaddart*, the Javanese *desa*, the Malayan *kota* or *tofa*, and under a variety of names in Abyssinia, the Soudan, in the interior of Africa, with natives of both Americas, with all the small and large tribes of the Pacific archipelagos. In short, we do not know one single human race or one single nation which has not had its period of village communities... It is anterior to serfdom, and even servile submission was powerless to break it. It was a universal phase of evolution, a natural outcome of the clan organization, with all those stems, at least, which have played, or play still, some part in history.<sup>13</sup>

We see a version of this communal ownership in the Jubilee system of Israel, as it was later idealized in the Mosaic Law by the priestly and deuteronomic redactors of Leviticus and Deuteronomy, and had actually existed to a greater or lesser degree in the period of the Judges. The ultimate ownership of land lay with the tribe, clan and family—to whom it reverted in the Jubilee year

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<sup>11</sup> Henry Sumner Maine, *Ancient Law* (London: J.M. Dent & Sons Ltd, 1960 (1861)), pp. 159–160.

<sup>12</sup> For this analogy I am indebted to P.M. Lawrence, an Australian polymath of almost supernatural erudition who has been a frequent email correspondent and commenter under my blog posts and online columns over the years.

<sup>13</sup> Kropotkin, *Mutual Aid*, pp. 121–122.

(every forty-ninth or fiftieth year—there’s some scholarly dispute). Sales of land were actually long-term leases, with the price discounted depending on how many years it was until Jubilee. Among the customary by-laws regulating individual and family possessions was the allowance of gleaning. It’s likely that the Biblical accounts of a revelation from Mount Sinai performed a function similar to that of the totemic ancestor as a legitimization of communal ownership, legitimizing a Bronze Age society that predated the Torah. At the time of the Judges, even the so-called J and E documents likely existed as nothing but epic poetry preserved in oral form, with the tribes of Israel existing as an amphictyonic league centered on Bethel or Shiloh.

The prophet Isaiah wrote in reference to land “privatization” (i.e. enclosure) in violation of the law of Jubilee by the landed oligarchy, in this passage from the Bible: “Woe unto them who join house to house, who lay field to field, till *there* is no place, that they may be placed alone in the midst of the earth!” (Isaiah 5:8) An English encloser, Lord Leicester, later said in quite similar language: “It is a melancholy thing to stand alone in one’s country. I look around, and not a house is to be seen but mine. I am the giant of Giant Castle, and have eaten up all my neighbours.”<sup>14</sup>

Henry Sumner Maine, writing in the nineteenth century, pointed to the village communes of India as the most faithful surviving version of what had once been an institution common to all the branches of the Indo-European family.

The Village Community of India is at once an organised patriarchal society and an assemblage of co-proprietors. The personal relations to each other of the men who compose it are indistinguishably confounded with their proprietary rights, and to the attempts of English functionaries to separate the two may be assigned some of the most formidable miscarriages of Anglo-Indian administration. The Village Community is known to be of immense antiquity. In whatever direction research has been pushed into Indian history, general or local, it has always found the Community in existence at the farthest point of its progress... Conquests and revolutions seem to have swept over it without disturbing or displacing it, and the most beneficent systems of government in India have always been those which have recognised it as the basis of administration.<sup>15</sup>

Like Kropotkin, Maine saw the village commune’s joint ownership of land as rooted in its origin from a group of families sharing common descent. “[T]he simplest form of an Indian Village Community,” he wrote, is just such “a body of kindred holding a domain in common...”<sup>16</sup> Although this process of formation of a Village Community from an extended body of kindred comprising several related families “may be regarded as typical,” there were many exceptions. Even in villages founded by “a single assemblage of blood-relations,” nevertheless “men of alien extraction have always, from time to time, been engrafted on it” and “admitted to the brotherhood.” And there were also villages which “appear to have sprung not from one but from two or more families; and there are some whose composition is known to be entirely artificial...”<sup>17</sup> Even so, all such villages have created a myth of “an original parentage,” even when the “assumption of common origin... [is] sometimes notoriously at variance with fact...” The village operated

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<sup>14</sup> W. E. Tate, *The Enclosure Movement* (New York: Walker and Company, 1967), p. 90.

<sup>15</sup> Henry Sumner Maine, *Ancient Law*, p. 153.

<sup>16</sup> *Ibid.*, p. 154.

<sup>17</sup> *Ibid.*, pp. 154–155.



on the fiction of common origin, being either an “assemblage of blood relations” or “a body of co-proprietors formed on the model of an association of kinsmen.”<sup>18</sup>

As Maine’s reference to the administration of India suggests, the village commune continued in widespread existence even after the rise of the state, amounting internally to a stateless society with a parasitic layer of kings, priests, bureaucrats and feudal landlords superimposed on it. The village commune was “under the dominion of comparatively powerful kings” who exacted tribute and conscripted soldiers from it, “but did not otherwise meddle with the cultivating societies.”<sup>19</sup> The state’s relationship to the governed was through the village as a unit, rather than the exercise of regulatory authority over relations between individuals.

In Russia, Maine saw the enactment of serfdom under the tsars as an imposition upon a pre-existing social system: namely, “the ancient organisation of the village.”<sup>20</sup>

Where the village commune persisted, the state had little or no direct dealings with individuals. It dealt with the peasantry only collectively, through the commune.

The premodern and early modern state... dealt more with communities than with individuals when it came to taxes. Some apparently individual taxes, such as the notorious Russian “soul tax,” which was collected from all subjects, were actually paid directly by the communities or indirectly through the nobles whose subjects they were. Failure to deliver the required sum usually led to collective punishment. The only agents of taxation who regularly reached to the level of the household and its cultivated fields were the local nobility and clergy in the course of collecting feudal dues and the religious tithe. For its part, the state had neither the administrative tools nor the information to penetrate to this level.

In such cases the commune functioned internally much as it had before the rise of the state, allotting land and mediating disputes among the families, with the additional functions of handling relations with the state collectively when a member of the commune was charged with violating one of the state’s laws and assessing each family’s share of taxes imposed on the village by the state.

The central political conflict in the Roman Republic, as recounted in Livy, was the patricians’ attempt to appropriate and enclose—“privatize”—common lands to which all members of the community had legal rights of access.

The open-field system of England, which was gradually eroded by enclosures of arable land (mainly for sheep pasturage) from the late Middle Ages on, was another version of the same early Teutonic communal property system—the Arable Mark and Common Mark—whose survivals von Maurer noted in Germany.

It was a later evolution of the system Tacitus had observed among the Germanic tribes. The system Tacitus remarked on was used by the Teutons when they were semi-nomadic and had access to extensive land inputs. It was an open-field system with interstripping of family plots, but with only a single field. When the soil was exhausted, the community moved on and broke fresh ground. This—the system likely first used at the time of the agricultural revolution—could

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<sup>18</sup> *Ibid.*, pp. 155–156.

<sup>19</sup> Henry Sumner Maine, *Village-Communities in the East and West*. Third Edition (New York: Henry Holt and Company, 1890), pp. 159–160.

<sup>20</sup> Maine, *Ancient Law*, p. 157.

only work with low population densities, obviously. The first adaptation as the tribes settled down and the amount of vacant land declined was a primitive two-field system, with half the arable land remaining fallow each year. By the time the low German descendants of Tacitus' subjects were observed in England, they had progressed to the full-blown three- or four-field system.<sup>21</sup>

The Arable Mark, and its English open-field counterpart, was a three-field system with inter-stripping of family plots in each field and a periodic redivision of plots between families. The Common Mark consisted of common waste, woodlot, and pasture, of which each family was entitled to some defined share of use.<sup>22</sup> Here's how William Marshall described the open field system in 1804:

In this place it is sufficient to premise that a very few centuries ago, nearly the whole of the lands of England lay in an open, and more or less in a commonable state... [T]he following statement may serve to convey a general idea of the whole of what may be termed Common-field Townships, throughout England.

Under this ingenious mode of organization, each parish or township was considered as one common farm; though the tenantry were numerous.

Round the village, in which the tenants resides, lay a few small inclosures, or grass yards; for rearing calves, and as baiting and nursery grounds for other farm stock. This was the common farmstead, or homestall...

Round the homestall, lay a suit of arable fields; including the deepest and soundest of the lower grounds, situated out of water's way; for raising corn and pulse; as well as to produce fodder and litter for cattle and horses in the winter season.

And, in the lowest situation..., shooting up among the arable lands, lay an extent of meadow grounds..., to afford a supply of hay, for cows and working stock, in the winter and spring months.

On the outskirts of the arable lands, where the soil is adapted to the pasturage of cattle, or... less adapted to cultivation..., one or more stunted pastures, or hams, were laid out for milking cows, working cattle, or other stock which required superior pasturage in summer.

While the bleakest, worst-soiled, and most distant lands of the township, were left in their native wild state; for timber and fuel; and for a common pasture...

The appropriated lands of each township were laid out with equal good sense and propriety. That each occupier might have his proportionate share of lands of different qualities, and lying in different situations, the arable lands, more particularly, were divided into numerous parcels...

And that the whole might be subjected to the same plan of management, and be conducted as one farm, the arable lands were moreover divided into compartments, or "fields," of nearly equal size, and generally three in number, to receive, in constant

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<sup>21</sup> Tate, *The Enclosure Movement*, pp. 40–41.

<sup>22</sup> Maine, *Village-Communities*, pp. 78–87.

rotation, the triennial succession of fallow, wheat (or rye) and spring crops (as barley, oats, beans and peas)...<sup>23</sup>

The open-field system, according to J. L. and Barbara Hammond, was “more ancient than the manorial order... The manorial element... is superimposed on the communal...: the medieval village is a free village gradually feudalised.” As late as 1685, an estimated 85% of the surviving arable land that had not been converted to pasturage was organized on the open-field model.<sup>24</sup>

The Russian *mir* or *obshchina* was essentially a variant of the same primeval open-field system that prevailed in Western Europe, but with a state far more despotic than the Western European feudal structure superimposed on it.

Marx’s view of the uniqueness of the “Asiatic mode of production,” and of the backwardness that resulted from the absence of private ownership of land and the predominance of collective village ownership with the state as landlord, probably reflected the limited awareness of the time as to the extent to which the open-field system has persisted in the Middle Ages. The chief difference between the “Asiatic mode” and the open-field system of Western Europe was that in the former case a despotic central state was superimposed as a parasitic layer atop the communal peasant society, whereas in the latter case it was a pattern of feudal organization that overlay the peasant commune.

Marx’s Asiatic mode in India was essentially a variant of the open-field system, but—as with the Russian *mir*—with a despotic imperial state rather than a feudal system superimposed on it. As described by Maine:

If very general language were employed, the description of the Teutonic or Scandinavian village-communities might actually serve as a description of the same institution in India. There is the arable mark, divided into separate lots but cultivated according to minute customary rules binding on all. Wherever the climate admits of the finer grass crops, there are the reserved meadows, lying generally on the verge of the arable mark. There is the waste or common land, out of which the arable mark has been cut, enjoyed as pasture by all the community *pro indiviso*. There is the village, consisting of habitations each ruled by a despotic pater-familias. And there is constantly a council of government to determine disputes as to custom.<sup>25</sup>

The “despotic pater-familias”—apparently a common Indo-European institution, and also noted among the archaic Latins—is obviously something to which libertarians will have moral objections.

But a more democratic system of governance within the family or household would in no way affect communal tenure.

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<sup>23</sup> William Marshall, *Elementary and Practical Treatise on Landed Property*, quoted in Maine, *Village-Communities*, pp. 90–93.

<sup>24</sup> J. L. and Barbara Hammond, *The Village Labourer: 1760–1832* (London: Longmans, Green, and Co., 1913), pp. 26–27.

<sup>25</sup> Maine, *Village-Communities*, pp. 107–108

## II. Destruction of the Peasant Commune by the State.

It was only with the rise of the modern state, toward the end of the Middle Ages, that governments began to take an interest in regulating the lives of individuals. The modern centralized state was confronted with the problem of opacity, and became preoccupied with, in James Scott's language, an "attempt to make society legible, to arrange the population in ways that simplified the classic state functions of taxation, conscription, and prevention of rebellion."<sup>26</sup> Although the state has always had such concerns to a greater or lesser extent, it was only the modern state—at least since Roman times—that actually sought to touch individuals in their daily lives.

Legibility is a condition of manipulation. Any substantial state intervention in society—to vaccinate a population, produce goods, mobilize labor, tax people and their property, conduct literacy campaigns, conscript soldiers, enforce sanitation standards, catch criminals, start universal schooling—requires the invention of units that are visible... Whatever the units being manipulated, they must be organized in a manner that permits them to be identified, observed, recorded, counted, aggregated, and monitored. The degree of knowledge required would have to be roughly commensurate with the depth of the intervention.

In other words, one might say that the greater the manipulation envisaged, the greater the legibility required to effect it.

