

The End of Manorial Tenure, 1841-1957

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The Last English Copyholder

By

Michael Turner

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Historians like me are data driven and especially dependant on the storage and retrieval of data. We are also dependent on literature of the eighteenth and nineteenth centuries, some of which is obscure and available in very few libraries. The obvious source is the British Library, and this is all too obvious to British historians because generations of us began our early careers with the classic literature search in the old Round Room of the British Museum. Its successor, the British Library, is now the place to go. Other classic libraries in my case included the Goldsmith's Library in Senate House in the University of London. For British Parliamentary Papers the obvious sources used to be the open stacks in the old British Museum. They were also available in Senate House Library. Some redbrick universities also had collections of British Parliamentary Papers on open stacks. I think here of my use of Queens University Belfast thirty years ago. Historians in the second or third wave of universities, like my own, did not have many hard copy volumes available. Instead, we ran the risk of ruining our eyesight on microfiche photographic copies of Parliamentary Papers using antiquated microfiche readers. The electronic revolution has changed much of that: the increasing digitalisation of material has brought much of this classic and parliamentary literature to our desktops. They are still not always easy to read especially some of the Parliamentary Papers because they were not digitised afresh. Instead, they were adapted from the existing microfiche copies. The original volumes are very thick, and lines and words closest to the spines in the middle of thick volumes are sometimes impossible to decipher.

There is now another way to research much of the literature of the past, as well as the present. In this context it will look unusual to commend the commercial world where otherwise commercial considerations make many resources available only to fee paying corporate or quasi-corporate entities like universities, and then only after internal competition for finite resources and through subscription.¹ Therefore, this is a rare moment to commend a commercial body that does not always enjoy a good press. On this occasion this particular body has given something back. I am talking about Google

¹ The examples that come to mind are *Eighteenth Century Collections Online* (Gale Cengage Publishing); and *The Times Digital Archive 1785-2013* (Gale Cengage Publishing), both of which have been heavily used in the chapters below.

Books. It has made great strides to digitise literature that is long out of print, long out of copyright, and available for most researchers only in a select number of libraries often remote from their usual place of work. Now, through the offices of Google Books that literature can often be located, and when available in digital form it can be brought onto the desktop screen, internally searched, and downloaded and printed if necessary. It can do nothing other than scratch the surface of the vast literature that exists, so some historians will necessarily be disappointed. However, that which can be obtained, and the wide scatter of international libraries with which Google Books has obviously collaborated suggest that Google Books will continue to put this little something back and make material freely available to scholars in the academic world. It has become my source of choice for the many references to otherwise obscure as well as standard literature concerned with the land, and the legal and agricultural history of the eighteenth and nineteenth centuries, especially through the Covid19 pandemic lockdowns and restrictions.

The work in this book would not have been possible on the scale conducted without the support of two grants. They allowed me to travel to archives, and to stay for extended periods in London and other cities and towns up and down the country. Those grants were from the Nuffield Foundation, Small Grants Scheme for November 2008 to April 2010, reference SG/36272, *The end of copyhold land tenure in England, 1840-1940*, and from the Leverhulme Foundation under their Emeritus Fellowship scheme October 2012 to September 2014, EM-2012-081/3, *The end of manorial tenure in England, 1841-1951*. My thanks to both of these awarding bodies.

The University of Hull and my former colleagues have always supported what I do. The University provided a modest seed corn grant to finance a pilot study as long ago as 1998.² I gave a number of research seminars at Hull in History and in Economics, at Nuffield College Oxford, and at the London School of Economics. I have also given a number of conference presentations: at Leicester in 1996 in preparation for the International Economic Congress at Madrid in 1998; to the European Social Science History Conference at meetings in Lisbon and Ghent in 2008 and 2010; to the British Agricultural History Society Annual Conference at Askham Bryan College near York, in April 2013, and at the launch of the Suffolk *Manorial Documents Register* in November 2014. My thanks to seminar

² University of Hull, Research Support Fund, *Adjustments in land tenure in England in the 18th and 19th centuries*, (1998-9).

and conference organisers for the chance to share my thoughts, and also to participants for their interest and their comments.

I also want to thank a number of individuals who have helped in large and small ways in the researching and writing of this book. First, I thank Rosalind Barker from Whitby for showing me that manorial courts still operate in selected areas, in and around Fylingdales Moor for example. At Hull University the late Nick Parry was my go-to lawyer on land law and trusts. Another Hull colleague, Valerie Sanders, helped me to negotiate the labyrinth of writings of Anthony Trollope. Outside Hull Richard Hoyle has always been interested in what I am doing with this subject and project. On occasions, he has sent me references to things that otherwise I might have missed. Huge thanks to Bob Allen without whose early work on the *Yeoman and Enclosure* I might not have thought of this different way to look at land tenure. I thank also Angus Winchester, a fellow historian of the manor, for his encouragement. A huge supporter of what I do has always been John Beckett who for over 40 years has shared thoughts with me, and also shared a number of grants, some books, articles, chapters in books and conference platforms, including on the subject of property tenure, and for this I thank him mostly as a friend but also as a colleague.

On the basis of author sovereignty there have been occasions where I simply did not agree with everything friends and colleagues have advised or commented upon, and reserved the right to leave things unchanged, but mostly I have followed up suggestions and made changes or additions as appropriate.