It was precisely this phenomenon, which had reached full tide by the middle of the nineteenth century, that Proudhon had in mind when he declared, "To be ruled is to be kept an eye on, inspected, spied on, regulated, indoctrinated, sermonized, listed and checked off, estimated, appraised, censured, ordered about..."

To be ruled is at every operation, transaction, movement, to be noted, registered, counted, priced, admonished, prevented, reformed, redressed, corrected."

From another perspective, what Proudhon was deploring was in fact the great achievement of modern statecraft. How hard-won and tenuous this achievement was is worth emphasizing. Most states, to speak broadly, are "younger" than the societies that they purport to administer. States therefore confront patterns of settlement, social relations, and production, not to mention a natural environment, that have evolved largely independent of state plans. The result is typically a diversity, complexity, and unrepeatability of social forms that are relatively opaque to the state, often purposefully so...

If the state's goals are minimal, it may not need to know much about the society... If, however, the state is ambitious—if it wants to extract as much grain and manpower as it can, short of provoking a famine or a rebellion, if it wants to create a literate, skilled, and healthy population, if it wants everyone to speak the same language or worship the same god—then it will have to become both far more knowledgeable and far more intrusive.<sup>27</sup>

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<sup>26</sup> Scott, *Seeing Like a State*, p. 24.

<sup>27</sup> *Ibid.*, pp. 183–184.

The imperative of rendering the opaque legible results, in the specific case of property rules in land, in hostility toward communal forms of property regulated as a purely internal matter by a village according to local custom:

...open commons landholding... is less legible and taxable than closed commons landholding, which in turn is less legible than private freeholding, which is less legible than state ownership... It is no coincidence that the more legible or appropriable form can more readily be converted into a source of rent—either as private property or as the monopoly rent of the state.<sup>28</sup>

Fee-simple “privatization,” and more recently Soviet-style “collectivization” (i.e. de facto state ownership), are both methods by which the state has destroyed the village commune and overcome the problem—from the state’s perspective—of opacity within it. In both cases the village commune, while quite legible horizontally from the perspective of its inhabitants, was opaque to the state.

The fee-simple model of private property, wherever it has existed, has almost always been a creature of the state.

In the case of common property farmland, the imposition of freehold property was clarifying not so much for the local inhabitants—the customary structure of rights had always been clear enough to them—as it was for the tax official and the land speculator. The cadastral map added documentary intelligence to state power and thus provided the basis for the synoptic view of the state and a supralocal market in land.<sup>29</sup>

Freehold title and standard land measurement were to central taxation and the real-estate market what central bank currency was to the marketplace.<sup>30</sup>

Replacing a society in which most ordinary people have access to the land on a customary basis, with a society in which most of those same people must rent or purchase land in order to cultivate it, has the virtue—from the perspective of the state and the ruling economic class—of forcing the peasantry into the cash economy.

Commoditization in general, by denominating all goods and services according to a common currency, makes for what Tilly has called the “visibility [of] a commercial economy.” He writes, “In an economy where only a small share of goods and services are bought and sold, a number of conditions prevail: collectors of revenue are unable to observe or evaluate resources with any accuracy, [and] many people have claims on any particular resource (*Coercion, Capital, and European States*, pp. 89, 85).<sup>31</sup>

In addition, forcing peasants and laborers into the cash economy means they must have a source of cash income to participate in it, which means an expansion of the wage labor market.

Scott’s functional explanation of individual fee simple ownership sounds remarkably like Foucault’s description of the “individualism” entailed in “panopticism.”

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<sup>28</sup> *Ibid.*, pp. 219–220.

<sup>29</sup> *Ibid.*, p. 39.

<sup>30</sup> *Ibid.*, p. 48.

<sup>31</sup> *Ibid.*, pp. 367–368 no. 94.

The fiscal or administrative goal toward which all modern states aspire is to measure, codify, and simplify land tenure in much the same way as scientific forestry reconceived the forest. Accommodating the luxuriant variety of customary land tenure was simply inconceivable. The historic solution, at least for the liberal state, has typically been the heroic simplification of individual freehold tenure. Land is owned by a legal individual who possesses wide powers of use, inheritance, or sale and whose ownership is represented by a uniform deed of title enforced through the judicial and police institutions of the state... In an agrarian setting, the administrative landscape is blanketed with a uniform grid of homogeneous land, each parcel of which has a legal person as owner and hence taxpayer. How much easier it then becomes to assess such property and its owner on the basis of its acreage, its soil class, the crops it normally bears, and its assumed yield than to untangle the thicket of common property and mixed forms of tenure.<sup>32</sup>

### **The Enclosures in England.**

Fairly early in Medieval times, there had been a modest amount of land ownership in severalty. Lords of manors, who had originally interstripped their domains with the rest of the holdings in the open fields, had early on consolidated them into closes. As the village expanded the area under cultivation into the waste, newly broken ground was usually incorporated into existing open fields. But some families developed waste land independently and enclosed it as private holdings. Nevertheless, a decided majority of land was held communally in the open fields.<sup>33</sup>

There were early complaints by tenants in the thirteenth century of lords enclosing parts of common lands without consent, and reducing villagers' rights of pasture. The Statute of Merton in 1235 recognized the paramount authority of the lord of the manor over the waste, and authorized lords to enclose the commons at their own discretion, so long as they left a "sufficiency" of land to meet the commoning needs of the free tenants (although the burden of proof fell on the lords).<sup>34</sup>

The first large-scale assault on the village commune was the Tudor seizure of monastic lands—entailing around a fifth of the arable land in England—followed by the distribution of it to royal favorites among the nobility. The subsequent Tudor era was also characterized by large-scale enclosure of open fields for sheep pasturage for the lucrative textile markets.

The estates seized with the suppression of the monasteries, and those seized of which the Church was feudal proprietor, "were to a large extent given away to rapacious feudal favourites, or sold at a nominal price to speculating farmers and citizens, who drove out, *en masse*, the hereditary sub-tenants and threw their holdings into one."<sup>35</sup>

The king's men to whom the monastic lands were distributed engaged in wholesale "[r]ack-renting, evictions, and... conversions of arable to pasture. The new landlords were less than sympathetic to complaints from their tenants:

"Do ye not know," said the grantee of one of the Sussex manors of the monastery of Sion, in answer to some peasants who protested at the seizure of their commons,

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<sup>32</sup> *Ibid.*, p. 36.

<sup>33</sup> Tate, *The Enclosure Movement*, p. 59.

<sup>34</sup> *Ibid.*, p. 60.

<sup>35</sup> Karl Marx and Friedrich Engels, *Capital* vol. I, vol. 35 of Marx and Engels *Collected Works* (New York: International Publishers, 1996), p. 711.

“that the King’s grace hath put down all the houses of monks, friars and nuns? Therefore is the time come that we gentlemen will pull down the houses of such poor knaves as ye be.”<sup>36</sup>

The dissolution of the monasteries dispossessed some 50,000 tenants, and the ensuing enclosures for pasturage through the early seventeenth century involved around half a million acres (almost a thousand square miles) and 30–40,000 tenants. Maurice Dobb argues that this might have represented over ten percent of “all middling and small landholders and 10 and 20 per cent. of those employed at wages...; in which case the labour reserves thereby created would have been of comparable dimensions to that which existed in all but the worst months of the economic crisis of the 1930s.”<sup>37</sup>

Tenants not subject to enclosure under the Tudors were instead victimized by rack-renting and arbitrary fines, which frequently resulted in their being driven off the land—“land,” in Marx’s words, to which the peasantry “had the same feudal rights as the lord himself”—when unable to pay them.<sup>38</sup>

Nevertheless the land that remained under peasant control, though much diminished in extent, persisted under the open-field system. And many of the “vagabonds” dispossessed by the Tudor expropriations found a safety net in the common lands, migrating into “such open-field villages as would allow them to squat precariously on the edge of common or waste.”<sup>39</sup>

The pace of enclosure slowed considerably under James I and Charles I. The Stuarts, up until the Civil War, sporadically attempted—with only mixed success at best—to counter the depopulation and impoverishment of the countryside. The availability of access to the common lands in open-field villages, and the proliferation of unauthorized cottagers squatting on the common, was a thorn in the side to landlords who could not obtain sufficient wage labor at low enough wages so long as alternative means of subsistence existed. One seventeenth century pamphleteer complained of “upstart intruders” and “loyterers,” inhabitants of unlawful cottages erected contrary to law” wherever “the fields lie open and are used in common..” The result was that such people “will not usually be got to work unless they may have such excessive wages as they themselves desire.”<sup>40</sup>

With the deposition of Charles I and the triumph of the Presbyterian party in Parliament, the gentry faced considerably less in the way of obstacles to its rapacity.

The so-called land reform of 1646 (which was confirmed by the Convention Parliament in 1660) abolished feudal tenures. It abolished the Court of Wards, and with it the death duties, and “[gave] landowners, whose rights in their estates had hitherto been limited, an absolute power to do what they would with their own, including the right to settle the inheritance of all their lands by will.” It converted all military tenures into freehold.<sup>41</sup>

...[F]eudal tenures were abolished upwards only, not downwards... Copyholders obtained no absolute property rights in their holdings, remaining in abject dependence

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<sup>36</sup> R. H. Tawney, *Religion and the Rise of Capitalism* (New York: Harcourt, Brace and Company, Inc., 1926), p. 120.

<sup>37</sup> Maurice Dobb, *Studies in the Development of Capitalism* (New York: International Publishers, 1947), pp. 224–225, 224–225n.

<sup>38</sup> Immanuel Wallerstein, *The Modern World System, Part I* (New York: Academic Press, 1974), p. 251n; Marx quote is from *Capital* vol. I, p. 709.

<sup>39</sup> Dobb, *Studies in the Development of Capitalism*, p. 226.

<sup>40</sup> Dobb, *Studies in the Development of Capitalism*, p. 226.

<sup>41</sup> Christopher Hill, *The Century of Revolution: 1603–1714* (New York: W. W. Norton & Co., Inc., 1961), p. 148.

on their landlords, liable to arbitrary death duties which could be used as a means of evicting the recalcitrant. The effect was completed by an act of 1677 which ensured that the property of small freeholders should be no less insecure than that of copyholders, unless supported by written legal title.<sup>42</sup>

Parliament rejected two bills which would limit the entry fees for tenants in copyhold, and rein in enclosures, on the grounds that they would “destroy property.”<sup>43</sup> Landlords gained absolute ownership of their estates against previous obligations to the monarchy and aristocracy, but the peasantry secured no corresponding guarantee in the royal courts of their own customary property rights against the landlord. This essentially eliminated all legal barriers to rack-renting, eviction and enclosure.<sup>44</sup> Marx described the “act of usurpation” which the landed proprietors “vindicated for themselves the rights of modern private property in estates to which they had only a feudal title...”<sup>45</sup>

Royalist land expropriated during the Interregnum was typically purchased by men on the make, “anxious to secure quick returns. Those of their tenants who could not produce written evidence of their titles were liable to eviction.”<sup>46</sup> Tenants of these new landlords complained that they “wrest from the poor Tenants all former Immunities and Freedoms they formerly enjoyed...”<sup>47</sup>

None of this passed without opposition, of course. Although Chesterton called the Civil War the “Rebellion of the Rich,” it was in fact contested terrain. Although republican, egalitarian and libertarian rhetoric may have been used by the Parliamentary side to whitewash what were actually rather venal purposes, the rhetoric filtered downward and was taken up seriously by the laboring classes. During the Civil War, popular resistance in the countryside often checked the enclosure of commons and waste. Some of the Leveller writers sought an alliance with the countryside and called for the tearing down of enclosures. In 1649 William Everard (“a cashiered army officer ‘who termeth himself a prophet’”<sup>48</sup>), Gerrard Winstanley and their followers broke down enclosures and attempted to cultivate the waste land communally—for which they earned the name “Diggers.” But the left wing of the republican forces never secured a broad alliance with the peasantry, or managed to instigate a full-scale uprising in the countryside, and the restoration of central authority put an end to what resistance there was and gave the landlords a free hand. If anything, the Diggers’ travelling missionaries in the countryside hardened local landowners against any proposal that smacked even of modest land reform.<sup>49</sup>

During the Glorious Revolution in 1688–1689, the great landlords took advantage of the power vacuum left by James II’s departure to seize Crown lands on a large scale, either by acting quasi-legally through the state by giving them away or selling them at sweetheart prices, or “even annexed to private estates by direct seizure.”<sup>50</sup>

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<sup>42</sup> Christopher Hill, *Reformation to Industrial Revolution: A Social and Economic History of Britain 1530–1780* (London: Weidenfeld & Nicholson, 1967), pp. 115–116.

<sup>43</sup> Hill, *Century of Revolution*, p. 149.

<sup>44</sup> Christopher Hill, *Reformation to Industrial Revolution: A Social and Economic History of Britain 1530–1780* (London: Weidenfeld & Nicholson, 1967), pp. 115–116.

<sup>45</sup> Marx and Engels, *Capital* vol. 1, p. 713.

<sup>46</sup> Hill, *The Century of Revolution*, p. 147.

<sup>47</sup> Dobb, *Studies in the Development of Capitalism*, p. 172.

<sup>48</sup> Tate, *The Enclosure Movement*, p. 148.

<sup>49</sup> *Ibid.*, p. 149.

<sup>50</sup> Marx and Engels, *Capital* vol. 1, p. 714.



The Whig Parliament under William and Mary also passed Game Laws in order to further restrict independent subsistence by the laboring classes. Hunting, for the rural population, had traditionally been a supplementary source of food. The enclosure of common forests and abrogation of access rights put an end to this. As the 1692 law stated in its preamble, it was intended to remedy the “great mischief” by which “inferior tradesmen, apprentices, and other dissolute persons neglect their trades and employments” in favor of hunting and fishing.<sup>51</sup>

The enclosure of open fields under the Tudors (and on a smaller scale under the Stuarts) had taken place largely “by means of individual acts of violence against which which legislation, for a hundred and fifty years, fought in vain...” With the Parliamentary Enclosures of the eighteenth century, in contrast, “the law itself becomes now an instrument of the theft of the people’s land...” In practical terms, Parliamentary Acts of Enclosure amounted to a “parliamentary *coup d’etat*,” through “decrees by which the landlords grant themselves the people’s land as private property...”<sup>52</sup> “From the beginning of the eighteenth century the reins are thrown to the enclosure movement, and the policy of enclosure is emancipated from all these checks and afterthoughts.”<sup>53</sup>

Just as with Stolypin’s and Stalin’s policies toward the *mir*, and the destruction of the Indian village communes by the British Permanent Settlement, in Britain “[t]he agricultural community... was taken to pieces in the eighteenth century and reconstructed in the manner in which a dictator reconstructs a free government...”<sup>54</sup>

The goal, as in the other cases, was legibility—“the simplifying appetites of the landlords”<sup>55</sup>—notonly for purposes of central taxation, but perhaps more importantly for the ease of the landed classes in extracting a surplus from rural labor.

The landlords saw themselves as the backbone of the British way of life, and the imposition of more effective control on village society as a general benefit to the peace and order of society. Given their assumption that “order would be resolved into its original chaos, if they ceased to control the lives and destinies of their neighbours,” they concluded “that this old peasant community, with its troublesome rights, was a public encumbrance.”<sup>56</sup> The customary rights of the peasantry hindered the landlord’s power to unilaterally introduce new farming techniques.<sup>57</sup> The goal of the “governing class,” in language that might just as easily have described Stalin’s motives in collectivization, was “extinguishing the old village life and all the relationships and interests attached to it, with unsparing and unhesitating hand.”<sup>58</sup>

But the extraction of a larger surplus from the agricultural labor force was also very much a conscious—and explicitly avowed—part of their motivation. The landed classes bore a powerful animus against the common lands because they rendered the rural population less dependent on wage labor, so that rural laborers were uninterested in accepting as much work from the landlords as the latter saw fit to offer.

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<sup>51</sup> Michael Perelman, *Classical Political Economy: Primitive Accumulation and the Social Division of Labour* (Totowa, N.J.: Rowman & Allanheld; London: F. Pinter, 1984, c 1983), pp. 48–49.

<sup>52</sup> Marx and Engels, *Capital* vol. I, p. 715.

<sup>53</sup> J. L. and Barbara Hammond, *Village Labourer*, p. 35.

<sup>54</sup> *Ibid.*, p. 35.

<sup>55</sup> *Ibid.*, p. 40.

<sup>56</sup> *Ibid.*, p. 35.

<sup>57</sup> *Ibid.*, pp. 36–37.

<sup>58</sup> *Ibid.*, p. 97.

A pamphleteer in 1739 argued that “the only way to make the lower orders temperate and industrious... was ‘to lay them under the necessity of labouring all the time they can spare from rest and sleep, in order to procure the common necessities of life’.”<sup>59</sup>

A 1770 tract called “Essay on Trade and Commerce” warned that “[t]he labouring people should never think themselves independent of their superiors... The cure will not be perfect, till our manufacturing poor are contented to labour six days for the same sum which they now earn in four days.”<sup>60</sup>

Arbuthnot, in 1773, denounced commons as “a plea for their idleness; for, some few excepted, if you offer them work, they will tell you, that they must go to look up their sheep, cut furzes, get their cow out of the pound, or perhaps, say they must take their horse to be shod, that he may carry them to a horse-race or cricket match.”<sup>61</sup>

John Billingsley, in his 1795 *Report on Somerset* to the Board of Agriculture, wrote of the pernicious effect of the common on a peasant’s character:

In sauntering after his cattle, he acquires a habit of indolence. Quarter, half, and occasionally whole days are imperceptibly lost. Day labour becomes disgusting; the aversion increases by indulgence; and at length the sale of a half-fed calf, or hog, furnishes the means of adding intemperance to idleness.<sup>62</sup>

Bishton, in his 1794 *Report on Shropshire*, was among the most honest in stating the goals of Enclosure. “The use of common land by labourers operates upon the mind as a sort of independence.” The result of their enclosure would be that “the labourers will work every day in the year, their children will be put out to labour early, ... and that subordination of the lower ranks of society which in the present times is so much wanted, would be thereby considerably secured.”<sup>63</sup>

John Clark of Herefordshire wrote in 1807 that farmers in his county were “often at a loss for labourers: the inclosure of the wastes would increase the number of hands for labour, by removing the means of subsisting in idleness.”<sup>64</sup>

The 1807 Gloucestershire Survey warned that “the greatest of evils to agriculture would be to place the labourer in a state of independence,” and another writer of that time wrote that “Farmers... require constant labourers—men who have no other means of support than their daily labour...”<sup>65</sup>

Of course such motives were frequently expressed in the form of concern for the laborers’ own welfare, lest being able to feed oneself too easily lead to irreparable spiritual damage from idleness and dissolution. The words of Cool Hand Luke come to mind: “You shouldn’t be so good to me, Cap’n.”

The Hammonds estimated the total land enclosed between a sixth and a fifth of the remaining unenclosed arable land (i.e. that not already enclosed before 1700).<sup>66</sup> According to the higher estimate of E.J. Hobsbawm and George Rude, “something like one quarter of the cultivated acreage

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<sup>59</sup> Hill, *Reformation to Industrial Revolution*, p. 225.

<sup>60</sup> Marx and Engels, *Capital* vol. I, p. 231.

<sup>61</sup> J. L. and Barbara Hammond, *Village Labourer*, p. 37.

<sup>62</sup> *Ibid.*, p. 37.

<sup>63</sup> *Ibid.*, p. 38.

<sup>64</sup> Neeson, *Commoners*, p. 28.

<sup>65</sup> Dobb, *Studies in the Development of Capitalism*, p. 222.

<sup>66</sup> J. L. and Barbara Hammond, *Village Labourer*, p. 42.

from open field, common land, meadow or waste” were transformed into private fields between 1750 and 1850.<sup>67</sup> And Maurice Dobb’s figure was a quarter to a half of the land in the fourteen counties most affected by Enclosure.<sup>68</sup> W.E. Tate estimates the total land enclosed in the eighteenth and nineteenth century at seven million acres, or an area over a hundred miles square—the equivalent of eight English counties.<sup>69</sup> About two-thirds of the four thousand Private Acts of Enclosure involved “open fields belonging to cottagers,” and the other third involved common woodland and heath.<sup>70</sup>

### **France: War on the Commons by Monarchy, Republic and Empire.**

As in England, the plunder of the common lands in France began in early modern times. By the late 18<sup>th</sup> century, on the eve of the Revolution, “the nobles and the clergy had already taken possession of immense tracts of land—one-half of the cultivated area, according to certain estimates—mostly to let it go out of culture.”<sup>71</sup> One of the last acts of the monarchy, confirmed two years later by the Constituent Assembly, was to replace the village folknotes with elected councils of a mayor and three to six syndics “chosen from among the wealthier peasants.”<sup>72</sup> In 1792 the Convention, in the face of peasant insurrection in the countryside, returned the enclosed lands to the communes, but

ordered at the same time that they should be divided in equal parts among the wealthier peasants only—a measure which provoked new insurrections and was abrogated next year, in 1793, when the order came to divide the communal lands among all commoners, rich and poor alike, “active” and “inactive.”

This policy, typical of measures by “liberal” states to impose fee-simple ownership on peasant communes, was honored mainly in the breach by the peasantry. In most cases the villagers kept undivided whatever land they managed to retake possession of.

The common lands, subsequently, were repeatedly confiscated—declared to be state domains—and used as collateral for state war loans, and then returned to the communes, from 1794 through 1813. But each time the total acreage returned to the peasantry was further diminished in quantity, with the portion of land restored of disproportionately poor quality.<sup>73</sup>

A similar process continued after the Wars, with three laws passed from 1837 to the reign of Napoleon III “to induce the village communities to divide their estates.” Each time the laws were repealed in the face of opposition in the countryside, but (as during the Napoleonic Wars) “something was snapped up each time.” Napoleon III, finally, “under the pretext of encouraging perfected methods of agriculture, granted large estates out of the communal lands to some of his favorites.”<sup>74</sup>

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<sup>67</sup> E. J. Hobsbawm and George Rude, *Captain Swing* (New York: W. W. Norton & Company Inc., 1968), p. 27.

<sup>68</sup> Dobb, *Studies in the Development of Capitalism*, p. 227.

<sup>69</sup> Tate, *The Enclosure Movement*, p. 88.

<sup>70</sup> “Development as Enclosure: The Establishment of the Global Economy,” *The Ecologist* (July/August 1992), p. 133.

<sup>71</sup> Kropotkin, *Mutual Aid*, pp. 230–231.

<sup>72</sup> *Ibid.*, p. 230.

<sup>73</sup> *Ibid.*, pp. 231–232.

<sup>74</sup> *Ibid.*, pp. 232–233, 232n.

## The Permanent Settlement in India.

According to James Scott, the permanent settlement in India

created a new class who, because they paid the taxes on the land, became full owners with rights of inheritance and sale where none had existed earlier. At the same time, literally millions of cultivators, tenants, and laborers lost their customary rights of access to the land and its products.<sup>75</sup>

As Henry Maine described it, the pernicious effects of the Settlement resulted from the need—in Scott’s terminology—to render the native property landscape legible to the taxing authorities.

Let us suppose a province annexed for the first time to the British Indian Empire. The first civil act of the new government is always to effect a settlement of the land revenue; that is, to determine the amount of that relatively large share of the produce of the soil, or its value, which is demanded by the sovereign in all Oriental States, and out of which all the main expenses of government are defrayed. Among the many questions upon which a decision must be had, the one of the most practical importance is, ‘Who shall be settled with?’—with whom shall the settlement be made? What persons, what bodies, what groups, shall be held responsible to the British Government for its land revenue? What practically has to be determined is the unit of society for agrarian purposes; and you find that, in determining it, you determine everything, and give its character finally to the entire political and social constitution of the province. You are at once compelled to confer on the selected class powers co-extensive with its duties to the sovereign. Not that the assumption is ever made that new proprietary powers are conferred on it, but what are supposed to be its rights in relation to all other classes are defined... I will not ask you to remember the technical names of the various classes of persons ‘settled with’ in different parts of India—Zemindars, Talukdars, Lumberdars...—but I dwell on the fact that the various interests in the soil which these names symbolise are seen to grow at the expense of all the others. Do you, on entering on the settlement of a new province, find that a peasant proprietary has been displaced by an oligarchy of vigorous usurpers, and do you think it expedient to take the government dues from the once oppressed yeomen? The result is the immediate decline... of the class above them... Such was the land settlement of Oudh, which was shattered to pieces by the Sepoy mutiny of 1857... Do you, reversing this policy, arrange that the superior holder shall be answerable to Government? You shall find that you have created a landed aristocracy which has no parallel in wealth or power except the proprietors of English soil. Of this nature is the more modern settlement of the province of Oudh, only recently consummated; and such will ultimately be the position of the Talukdars, or Barons, among whom its soil has been divided.<sup>76</sup>

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<sup>75</sup> Scott, *Seeing Like a State*, p. 48.

<sup>76</sup> Maine, *Village-Communities*, pp. 149–151.

Neither course was really adequate, according to Maine. For most of India, the records of the time suggested “that no ownership of Indian land was discoverable, except that of the village-communities, subject to the dominion of the State.”<sup>77</sup>

The most famous Settlement was that of Lord Cornwallis in Lower Bengal, which Maine described as “an attempt to create a landed-proprietary like that of this country [Great Britain],” by “conferring estates in fee simple on the natural aristocracy of certain parts of India...”<sup>78</sup> In reaction against the pernicious effects of this, the English administration experimented with the opposite approach in an area of southern India centering on Madras: “to recognize nothing between itself and the immediate cultivators of the soil; and from them [to take] directly its share of the produce. The effect of this was to create a peasant proprietary.” Although the effects on productivity were far more favorable than those from Cornwallis’s Settlement, it was a radical departure from the customary system.<sup>79</sup>

But as Maine suggested above, the primary tendency of the English settlement policy over time was toward the creation of a landed aristocracy from those on whom the payment of taxes was settled—“by registering all the owners of superior rights as landowners, their conception of ownership being taken from their own country...”<sup>80</sup> Their motive was simply to find the class in each province which mostly approximated “ownership” in English terms: “the class to be ‘settled with’ was the class best entitled to be regarded as having rights of property in the soil.” But the English commonly made this judgment on the implicit assumptions of English fee simple ownership, and without regard to the specific kinds of “ownership” the class in question had under native customary law. The practical effect was to take a class whose rights of ownership were significantly restricted by custom, and to transform it into a class of landlords with an uncontrolled right of dominion, or fee simple ownership, in the land—with an at-will tenantry subject to unlimited evictions and rack-rent in a country where such things had previously been almost unknown.<sup>81</sup>

In the case of Lord Cornwallis in Bengal—a province where the village system had already “fallen to pieces of itself” and there was nothing that could be regarded as a real landlord class—instead of following what Maine considered the obvious course of creating a “peasant proprietary” Cornwallis “turned it into a country of great estates and was compelled to take his landlords from the tax-gatherers of his worthless predecessors.”<sup>82</sup>

There were other forces besides the Settlement working to undermine the property rules of the village commune. Maine gives the example, in Bengal—the province in his own time in which the invasion of English law and the weakening of native customs of common ownership were most advanced—of English testamentary law undermining the collective property of families. A growing number of native plutocrats, like Maine’s example of “a Brahmin of high lineage,” were using the testamentary power under English law to circumvent Indian custom and determine the line of succession and disinherit some in favor of others—a practice entirely repugnant to native custom, by which individual rights to the collective property of a family are beyond the power even of a family patriarch to alter. Free testamentary succession, to the prejudice of traditional

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<sup>77</sup> *Ibid.*, p. 154.

<sup>78</sup> *Ibid.*, p. 105.

<sup>79</sup> *Ibid.*, pp. 105–106.

<sup>80</sup> *Ibid.*, p. 157.

<sup>81</sup> *Ibid.*, pp. 152–153, 185–186.

<sup>82</sup> *Ibid.*, p. 154.

common property rights of the family and village, exercised great destructive power over native property rules.<sup>83</sup>

### **The Destruction of the Mir in Russia.**

In Russia the *mir* was subjected to a one-two punch, first under Stolypin and then under Stalin.

Stolypin's so-called "reforms" were aimed at rendering the peasantry more legible and taxable, as well as making it possible to permanently alienate individual holdings by sale or as debt collateral, by imposing fee simple private ownership on them—with the additional benefit, from his perspective, of turning the rural population into conservative property owners.

The dream of state officials and agrarian reformers, at least since emancipation, was to transform the open-field system into a series of consolidated, independent farmsteads on what they took to be the western European model. They were driven by the desire to break the hold of the community over the individual household and to move from collective taxation of the whole community to a tax on individual landholders...

...It was abundantly clear that the prejudicial attitude toward interstripping was based as much on the autonomy of the Russian village, its illegibility to outsiders, and prevailing dogma about scientific agriculture as it was on hard evidence.<sup>84</sup>

Stolypin's attempted revolution from above met with incomplete success. In most villages a majority of peasants ignored the new property lines laid out from St. Petersburg and continued to practice interstripping and allot their land within the *mir*.<sup>85</sup> And even in the new villages, composed of the "surplus rural population" which Stolypin settled in Siberia, the colonists frequently disregarded Stolypin's plan for new model villages with independent family farmsteads in freehold and instead settled the land as a group, with common property.<sup>86</sup>

After the Revolution, the peasantry initiated a unilateral land reform that included fully restoring the *mir* as it had existed before the Stolypin program.

In fact, after the collapse of the offensive into Austria during the war and the subsequent mass desertions, much of the land of the gentry and church, as well as "crown land," had been absorbed by the peasantry. Rich peasants cultivating independent farmsteads (the "separators" of the Stolypin reforms) were typically forced back into the village allotments, and rural society was in effect radically compressed. The very rich had been dispossessed, and many of the very poor became smallholders for the first time in their lives. According to one set of figures, the number of landless rural laborers in Russia dropped by half, and the average peasant holding increased by 20 percent (in the Ukraine, by 100 percent). A total of 248 million acres was confiscated, almost always by local initiative, from large and small landlords and added to peasant holdings, which now averaged about 70 acres per household.<sup>87</sup>

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<sup>83</sup> *Ibid.*, pp. 40–42.

<sup>84</sup> Scott, *Seeing Like a State*, pp. 41–43.

<sup>85</sup> *Ibid.*, p. 44.

<sup>86</sup> *Ibid.*, p. 366 n. 78.

<sup>87</sup> *Ibid.*, p. 205.

Although many libertarians will no doubt regard the seizure of the separators' land as theft, it should be considered at the very least a contested issue. If the mir's collective property in the land, dating time out of mind, is regarded as a legitimate property right, then it follows that Stolypin's imposed division and alienation of parts of the mir's property through fee-simple ownership was theft from the mir, and that reincorporating the separators' farmsteads was a simple act of restoration.

The newly reinvigorated village communes which the Soviet state confronted were almost entirely opaque to it, and their output far less appropriable.

From the perspective of a tax official or a military procurement unit, the situation was nearly unfathomable. The land-tenure status in each village had changed dramatically. Prior landholding records, if they existed at all, were entirely unreliable as a guide to current land claims. Each village was unique in many respects, and, even if it could in principle have been "mapped," the population's mobility and military turmoil of the period all but guaranteed that the map would have been made obsolete in six months or sooner. The combination, then, of smallholdings, communal tenure, and constant change, both spatial and temporal, operated as an impenetrable barrier to any finely attuned tax system.

Two additional consequences of the revolution in the countryside compounded the difficulties of state officials. Before 1917, large peasant farms and landlord enterprises had produced nearly three-fourths of the grain marketed for domestic use and export. It was this sector of the rural economy that had fed the cities. Now it was gone. The bulk of the remaining cultivators were consuming a much larger share of their own yield. They would not surrender this grain without a fight. The new, more egalitarian distribution of land meant that extracting anything like the czarist "take" in grain would bring the Bolsheviks in conflict with the subsistence needs of small and middle peasants.

The second and perhaps decisive consequence of the revolution was that it had greatly enhanced the determination and capacity of the peasant communities to resist the state. Every revolution creates a temporary power vacuum when the power of the ancien regime has been destroyed but the revolutionary regime has not yet asserted itself throughout the territory. Inasmuch as the Bolsheviks were largely urban and found themselves fighting an extended civil war, the power vacuum in much of the countryside was unusually pronounced. It was the first time... that the villages, although in straitened circumstances, were free to organize their own affairs. As we have seen, the villagers typically forced out or burned out the gentry, seized the land (including rights to common land and forests), and forced the separators back into the communes. The villages tended to behave as autonomous republics, well disposed to the Reds as long as they confirmed the local "revolution," but strongly resistant to forced levies of grain, livestock, or men from any quarter.<sup>88</sup>

The problem of opacity was intensified by the destruction of even the limited knowledge of the local terrain possessed by the tsarist network of local officials and gentry, who had managed

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<sup>88</sup> *Ibid.*, pp. 205–206.

tax collection before the Revolution. The village soviets, which were supposed to carry out this function, were typically made up of people whose first loyalty was to the village rather than the Soviet state.<sup>89</sup> As it had done to the tsarist state before the Stolypin program, the village commune deliberately set out to obfuscate the internal economic conditions of the village and render it opaque to the Soviet state. Even before the Revolution, the peasant communes had been able to underreport the amount of arable land by about 15 percent. After the Revolution, they concealed the extent of land seized from the gentry and landlords.

The amount and distribution of land, of course, was quite legible horizontally, to the peasants within the village commune. "Village committees did... keep records for allocating allotment land, organizing communal plow teams, fixing grazing schedules, and so on, but none of these records was made available... to officials..."<sup>90</sup> Under the reinvigorated communes after the Revolution, the village mir supervised something like the interstripping and periodic redivisions which had prevailed under the full-blown open field system.

Stalin's industrial program, with its need for increased delivery of food from the countryside, ran up against the reduced appropriability of agricultural output as a serious obstacle. The state's official procurement prices for grain were one-fifth the market price, which meant the peasants were hardly eager to part with it on such terms. The state resorted to forced seizure, along the lines of military requisitions during the Civil War, but its seizures were generally as ineffective as during the war for the same reason: the village communes were pretty effective at concealing how much grain there actually was. It was primarily the desire to overcome this peasant withholding of grain that motivated Stalin's program for forced, total collectivization.

It was in the context of this war over grain, and not as a carefully planned policy initiative, that the decision to force "total" (*sploshnaia*) collectivization in 1929. Scholars who agree on little else are in accord on this point: the overriding purpose of collectivization was to ensure the seizure of grain.<sup>91</sup>

In the debates leading up to forced collectivization, its advocates (e.g. Yevgeny Preobrazhensky) explicitly promoted it as a form of "primitive socialist accumulation" directly to the primitive accumulation Marx described as a prerequisite for the industrial revolution. As large a surplus as possible was to be extracted from the countryside in order to support industrialization in the cities.

The main goal of state collectivization was to make the *terra incognita* of customary village property rules legible from above and enable the state to exact a maximum rate of tribute. As envisioned, it was a classic example of a state attempt to impose legibility: it involved consolidating the rural economy into gigantic, centrally controlled units with clear chains of command, proletarianizing the peasantry, and imposing Taylorist work rules on the production process. Among other things, this included a large-scale rural division of labor with each *kolkhoz* specializing in some monoculture crop and the individual village ceasing to be a diversified economic unit. The collective farms were envisioned as enormous assembly lines, automatically churning out state orders like one of Henry Ford's auto factories. The collective farms' lines of command cut across village boundaries, with either enormous *kolkhozes* that incorporated numerous villages,

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<sup>89</sup> *Ibid.*, p. 207.

<sup>90</sup> *Ibid.*, p. 207

<sup>91</sup> *Ibid.*, p. 210.



or smaller ones whose boundaries were drawn without regard to existing villages.<sup>92</sup> Unlike the village soviets, which had quickly been coopted by the mir, the new “huge collectives” bypassed the traditional village social structures and were governed by “a board consisting of cadres and specialist,” with the separate sections of the *kholkoz* under the control of its own state-appointed manager.<sup>93</sup>

And if collectivization was a miserable failure in terms of total output and efficiency of production, it was for the most part a success at achieving its stated goals—even at the cost of mass starvation in the countryside—of increasing the efficiency of extraction and obtaining sufficient food to support Stalin’s urban industrialization program

The great achievement, if one can call it that, of the Soviet state in the agricultural sector was to take a social and economic terrain singularly unfavorable to appropriation and control and to create institutional forms and production units far better adapted to monitoring, managing, appropriating, and controlling from above... Confronting a tumultuous, footloose and “headless” (acephalous) rural society which was hard to control and which had few political assets, the Bolsheviks, like the scientific foresters, set about redesigning their environment with a few simple goals in mind. They created, in place of what they had inherited, a new landscape of large, hierarchical, state-managed farms whose cropping patterns and procurement quotas were centrally mandated and whose population was, by law, immobile. The system thus devised served for nearly sixty years as a mechanism for procurement and control at a massive cost in stagnation, waste, demoralization, and ecological failure.<sup>94</sup>

The Soviet state collectivization program amounted to a reimposition of serfdom. From the peasant perspective, during the previous Civil War, “the fledgling Bolshevik state, arriving as it often did in the form of military plunder, must have been experienced... as a reconquest of the countryside by the state—as a brand of colonization that threatened their newly won autonomy.”<sup>95</sup> But after the brief lull of the New Economic Policy, the peasants experienced reconquest and plunder in earnest. The peasants commonly compared the new collective farm regime to serfdom, with the obligation to work the *kolkhoz*’s fields at nominal wages under the orders of a state manager as a revived form of *barschina* (feudal labor dues). Like their enserfed great-grandparents, the peasants were required to perform annual draft labor repairing roads. *Kolkhoz* officials, like the old landlords, used peasant labor for their own private purposes, and had the power—in fact if not in law—“to insult, beat, or deport” peasants for disobedience. The internal passport system effectively made it illegal, as under serfdom, for the peasant to flee the countryside.<sup>96</sup> Naturally, the peasants saw their work for the *kolkhoz*—like their labor obligations to the old landlord—as something to be done as perfunctorily as possible so they could get back to working their own kitchen gardens.

In sum, Scott writes, “collectivization was at least as notable for what it destroyed as for what it built.”

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<sup>92</sup> *Ibid.*, pp. 211–212.

<sup>93</sup> *Ibid.*, p. 214.

<sup>94</sup> *Ibid.*, p. 203.

<sup>95</sup> *Ibid.*, p. 206.

<sup>96</sup> *Ibid.*, p. 213.

The initial intent of collectivization was not just to crush the resistance of well-to-do peasants and grab their land; it was also to dismantle the social unit through which that resistance was expressed: the mir. The peasant commune had typically been the vehicle for organizing land seizures during the revolution, for orchestrating land use and grazing, for managing local affairs generally, and for opposing procurements.

The kolkhoz was not... just window dressing hiding a traditional commune. Almost everything had changed. All the focal points for an autonomous public life had been eliminated. The tavern, rural fairs and markets, the church, and the local mill disappeared; in their places stood the kolkhoz office, the public meeting room, and the school.<sup>97</sup>

...In place of a peasant economy whose harvests, income, and profits were well-nigh indecipherable, it had created units that were ideal for simple and direct appropriation. In place of a variety of social units with their own unique histories and practices, it had created homologous units of accounting that could all be fitted into a national administrative grid.<sup>98</sup>

If anything, collectivization can be compared to Enclosure insofar as a landed peasantry working its own allotments and appropriating a significant share of its full product was transformed into a rural proletariat working the land under the supervision of a hired overseer representing an absentee owner.

### **British Land Policy in Africa.**

British land policy in East Africa centered on “dispossessing indigenous communities of the greater part of their traditional territories”: claiming uncultivated or common lands, forests, and grazing lands as property of the colonial administration, and abrogating traditional rights of assess—not to mention head taxes to compel subsistence cultivators to enter the money economy.

Throughout the colonies, it became standard practice to declare all “uncultivated” land to be the property of the colonial administration. At a stroke, local communities were denied legal title to lands they had traditionally set aside as fallow and to the forests, grazing lands and streams they relied upon for hunting, gathering, fishing and herding.

Where, as was frequently the case, the colonial authorities found that the lands they sought to exploit were already “cultivated”, the problem was remedied by restricting the indigenous population to tracts of low quality land deemed unsuitable for European settlement. In Kenya, such “reserves” were “structured to allow the Europeans, who accounted for less than one per cent of the population, to have full access to the agriculturally rich uplands that constituted 20 per cent of the country. In Southern Rhodesia, white colonists, who constituted just five per cent of the population, became the new owners of two-thirds of the land...

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<sup>97</sup> *Ibid.*, pp. 213–214.

<sup>98</sup> *Ibid.*, p. 217.

Once secured, the commons appropriated by the colonial administration were typically leased out to commercial concerns for plantations, mining and logging, or sold to white settlers.<sup>99</sup>

### III. The Question of Efficiency

A good many of the criticisms raised of the alleged inefficiency of the open field system and common pasturage turn out, on examination, to be spurious. These include most of the objections raised by Chambers and Mingay, and commonly cited by apologists for the Enclosures—which we will examine in the appendix. But one of the more credible problems, raised by Henry Sumner Maine, was that of reclamation of waste land when expansion of the cultivated area was an urgent necessity. And from the failure to expand cultivation into the waste areas there followed a related set of social distortions within the village.

Although village communes “in one stage” had been democratically governed, they tended over time to become “oligarchies”—as Maine had observed in particular of the Indian villages at the time of Settlement. The relative democracy of the village commune resulted from a comparatively higher “capacity for absorption of strangers” in earlier times, “when men were of more value than land.” The villages then, owing to “the extreme value of new labour,” were more willing to welcome and amalgamate with outsiders, admitting them to the privileges of the village brotherhood with equal rights of access to the land. But as increased population ran up against the existing extent of cultivation, land became more valuable than people, and the result was social stratification based on the more prestigious families’ control of access to land and the increasing deference required to secure access rights. At the same time, the villages tended to become “close corporations,” welcoming outsiders only as tenants (thus creating the same problem of a two-tier workforce that has plagued modern cooperatives and kibbutzim when they’ve hired non-members as wage laborers). Of course all this resulted in a conflict of interest, in which it served the interests of the dominant families in the village to be slow and grudging in allowing the expansion of arable land into the waste.

The one advantage of the form taken by Cornwallis’s Settlement in Bengal, Main argued, was that it overcame the problem of developing the waste land. The British, by erecting the Zemindars into a class of fee-simple landlords, freed them from all customary limitations on “their power over subordinate holders” as well as putting the wastes under their dominion at their full disposal. The Zemindars brought these wastes, freed from the villages’ customary controls over access, into cultivation by the colony villages of landless peasants they settled there. In countries with large amounts of uncultivated waste and insufficient cultivation to feed the population, Maine argued, fee simple ownership by a landlord was a way to overcome traditional restrictions on waste reclamation and expand the area under cultivation.<sup>100</sup>

It seems to me, however, that the root of this problem was not the want of a dictatorial power to overcome customary restrictions and bring the waste under cultivation. It lay in the village commune’s illegitimate and unlibertarian power to control access to uncultivated waste. The arable lands of the village, its pastures and meadows, its woodlots from which its members are

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<sup>99</sup> “Development as Enclosure: The Establishment of the Global Economy,” *The Ecologist* (July/August 1992), p. 134.

<sup>100</sup> Maine, *Village-Communities*, pp. 163–166, 178–179.

in the habit of gathering timber and firewood, were all collectively homesteaded by admixture of the village's labor with the soil—as described by Roderick Long above. But land can only be homesteaded collectively by actual development in common—not simply by making claims to unused land. Having not homesteaded the uncultivated waste, the village has no right to restrict either landless outsiders, or its own comparatively subordinate members, from colonizing a new village on the waste land.

## Conclusion

Kropotkin, in *Mutual Aid*, mocked those who defended the process of enclosure and private appropriation of the communes as “a natural death... in virtue of economical laws.” It was, he wrote, “as grim a joke as to speak of the natural death of soldiers slaughtered on a battlefield.”

The fact was simply this: The village communities had lived for over a thousand years; and where and when the peasants were not ruined by wars and exactions they steadily improved their methods of culture. But as the value of land was increasing, in consequence of the growth of industries, and the nobility had acquired, under the State organization, a power which it never had had under the feudal system, it took possession of the best parts of the communal lands, and did its best to destroy the communal institutions.<sup>101</sup>

If there is any one lesson to be gained from all this, it is a warning against the common tendency for libertarians to conflate the private-state dichotomy with the individual/common dichotomy.

## Appendix: The Debates on Enclosure

Starting in the 1960s, there was a reaction—centered on *The Agricultural Revolution* and other work by J.D. Chambers and G.E. Mingay—against the dominant radical critique of Enclosure inherited from Marx's account of primitive accumulation in volume one of *Capital* and leftist writers like J.L. and Barbara Hammond or E.P. Thompson. Since then, it's been standard practice for anyone on the Right grasping for a defense of the “property rights” of the landed classes to fall back on Chambers as having “disproved” the radical historians.

It's quite similar to claims that Jeavons, Menger, Bohm-Bawerk, Mises, or some other thinker(s) from the marginalist-subjectivist tradition “disproved” Ricardian classical political economy—claims typically coming from people whose understanding of both the classical political economists and the marginalists is entirely second-hand, and who have little or no understanding of the actual points at issue between them.

A good recent example is Thomas Woods of the Ludwig von Mises Institute, who dismissed as “socialist” any arguments that the Industrial Revolution and wage system were shaped in any way, and particularly made more exploitative than they otherwise would have been, by the Enclosures.

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<sup>101</sup> Kropotkin, *Mutual Aid*, p. 236.

This was a central socialist theme: the people must not be viewed as having chosen to abandon the land for the factory, having made a rational assessment of what was best for them. They must have been tricked or forced into it... [I]t is how nearly all social-democratic historians, until the weight of the evidence began to overwhelm them, tried to portray matters...

Whether the process of enclosure satisfies libertarian standards of justice is not the issue before us here, although much injustice is probably concealed beneath many modern scholars' assurances that the process (which, although it sought substantial consensus, stopped short of unanimity) made agriculture more efficient.... The question, rather, is whether the process was responsible for systematic dispossession, the depopulation of the countryside, or rural poverty. It caused none of these outcomes.

In Woods' version of things, the older left-wing history was "propaganda," in contrast to "modern research."<sup>102</sup> Woods' overwhelming "weight of the evidence," otherwise known as "the past 50 years of scholarship," turns out to refer almost entirely to the work of Mingay. For Woods, apparently, historiography stopped with the groundbreaking scholarship of Mingay. He displays no awareness whatsoever that the "revisionism" of Mingay has since become the new orthodoxy, or that subsequent critics like J.M. Neeson have administered the equivalent of a curb-stomping to Mingay's reading of the history of Enclosure.

Chambers and Mingay, in *The Agricultural Revolution*, argued that only a minority of the rural population held commoning rights, that they were only marginally important to the rural population, that they were of little benefit to most, that the stock fed on commons was poorly fed and disease-ridden, and that the English landed peasantry had already disappeared by 1750.<sup>103</sup>

Very little of this stands up to close examination. For example the extent of common rights was seriously undercounted in official records, according to J.M. Neeson, because they did not include rights under the custom of the manor:

The number of common-right cottages counted by enclosure commissioners or lords of manors at enclosure gives us an estimate of the number of common-right *cottagers*, but it is almost certainly an underestimate. For only narrowly defined legal right was acknowledged at enclosure; more widely enjoyed customary right was sometimes ignored.

Customary rights based on residence alone, rather than ownership of cottages with common rights attached, went unrecognized by Enclosure commissioners.<sup>104</sup> Chambers and Mingay conceded as much in principle, although arguing in other passages that Enclosure commissions sometimes recognized customary right.

The legal owners of common rights were always compensated by the commissioners with an allotment of land. (The *occupiers* of common right cottages, it should be noticed, who who enjoyed common rights by virtue of their tenancy of the cottage,

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<sup>102</sup> Tom Woods, "Propaganda, Meet Modern Research," *Tom Woods*, July 18, 2011 <<http://www.tomwoods.com/blog/anti-capitalist-propaganda-meet-modern-research/>>.

<sup>103</sup> J.D. Chambers and G.E. Mingay, *The Agricultural Revolution 1750–1880* (New York: Schocken Books, 1966)

<sup>104</sup> Neeson, *Commoners*, p. 77.

received no compensation because they were not, of course, the owners of the rights. This was a perfectly proper distinction between owner and tenant, and involved no fraud or disregard for cottagers on the part of the commissioners.)<sup>105</sup>

Also unrecognized were common rights claims for cottage commons which were unstocked at the time of Enclosure, even when the holder of common rights periodically used them depending on his fluctuating economic circumstances.<sup>106</sup>

The extent of common rights is also undercounted by historians because cottage rights of common were divisible, and sometimes a number of cottagers might split a single cottage right of common, with some individual households holding half or a quarter suit-house cottage rights.<sup>107</sup>

In total, around half of the population on the eve of Parliamentary Enclosure were commoners with “rights of pasture attached to land they worked or to cottages they occupied.” In addition, there were landless commoners who supplemented income from wage labor or self-employment as artisans with a small right of pasturage, widows with children to support, and squatters on the waste.<sup>108</sup> Arguably such customary common rights were economically more significant to landless and land-poor peasants than to those with formal title to land in the open fields. And in some parishes common rights were attached to occupancy rather than ownership of a cottage, with a large number of commoners despite the concentration of land ownership.<sup>109</sup>

So in many villages that were supposedly devoid of a peasantry in Chambers’ and Mingay’s terms, there was in fact still a sizable “landless” rural population with rights to the land.

Chambers and Mingay minimized the economic significance of the supposedly minimal common rights of cottagers and squatters. But even small holdings, which were held by a large portion of the rural population, were a source of considerable independence. Occupancy of an acre or even just a few furlong strips in an open field, coupled with a kitchen garden and common right to graze a few sheep, according to Neeson, could be a “great advantage.” With only one to three acres, a family could raise sufficient potatoes, or wheat, barley and rye—“bread corn”—to subsist “in years of dearth.” The landless normally had customary right to pasture pigs on the common, as well. Pigs on the forests and waste and geese in the fen pastures were frequently sold to farmers who fattened them for the table—hence the decline in roast goose and goose down after Enclosure. And a cottage on the border of the waste rendered a laborer “independent of the farmers and many of the country gentlemen.”<sup>110</sup>

The value of the common [according to critics] was no more than wood for the fire. Evidently critics did not know that a waste might provide much more than fuel. Sauntering after a grazing cow, snaring rabbits and birds, fishing, looking for wood, watercress, nuts or spring flowers, gathering teasles, rushes, mushrooms or berries, and cutting peat and turves were all part of a commoning economy and a commoning way of life invisible to outsiders.<sup>111</sup>

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<sup>105</sup> Chambers and Mingay, *The Agricultural Revolution*, p. 97.

<sup>106</sup> Neeson, *Commoners*, p. 78.

<sup>107</sup> *Ibid.*, p. 63.

<sup>108</sup> *Ibid.*, p. 64.

<sup>109</sup> *Ibid.*, p. 75.

<sup>110</sup> *Ibid.*, pp. 35, 65–67, 312.

<sup>111</sup> *Ibid.*, p. 40.

Taking it a step further, even for those without common-right cottages, land rights, or pasture rights of any kind, the right to extract fuel, food and materials from common waste provided “variety of useful products.”<sup>112</sup> Common waste was a source of hazelnuts, mushrooms, truffles, herbs, salad greens, crabapples, and small game like fowl and rabbits.<sup>113</sup> The right to cut wood in forests, wastes and private woods enabled families in some areas to cut a year’s worth of fuel in a week—fuel which, after Enclosure, would cost four or five weeks’ wages for an agricultural laborer.<sup>114</sup> Not only was gleaning unharvested grain a significant source of subsistence for the poorest (at least enough to provide flour till Christmas)[115, but the right to glean wool caught on thorn bushes and the old winter fleece that dropped off in summer was a significant source of fiber for spinning. A contemporary observer estimated around one half of wool from common-field flocks was gathered in this way, rather than by shearing.<sup>115</sup>

Such rights also gave the landless “the means of exchange with other commoners and so made them part of the network of exchange from which mutuality grew. Even for the landless, rights such as gleaning and access to the common waste provided some margin of subsistence and help knit the village together as a social and economic unit.”<sup>116</sup>

The social and economic unit thus knit together included a significant social safety net, of the sort Kropotkin described in *Mutual Aid*. According to Neeson, seasonal shared labor like gathering rushes, harvesting and gleaning, peating, berrying, etc., and the small exchange economy in which even landless commoners participated—“blackberries, dandelion wine, jam, or labour in carrying home wood or reeds”—both created connections between families and “bonds of obligation.” Poor families after Enclosure, with no access to the common waste, were unable to obtain the material for participating in this gifting economy from their meager wages, and so could no longer build the ties of mutual obligation and good will with other families which had previously served as a safety net.<sup>117</sup>

One might read all this material in light of recent studies which compare the social health of communities in which farmland is widely distributed among a large number of family farms, versus that of communities where the land is concentrated in the hands of a few giant agribusiness operations.

In short, as Neeson describes it, the commons were the difference between a community of free and independent people and a collection of dependent wage laborers:

Living off the produce of commons encouraged frugality, economy, thrift. Productive commons had always been the insurance, the reserves, the hidden wealth of commoners—they were the oldest part of an ancient economy. They gave commoners the fuel, food and materials that kept them out of the market for labour and out of the market for consumption too. And the more productive the common the more independent the commoners.

The habit of living off commons made the habit of regular employment less necessary. For commoners it was customary to make a living first out of the materials on hand;

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<sup>112</sup> *Ibid.*, p. 158.

<sup>113</sup> *Ibid.*, pp. 169–170.

<sup>114</sup> *Ibid.*, p. 165.

<sup>115</sup> *Ibid.*, pp. 168–169.

<sup>116</sup> *Ibid.*, p. 158.

<sup>117</sup> *Ibid.*, pp. 180–182.

after all, the common came first, wage labour was a relatively recent arrival. This is not to deny the existence of wage labour; earning wages was necessary, but until they became the lion's share of income they were supplementary not central to a commoning economy. Looking for regular, constant employment was unnecessary where commons were rich reserves. It is no accident that the loudest complaints about the unavailability of commons for work come from the Hampshire downs and the East Anglian fens. Time there was customarily spent on other things as well as work for wages. Grazing a cow or a donkey, getting in a store of fuel, finding repair wood and thatch, or gathering winter browse for a cow or pigs and food for the larder were other older kinds of employment. This time was never available to employers, it was never purchasable...

One consequence was that commoners who were able to live on a little were unlikely to develop expensive wants. As long as they had what they thought of as enough they had no need to spend time getting more. From this freedom came time to spend doing things other than work, as well as the ability to refuse work. This is the evidence for the accusation by critics of commons that commoners were lazy, that they spent too much time at the market or going horseracing... Clearly sporting, indolence, laziness, taking time off, enjoying life, lack of ambition (all the words are loaded with values of one kind or another) [the fact that most working and middle class people today share those values is evidence of Methodism's success in reshaping consciousness in the late 18<sup>th</sup> and early 19<sup>th</sup> century—K. C.] had their origins in other things as well as a life outside the market economy. In particular, celebration and recreation had economic functions as well as social. They established connection and obligation... But the effect of having relatively few needs was liberating of time as well as paid labour. Having relatively few needs that the market could satisfy meant that commoners could work less... In other words: commoners had a life as well as a living.

George Bourne, who wrote most compellingly about thrift, also argued that the life commoners got was particularly satisfying. On one level, satisfaction came from the varied nature of the work. Commoners had a variety of tasks, many calling for skill and invention, and they had a sure knowledge of their value. But there is more to it than versatility and the interest it ensures... Bourne thought that a commoner's sense of well-being came from a sense of ownership or possession, a sense of belonging, and an overwhelming localness. This was not the ownership of a few acres (though that is surely important too) but the possession of a landscape.<sup>118</sup>

Anyone today who works at wage labor, who experiences clocking in as cutting off a piece of her life and flushing it down the toilet, as entering someone else's place and being a poor relation in someone else's house, of leaving her own judgment and values at the door and becoming a tool in someone else's hand, a means to someone else's ends rather than an end in her own right, knows exactly what Bourne meant. The untold millions of people who punch a time-card with a sick feeling in the pits of their stomachs at the prospect of "How much shit am I going to have

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<sup>118</sup> *Ibid.*, pp. 177–179.



to eat today to keep my job?” know what a sense of belonging and ownership are mainly from their lack.

Neeson’s description reminded me of a comment about the Highland crofters, by science fiction author Ken Macleod.

A lot of these highlanders are Heinlein’s omniscient man—they can turn their hand to anything. They’re also rather like Marx’s doodle about the post-class society where you could hunt in the morning, fish in the afternoon and be a critic after dinner without ever being hunter, fisherman or critic. That is literally what these guys are like...

...The highlanders are often people who own a croft, work for wages during the day and go poaching in the evening, and who read a lot. They are people who’ve never really been hammered into industrial society and therefore have a flexibility.<sup>119</sup>

So when Chambers and Mingay refer to the loss of commons being “compensated... by an increase in the volume and regularity of employment after enclosure,” they sort of miss the point.<sup>120</sup> The commons were of value to their possessors precisely because they were trying to get shut of “volume and regularity of employment.” It was the propertied classes, as we saw above, who promoted Enclosures as a way of extracting as much “employment” from the labored classes as possible, regardless of whether the laborers themselves wanted it.

Against arguments by Enclosure apologists that the population of the countryside increased after Enclosure, McNally responded:

One important recent study has shown that, during the main period of parliamentary enclosure, population rose in both enclosed and unenclosed villages, and that the rate of growth was no faster in the former. Enclosure cannot therefore be said to have had a uniquely stimulative effect on population growth. The same study also demonstrates that there was a ‘positive association’ between enclosure and migration out of villages. Finally, a definite correlation has been established between the extent of enclosure and reliance on poor rates... The heart of the modern liberal account has thus been refuted; indeed, the older socialist picture now seems remarkably accurate—parliamentary enclosure resulted in outmigration and a higher level of pauperization.<sup>121</sup>

McNally also argues that Mingay neglected the extent to which Enclosure was a tipping point for small, marginal tenant farmers, rendering them non-viable and pushing them into wage labor:

As Mingay has noted in another context, ‘the very small farmers—occupiers of perhaps 25 acres and less—could hardly survive without some additional form of income; the land itself, unless used for specialized production or amply supplemented

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<sup>119</sup> Duncan Lawie, “ken macleod interview,” zone-sf.com, 2001 <<http://www.zone-sf.com/kenmacleod.html>>.

<sup>120</sup> Chambers and Mingay, *The Agricultural Revolution*, p. 98.

<sup>121</sup> David McNally, *Against the Market: Political Economy, Market Socialism and the Marxist Critique* (Verso, 1993), pp. 13–14. Citing N.F.R. Crafts, ‘Enclosure and Labor Supply Revisited’, *Explorations in Economic History* 15, 1978, pp. 176–7, 180. K.D.M. Snell, *Annals of the Labouring Poor: Social Change and Agrarian England 1660–1990*, Cambridge: Cambridge University Press, 1985, pp. 197–206.

by common, would hardly yield sufficient to pay the rent and keep the family’... He goes on to point out that only in rare circumstances could such small occupiers engage in specialized farming for the market. Yet the other means of support—farming ‘amply supplemented by common’—is precisely that which was being destroyed by parliamentary enclosure, to the tune of six million acres via enclosure Act (about one-quarter of the cultivated area of England) and another 8 million acres by ‘agreement’... The impact of enclosure on small tenants, whose lands were inadequate to procure subsistence, can only have been dramatic, forcing them into growing reliance on wage-labour—as proponents of enclosure said it should.<sup>122</sup>

A lot of the trouble with twentieth century pro-Enclosure arguments like those of Chambers and Mingay is that, in many regards, they take eighteenth-century accounts by pro-Enclosure writers at face value, when in fact the latter were were—as J.M. Neeson pointed out—“making a case, not conducting an enquiry.”<sup>123</sup>

But although modern revisionists like Chambers agree with the enclosers on the squalor and misgovernment of the commons, what’s really interesting is the areas in which the pro-Enclosure writers of the eighteenth century agreed with their contemporary adversaries, rather than with their sympathizers today. According to Neeson, pro- and anti-Enclosure writers of the eighteenth century

First... believed commoners to be numerous and well-dispersed in space and time through the country and the century; second, they thought common right gave commoners an income and a status or independence they found valuable; third, they agreed that the extinction of common right at enclosure marked the decline of small farms and a transition for commoners from some degree of independence to complete dependence on a wage. All eighteenth-century commentators saw a relationship between the survival and decline of common right and the nature of social relations in England.<sup>124</sup>

...It becomes clear that beneath the argument between these writers lay a fundamental agreement. Opponents agreed on the nature of English rural society before enclosure, and they agreed on enclosure’s effect: it turned commoners into labourers. Their disagreement was about the worth of each class; neither side doubted that the transformation occurred, and had profound consequences.<sup>125</sup>

Indeed, as we saw earlier, many of the strongest advocates for Enclosure were deliberately and avowedly motivated not so much by a desire to improve the efficiency of cultivation and animal husbandry, as by a desire to improve the efficiency of extracting labor from the rural population. Advocates for enclosure were explicitly motivated, in part, by the prediction of “complete wage dependence.”

...many pamphleteers and most reporters to the Board of Agriculture *did* recommend the creation of complete wage dependence. They said that the discipline was valuable.

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<sup>122</sup> *Ibid.*, p. 14.

<sup>123</sup> Neeson, *Commoners*, p. 7.

<sup>124</sup> *Ibid.*, p. 9.

<sup>125</sup> *Ibid.*, p. 18

They argued that the sanction of real or threatened unemployment would benefit farmers presently dependent on the whims of partly self-sufficient commoners. For them... the justification for ending common right was the creation of an agricultural proletariat.<sup>126</sup>

A central theme running through all Enclosure advocacy in the eighteenth century was that “commoners were lazy.” And their very obsession with this “problem” is itself an indication of the economic significance of the commons.

They used laziness as a term of moral disapproval. But what they meant was that commoners were not always available for farmers to employ. We might ask why were they unavailable?... In fact... every commoner was lazy, whether wages were high or not. This suggests that they refused to work because they could live without wages, or regular wages. Their laziness becomes an indicator of their independence of the wage. And the degree of frustration critics felt when they saw this laziness may be a guide to how well commoners could do without it.<sup>127</sup>

Those today who minimize the significance of Enclosure as the margin of difference between independence and wage-slavery do so in direct contradiction to the conscious and stated motives of Enclosure advocates—which we quoted at length in the section on English history in the main body of this paper—in the eighteenth century.

Apologists for Enclosure sometimes emphasize the alleged due process entailed in it. But in fact the formal procedure of Enclosure—behind all the rhetoric—amounted to a railroad job. The Hammonds described the formal process of Enclosure as it was justified in legal theory, but argued that in fact it was a naked power grab. The lord of the manor typically worked out the plan of Enclosure and drafted the petition to Parliament, presenting it as a *fait accompli* to the peasantry only after everything was neatly stitched up. If anyone balked at the terms of Enclosure, they were likely to be warned by the landlord—quite unofficially—that the Enclosure was inevitable, and “that those who obstructed it would suffer, as those who assisted it would gain, in the final award.” If they persisted in obstinacy, the only recourse was to appeal to “a dim and distant Parliament of great landlords to come to his rescue.”<sup>128</sup>

The membership of the Board of Commissioners that carried out an Enclosure was appointed by the big landowners who initially promoted the Enclosure, before the petition was ever publicly submitted for signatures. So the lord of the manor and other big owners were disproportionately represented on the Board, and the small owners poorly or not at all; and aside from the mandatory assignment of defined portions of the common to the lord of the manor and the owner of the tithes, the commissioners were otherwise given “a free hand, their powers... virtually absolute” in regard to arbitrary assignments of land to the small owners.<sup>129</sup>

And interestingly—interesting, anyway, to those who make a hobby of seeing just how low the depths of human nature can sink—it was common for the same names to appear on the list of commissioners in a long series of Enclosure petitions. Although in theory a commissioner represented no particular interest, in fact he did.

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<sup>126</sup> *Ibid.*, p. 28.

<sup>127</sup> *Ibid.*, pp. 39–40.

<sup>128</sup> J. L. and Barbara Hammond, *Village Labourer*, p. 45.

<sup>129</sup> *Ibid.*, pp. 58–60.

...it often says, however, what amounts to much the same thing—that if he ‘dies, becomes incapacitated or refuses to act’ he shall be replaced by a nominee of (a) the lord of the manor, (b) the appropriator and/or other tithe owner(s), etc., or (c) the remaining proprietors. So clearly he has been chosen to represent a particular point of view. Thus in Oxfordshire, Thomas Hopcraft appears in five different commissions, always as representing manorial interests; the Rev. John Horseman is shown nine times, always acting on behalf of rector, appropriator or vicar. John Chamberl(a)in sat on sixteen commissions, 1789–1803, and on twelve of them represented ‘other proprietors’. An enclosure commissioner combined the delicate functions of advocate and judge.<sup>130</sup>

Chambers and Mingay, interestingly, made mention—albeit in a much more panglossian tone—of the same substantive fact:

The conduct of an enclosure was such a complex matter that in practice it became a professional occupation for the country gentlemen, land agents and large farmers who were experienced in it, and we find the same commissioners acting at a variety of different places.<sup>131</sup>

Yeah, the English gentry were good to help out that way. Part of that “unbought grace of life” Burke talked about, I guess.

The majority of small holders with rights in the common were disadvantaged in another way.

Consider how, as described by the Hammonds, the procedure would have seemed to a small peasant: Let us imagine the cottager, unable to read or write, enjoying certain customary rights of common without any idea of their origin or history or legal basis: knowing only that as long as he can remember he has kept a cow, driven geese across the waste, pulled his fuel out of the neighbouring brushwood, and cut turf from the common, and that his father did all these things before him. The cottager learns that before a certain day he has to present to his landlord’s bailiff, or to the parson, or to one of the magistrates into whose hands perhaps he has fallen before now over a little matter of a hare or a partridge, or to some solicitor from the country town, a clear and correct statement of his rights and his claim to a share in the award. Let us remember at the same time all that we know from Fielding and Smollett of the reputation of lawyers for cruelty to the poor. Is a cottager to be trusted to face the ordeal, or to be in time with his statement, or to have that statement in proper legal form? The commissioners can reject his claim on the ground of any technical irregularity... It is significant that in the case of Sedgmoor, out of 4063 claims sent in, only 1793 were allowed.<sup>132</sup>

Christopher Hill, in language much like the Hammonds’, mocked similar claims by Mingay that no coercion was involved in Enclosure.

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<sup>130</sup> W. E. Tate, *The Enclosure Movement*, p. 109.

<sup>131</sup> Chambers and Mingay, *The Agricultural Revolution* p. 86.

<sup>132</sup> J. L. and Barbara Hammond, *Village Labourer*, pp. 63–64.

There was no coercion, we are assured. True, when the big landowner or landowners to whom four-fifths of the land in a village belonged wanted to enclose, the wishes of the majority of small men who occupied the remaining twenty per cent. could be disregarded. True, Parliament took no interest in the details of an enclosure bill, referring them to be worked out by its promoters, who distributed the land as they thought best. But the poorest cottager was always free to oppose a Parliamentary enclosure bill. All he had to do was to learn to read, hire an expensive lawyer, spend a few weeks in London and be prepared to face the wrath of the powerful men in his village. If he left his home after enclosure, this was entirely voluntary: though the loss of his rights to graze cattle on the common, to pick up fuel there, the cost of fencing his own little allotment if he got one, his lack of capital to buy the fertilizers necessary to profit by enclosure, the fact that rents, in the Midlands at least, doubled in consequence of enclosure—all these might assist him in making his free decision. But coercion—oh dear no! Nothing so un-British as that. There was a job waiting for him, either as agricultural labourer in his village or in a factory somewhere, if he could find out where to go and if he and his family could trudge there. ‘Only the really small owners,’ say Professor Chambers and Dr Mingay reassuringly, would be forced to sell out.<sup>133</sup>

In Parliament itself, Enclosure bills required evidence of a three-fourths majority of proprietors in favor in order to proceed. But the possible units for tallying this figure—acreage, common rights, cottages with rights of common, total rack rental value of land with common right—varied widely, and with them the possible measures of support. The committee sometimes chose between these measures based on which would show the highest degree of support.<sup>134</sup>

Second, even taking at face value the claim that the commons were divided between the property owners of the manor on a pro rata basis, the preexisting distribution of property—as we’ve already seen from accounts of the enclosure of Church and monastic lands and of arable fields under the Tudors—doesn’t bear much looking into. In effect the lord of the manor, the heir of predecessors who encroached on perhaps a majority of common lands over previous centuries, finally offers to divide up the remaining common land according to the distribution of property resulting from those centuries of theft. The process was much like that of the modern urban “improvement district,” which is formed with the approval of owners of the majority of property owners in the proposed district, and subsequently levies taxes on advocates and opponents alike. The old saw about the wolf and the sheep voting on what to have for dinner comes to mind here.

And third, as we saw above, customary rights of common—probably including a majority of small claims—were seldom compensated. The division of the common land among proprietors left out the cottagers and squatters who had no formal property right in the common recognized by the royal courts, but who had rights of access under village custom—rights of access which had meant the margin for independent survival.<sup>135</sup> And it left out the benefit, which had previously accrued to the poor under the customary regime, of gleaning the common fields after harvest.<sup>136</sup>

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<sup>133</sup> Hill, *Reformation to Industrial Revolution*, p. 223.

<sup>134</sup> Tate, *The Enclosure Movement*, p. 100.

<sup>135</sup> J. L. and Barbara Hammond, *Village Labourer*, p. 52.

<sup>136</sup> *Ibid.*, p. 107.

Pro-enclosure writers, whether contemporaries or historians like Clapham, Chambers and Mingay, frequently state in so many words that customary claims were not by legal right, and therefore should not have been compensated. Clapham argued that customary rights of common like turning geese onto pasture or onto the harvested fields were not actually rights at all, but merely on “sufferance.”<sup>137</sup>

Customary rights of common were seldom preserved in official manorial records like rolls and field orders. And in Enclosure proceedings, the burden of proof was on peasants to provide documentation for their claims.<sup>138</sup>

Given the history of land ownership in the countryside, and the glaring fact that a peasantry had been reduced over a millennium to tenant status by feudalization and land engrossment, the burden of proof should have been on the other side. As Ludwig von Mises wrote:

Nowhere and at no time has the large scale ownership of land come into being through the workings of economic forces in the market. It is the result of military and political effort. Founded by violence, it has been upheld by violence and that alone. As soon as the latifundia are drawn into the sphere of market transactions they begin to crumble, until at last they disappear completely.<sup>139</sup>

What customs were recognized in the eighteenth century were the remnant of claims that once had been of right. And as Neeson remarked in regard to the right of gathering wood from private woods: “It would take many years, if it happened at all, before this idea of right, no matter what its origin, was worn down into a privilege, and before commoners would accept that privileges could be taken away.”<sup>140</sup>

Regarding Mingay’s contention that the countryside was not depopulated by Enclosure, Hill responded: “Yes, but so what?” One reason the population did not fall in many villages after Enclosure is that “population was increasing anyway. Extension of the cultivated area and intensification of agriculture demanded more labour.” But in any case, regardless of how many people lived in the countryside, the real question is *how* they lived. Rather than living with the security and independence that came with guaranteed customary access to land, they were permanently relegated to the precarious status of wage laborers dependent on their employer’s good will and liable to be discharged without notice on his merest whim.<sup>141</sup>

In addition, regardless of how many people were suffered to live off the land as laborers, the question remains of how much work was required for a given unit of consumption after Enclosure compared to before. As agricultural wages fell after 1765 and rents were driven up by Enclosure, a much larger share of the agricultural laborer’s total produce was sold in the towns rather than consumed by him and his family.<sup>142</sup> Mingay might as well have boasted that horses were better off based on their comparative numbers in wild herds versus in domestication as draft animals—or the comparatively larger numbers of chickens packed hip to hip in industrial chickenhouses than of the wild fowl from which they descended. Wild sheep may have been fewer in number

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<sup>137</sup> J. H. Clapham, *An Economic History of Modern Britain: The Early Railway Age 1820–1850* (Cambridge, 1926; 2<sup>nd</sup> ed., 1930; repr. 1950), pp. 115–117.

<sup>138</sup> Neeson, *Commoners*, pp. 78–79.

<sup>139</sup> Ludwig von Mises, *Socialism: An Economic and Sociological Analysis* (London, 1951), p. 375.

<sup>140</sup> Neeson, *Commoners*, p. 163.

<sup>141</sup> Hill, *Reformation to Industrial Revolution*, p. 223.

<sup>142</sup> *Ibid.*, pp. 223–224.

than their domesticated cousins in pasture; but they no doubt kept more of their own wool and mutton. As for the increased productivity, increased output of labor doesn't matter much to the person doing the work, if the increase is appropriated by someone else.

In the Hammonds' view, the Parliamentary Enclosures of the eighteenth and nineteenth centuries were "the second and greater of two waves," exceeding the Tudor era enclosures of open fields for pasturage in scale.<sup>143</sup> And Dobb claimed that the total percentage of land enclosed under the Tudors

"never touched 10 per cent. even in the four counties most affected."<sup>144</sup>

### **The Question of Efficiency in the Enclosures.**

Apologists for the Enclosures in England argue that they were necessary for the introduction of efficient new agricultural techniques like improved crop rotation, the use of clover to improve wasteland, and the wintering of livestock.<sup>145</sup>

Chambers and Mingay enumerated a long bill of indictments against the open fields and common pastures in *The Agricultural Revolution*. The particulars included

the dispersal and fragmentation of the holdings and the time wasted in journeying with implements from one part of the field to another; the unimproved nature of the soil, and the waste of the land in balks (although these served as additional pieces of pasture as well as paths between lands and headlands for turning the plough); the rigid rotation of two crops and a fallow; the impossibility of improving the livestock, and the risks of wildfire spread of disease among beasts herded together on the commons and fields...

Perhaps the most striking weakness of the system... was the annual fallowing of a proportion, generally from a quarter to a third, of the arable land. This was necessary in order to restore fertility after two or three years of cropping...<sup>146</sup>

According to subsequent critics of Chambers and Mingay, pro-Enclosure writers of the eighteenth century greatly exaggerated the extent of misgovernment and presented a deliberately one-sided picture out of self-interest; and modern writers like Mingay swallowed it because it was exactly what they wanted to hear.

For example, J.M. Neeson presents evidence that cottagers didn't "graze the commons bare": "[t]hey were unlikely to overstock their rights, they might not even stock them fully."<sup>147</sup> She also presents numerous examples of effective commons management from manorial records. Far from overrunning the commons or grazing them bare, in most places commoners regulated the commoning of livestock by strictly stinting their commons—restricting the amount of stock which each commoner might graze. Neeson refers to many cases in which village juries introduced stints and carefully enforced them. Even in villages where commons were unstinted, common

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<sup>143</sup> J. L. and Barbara Hammond, *Village Labourer*, p. 34.

<sup>144</sup> Dobb, *Studies in the Development of Capitalism*, p. 227.

<sup>145</sup> Hill, *Century of Revolution*, p. 150.

<sup>146</sup> Chambers and Mingay, *Agricultural Revolution*, pp. 48–49.

<sup>147</sup> Neeson, *Commoners*, p. 86.

rights were not unlimited. The stocking, rather, was limited by “the common rights immemorially attached to land or cottage or residency: the original, unabated level of stocking.”<sup>148</sup>

On the other hand, the rich land-grabbing interests—e.g. “[f]armers who could afford to buy up cottages in order to engross their rights”—were typically owners of large flocks and herds who “might overstock, certainly they would stock the full stint.” “The threat to common pasture came less from the clearly defined rights of cottagers than from the larger flocks and herds of richer men.”<sup>149</sup> Where village institutions were unable to enforce strict regulations, or stints were too generous, it frequently resulted from the political influence of a few large farmers who overran the commons with their own livestock and left no room for the majority of small owners.<sup>150</sup> And once Enclosure proceedings had begun, large farmers and lords of manors often deliberately overstocked the commons in order to drive down the value of the cottagers’ common rights, and thereby reduce the amount of their compensation.<sup>151</sup> Although pro-Enclosure writers took such overstocking as evidence of mismanagement of the commons, in fact it was a side-effect of Enclosure itself.<sup>152</sup>

Assertions by Enclosure advocates and apologists in regard to the spread of disease were similarly slipshod. In this as in other things, Chambers and Mingay uncritically repeated interest-driven accusations by writers two centuries earlier. Besides starvation and malnourishment, pro-Enclosure writers have asserted that “common pasture led to promiscuous breeding and the spread of disease.” In particular, “unregulated mixing of animals in large common pastures caused contagion and made control difficult.” These writers assume with little ground that “little intelligent attempt was made to control animal diseases in common pasture.”<sup>153</sup>

In fact, though, village juries “used by-laws and fines to prevent the spread of disease.” Just as much as enclosers, they believed that contagion from proximity was the source of infection. Grazing diseased livestock like mangy horses or sheep with the scab carried high fines. “Paid herdsmen and women almost constantly supervised common cattle and sheep,” which made it extremely difficult to graze a diseased animal without detection. The intense economic interest of commoners in preserving the health of their livestock, and the ease of detection facilitated by “the very public assembly, movement and supervision of common flocks and herds,” were powerful safeguards against infection. It was still possible to graze diseased animals for a short time in “partially supervised pastures where horses or cows could be tethered,” but they were only in contact with only small numbers of other animals.<sup>154</sup>

What’s more, contemporary and modern advocates of Enclosure indicted the livestock management practices of commoners completely out of any context. The most important comparison—to livestock management practices *after* Enclosure—was almost never made. “Perhaps the most important point to make is that the limited understanding of how many diseases spread made prevention difficult both before and after enclosure.” The enclosers, as much as the commoners, mistakenly believed that all disease was caused by contagion and were unaware of other vectors—like clothing—for transmitting disease.

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<sup>148</sup> *Ibid.*, pp. 113–117.

<sup>149</sup> *Ibid.*, p. 86.

<sup>150</sup> *Ibid.*, p. 155.

<sup>151</sup> *Ibid.*, pp. 87–88, 156.

<sup>152</sup> *Ibid.*, p. 156.

<sup>153</sup> *Ibid.*, p. 124.

<sup>154</sup> *Ibid.*, pp. 124–125.



Clearly most of these sources of infection were not affected by separation into herds after enclosure; and the long incubation period of the disease (30–60 days, and up to six months in some cases) made it very difficult to prevent the introduction of diseased animals into uncontaminated herds either before *or* after enclosure.<sup>155</sup>

The fences of enclosed farms, likewise, could not prevent the transmission of diseases like leptospirosis through contaminated watercourses or rodents.<sup>156</sup> Diseases associated with wet commons and poor drainage were managed as well by commoners as by enclosers; “post-enclosure improvements in drainage came fifty years after most enclosures were complete.”<sup>157</sup>

Finally, the irrelevance of Enclosure to disease is suggested by the disconnect between the chronology of Enclosure and that of “diminution of animal disease.” Pandemics continued to decimate flocks well into the nineteenth century. For example, sheep rot—the most prominent item in the enclosers’ indictment of the commons—killed one to two million sheep in the winter of 1830–1831.<sup>158</sup>

Another bit of uncritically received wisdom is “the ‘impossibility’ of improving animals on common pastures by selective breeding.” But in fact village juries closely controlled breeding. Bulls were not allowed to run free, and rams and bulls were only allowed on the common “at stated times.”<sup>159</sup> Lords of manors and large farmers were required by custom to put superior bulls out to stud, pasturing them periodically with commoners’ herds.<sup>160</sup>

As for the requirement of letting a large portion of land lie fallow, Chambers and Mingay themselves concede that “open field farmers... showed enterprise” in such matters as using legumes and turnips to restore the fertility of soil—suggesting that “the ancient structure was not so backward nor so incapable of improvement as was once supposed.”<sup>161</sup>

Where peasants were not economically crushed by rents and taxes, and where some of their members had leisure to improve their minds, open- or common-field villages were frequently quite progressive in introducing new agricultural methods. According to Neeson, in the Midlands especially, common-field villages in England in the period running up to Enclosure were open to innovations—for example redividing the common fields for crop rotation and introducing clover as a fodder crop on fallow land—“impressive developments” entailing a “flexibility in agricultural practice which led to all-around increases in fertility and production long before parliamentary enclosure.”<sup>162</sup>

According to W.E. Tate, the introduction of turnips as a field crop was entirely feasible within the bounds of the open-field system; it required only the reorganization of the arable mark to add a fourth field. Even before the act of Parliament in 1773 which made it legal for villagers to do so—apparently on the assumption that unauthorized reorganizations had been legally suspects—villages had previously voted to create fourth fields for root crops.<sup>163</sup>

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<sup>155</sup> *Ibid.*, pp. 126–128.

<sup>156</sup> *Ibid.*, p. 128.

<sup>157</sup> *Ibid.*, p. 129.

<sup>158</sup> *Ibid.*, p. 130.

<sup>159</sup> *Ibid.*, pp. 130–131.

<sup>160</sup> *Ibid.*, p. 131.

<sup>161</sup> Chambers and Mingay, *The Agricultural Revolution*, pp. 51–52.

<sup>162</sup> Neeson, *Commoners*, p. 8.

<sup>163</sup> Tate, *The Enclosure Movement*, p. 80.

The same later held true in the open fields of the Russian *mir*, after the emancipation of the serfs. Kropotkin, in the eighth chapter of *Mutual Aid*, cited numerous examples of villagers experimenting with new techniques on their common lands. Many of the examples referred to the efficient and progressive management of commons where they persisted in Germany, and even more so in Switzerland where they thrived in much greater vigor. But even in Russia, where most historians view the alleged backwardness of the *mir* through Stolypin's lens:

The facts which we have before us show, on the contrary, that wherever the Russian peasants, owing to a concurrence of favourable circumstances, are less miserable than they are on the average, and wherever they find men of knowledge and initiative among their neighbours, the village community becomes the very means for introducing various improvements in agriculture and village life altogether.<sup>164</sup>

Improved steel plows spread rapidly in southern Russia, "and in many cases the village communities were instrumental in spreading their use."

A plough was bought by the community, experimented with upon on [sic] a portion of the communal land, and the necessary improvements were indicated to the makers, whom the communes often aided in starting the manufacture of cheap ploughs as a village industry.

The main impetus for the adoption of over fifteen hundred improved plows over a five-year period in the Moscow district came from "those communes which rented lands as a body for the special purpose of improved culture." In Samara, Saratov, and Kherson provinces the adoption of threshing machines came about mainly "due to the peasant associations, which can afford to buy a costly engine, while the individual peasant cannot."

And contrary to the received wisdom from agricultural historians that "the village community was doomed to disappear" when crop rotation replaced the three-field system, in fact "we see in Russia many village communities taking the initiative of introducing the rotation of crops." If experiments with crop-rotation prove successful, the peasants "find no difficulty whatever in re-dividing their fields..."<sup>165</sup>

The peasant communes, on their own initiative, introduced crop rotation and dug drainage works in hundreds of villages in the provinces around Moscow, and built thousands of dams for ponds and dug many hundreds of deep wells in the dry steppe country.<sup>166</sup>

Recall, in regard to all the examples above of progressive action by peasant communes, Kropotkin's observation that they were most likely to take place in areas where peasants were least crushed by exploitation. And then consider the fact that all these heroic efforts at self-improvement come from a time when the peasantry still lived under heavy taxation to indemnify their former owners for the lands given the peasants at the time of the liberation of the serfs. Bear in mind that these people lived a generation or less after most of the peasant majority of Russia had been illiterate serfs in a state of near-slavery. Now imagine what things they might have accomplished had they lived free of that yoke in previous centuries, and held their land free from the exaction of tribute by the state and the landed aristocracy.

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<sup>164</sup> Kropotkin, *Mutual Aid*, p. 255.

<sup>165</sup> Kropotkin, *Mutual Aid*, pp. 257-258.

<sup>166</sup> *Ibid.*, pp. 258-259.

Seen in this light, all the arguments that “the peasants were better off” or “it was necessary for progress” seem as shameful as the old arguments for the White Man’s Burden. I suspect those who dismiss traditional peasant property rights as an atavistic barrier to progress are close kin to the consequentialists who argue that technological progress would have been impossible had not the peasants been evicted from the land and driven into the factories like beasts, or that the state must promote progress and increase the tax base by seizing inefficiently used property and giving it to favored business enterprises.

W. E. Tate’s description of the “benefits” envisioned for the poor by Enclosure advocates is very much on the mark:

The deserving poor would find small plots in severalty, or small pasture closes, more useful than scattered scraps in the open fields, and vague grazing rights. Certainly they would be no worse off without the largely illusory advantages of the common, and the very real temptations to idleness which its presence entailed. The undeserving poor, especially the insubordinate squatters, living in riotous squalor in their tumbledown hovels on the common, would prosper morally and economically if they were compelled to do regular work for an employer.<sup>167</sup>

To borrow a line from Cool Hand Luke, “I wish you’d stop being so good to me, cap’n.”

There’s also more than a little implicit collectivism in the complaint, in J.M. Neeson’s words, that “[c]ommoners stood in the way of national economic growth.”<sup>168</sup> It reminds me of a comment by some neoconservative talking head on Fox News at the outset of the Iraq War in 2003, who boasted of American cowboy capitalism’s superiority to a European model that provided shorter workweeks and six-week vacations. “Maybe Americans,” he said, “prefer to work longer hours and take less vacation, so we can afford all those aircraft carriers.” Indeed: no true patriot will mind that BB has reduced (er, ahem, “increased”) the chocoration to 20 grams a week, if it means another Floating Fortress off the Malabar Front.

Missing from all the discussion of “increased efficiency” is any consideration of *qui bono*. Coase’s argument that it doesn’t matter who owns a resource, because it will wind up in the hands of the most efficient user, has always struck me as nonsensical. It matters a great deal to the person who was robbed. Such arguments remind me a great deal of arguments for eminent domain, by which land will be put to its “most productive use.” But since—as the Austrians never tire of asserting elsewhere—utility is subjective, what is “efficient” is very much in the eyes of a potential user of the land.

Tell the fenmen, Fuller said, ‘of the great benefit to the public, because where a pike or duck fed formerly, now a bullock or sheep is fatted; they will be ready to return that if they be taken in taking that bullock or sheep, the rich owner indicteth them for felons; whereas that pike or duck were their own goods, only for their pains of catching them’.<sup>169</sup>

W. E. Tate, in similar vein, describes the skepticism of commoners in the face of the propertied classes’ visions of prosperity:

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<sup>167</sup> Tate, *The Enclosure Movement*, p. 23.

<sup>168</sup> Neeson, *Commoners*, p. 32.

<sup>169</sup> Hill, *Reformation to Industrial Revolution*, p. 121.

They much preferred rearing poor specimens of cattle on the commons for their own benefit, to tending prize stock in enclosures for someone else's. They were not in the least attracted by the prospect set forth by one of the Reporters, seeing the commons 'to wave with luxuriant crops of grain—be covered with innumerable flocks and herds, or clothed with stately timber', since not grain, herds nor timber would be theirs.<sup>170</sup>

Critics of the “inefficiency” of the commons ignore the value of independence and self-sufficiency, the possession of sources of subsistence that could not be taken away at someone else's whim.

When critics of commons weighed the value of common right they did so in their own terms, the terms of the market. They talked about wage labour and the efficient use of resources. But commoners lived off the shared use of land. To some extent they lived outside the market. They lived in part on the invisible earnings of grazing and gathering. Much of this was inconceivable to critics, either because they did not look or because they did not want to see. In their eyes commoners were lazy, insubordinate and poor. But when historians come to assess these assessments we have to understand that none of these conditions, except poverty, is a measure of the inadequacy of a standard of living. Even poverty, in the case of commoners, may have been in the eye of the beholder: commoners did not think themselves poor.<sup>171</sup>

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<sup>170</sup> Tate, *The Enclosure Movement*, p. 165.

<sup>171</sup> Neeson, *Commoners*, pp. 41–42.

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