My final thanks are to Ali who has become quite the expert on manors having listened to me patiently in our travels up and down the country and posed questions which otherwise I might have missed. I hope I answered those questions coherently on the day, and that those answers are now readily recognisable to her in the script. Either way, she has been patience personified.

Michael Turner,
Emeritus Professor of Economic History
University of Hull
1 December 2023

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COMMONLY USED ABBREVIATIONS

More or less, all historic money has been decimalised, and all land measures left as acres, but converted to decimals.

<i>AgHR</i>	<i>Agricultural History Review</i>
BPP	British Parliamentary Papers
CEC	Church Estates Commission [ers]
C of E Archive	Church of England Archive, Bermondsey
CRES	The Crown Estates, especially in chapter 7
Ct Bk(s)	Court Book(s) to include Court Rolls in book format
<i>DNB</i>	<i>[Oxford] Dictionary of National Biography</i>
EC	Ecclesiastical Commission [ers]
<i>EcHR</i>	<i>Economic History Review</i>
ERA	East Riding Archives (in the Treasure House, Beverley)
HHC, U	Hull History Centre, University of Hull Mss
HM Woods	[refers to Annual Reports in BPP of] <i>His/Her Majesty's Woods, Forests, and Land Revenues</i> Justice, <i>Manorial Rights</i> House of Commons Justice Committee, <i>Manorial Rights</i> , Fifth Report, Session 2014–15, together with formal minutes, HC 657, Published 22 January 2015 (London: The Stationery Office Ltd, 2015), https://publications.parliament.uk/pa/cm201415/cmselect/cmjust/657/657.pdf
LAO	Lincoln Archive Office
<i>LPA 1922</i>	[The] <i>Law of Property Act 1922</i>
<i>LRA 2002</i>	[The] <i>Land Registration Act 2002</i>
MAF	Ministry of Agriculture and Fisheries, TNA
MDR	<i>Manorial Documents Register</i> , TNA <i>Measuring Worth, 2020</i> “Purchasing Power of British Pounds from 1270 to Present”, www.measuringworth.com/ppoweruk/
NYCRO	North Yorkshire County Record Office, Northallerton
RO	Record Office
Roy. Comm.	Royal Commission [in BPP]
Sel. Comm.	Select Committee [in BPP]
TNA	The National Archives, Kew

<i>VCH</i>	<i>Victoria History of the County of [...named county]</i>
WYAS	West Yorkshire Archive Services, Leeds

PART 1

BACKGROUND AND DEVELOPMENT OF LEGISLATION

CHAPTER 1

INTRODUCTION: A QUESTION OF TENURE

In the early twenty-first century, we live in an age of almost complete disclosure of personality. Hand in hand with this “social media” revolution has risen a veritable industry of information gathering to inform news and to catalogue news. You want to know facts about almost anything then put a question to your favoured search engine. Someone, somewhere, has almost certainly catalogued exactly what you want and almost certainly it has become electronically available. Almost is the important word: not everything is precisely known or precisely catalogued. We may be able to watch the daily fluctuations in stock market share prices and construct annually a list of the hundred richest people, and all manner of other useful and sometimes useless information. Indeed, we live in an age of information gathering and sharing. Yet there are things that remain elusive. In my field of work one of the most elusive, both in terms of reconstructing a cross section in time let alone to obtain a sense of change over time, has been the ownership of our basic national asset, the land itself. It led one author to pose the question *Who Owns Britain* and more recently another author to narrow the question down to *Who Owns England?*¹ Neither of them could properly answer their own questions and one of them at least probably wildly overestimated the extent of ownership of certain institutional owners like the church.² Their working problem, and the problem we have all faced is that a fully developed system of land and property registration has only relatively recently been constructed. Before the widespread advent of land registries only a few of them existed and those for a very small geography.³

¹ Kevin Cahill, *Who Owns Britain: the Hidden Facts behind Landownership in the UK and Ireland* (Edinburgh, 2001); Guy Shrubsole, *Who Owns England? How we Lost our Land and How to Take it Back* (London, 2019).

² See generally the discussion in chapter 2 of Brett Christophers, *The New Enclosure* (London, 1918).

³ Francis Sheppard and Victor Belcher, “The deeds registries of Yorkshire and Middlesex”, *Journal of the Society of Archivists*, 6.5 (1980), 274-86; Francis Sheppard, Victor Belcher and Philip Cottrell, “The Middlesex and Yorkshire deeds

But land and property registration has made progress such that one estimate put the coverage of registration in 2005 at less than half of England and Wales, but by 2015 it had improved dramatically and swiftly to 85%, and by 2020 it had advanced to 87%.⁴

If it has proven difficult in the not-so-distant past to be precise about property ownership on anything but a small scale, then not that much further back it was more or less impossible. Yet contemporary social commentators and sometime government officials have made the attempt, including notably Gregory King in the 1680s, Joseph Massie in the second half of the eighteenth century, and Patrick Colquhoun in the early nineteenth century.⁵ Historians readily picked up these contemporary commentators and used their basic calculations not so much to build massive arguments but rather to provide context and a starting point for other studies. With the benefit of hindsight, we can readily admire some of these contemporary observers but equally we might suppose their calculations were more back of the envelope than based on reliable data.⁶ Commentators like King also tried to impart some sense of social distribution within their broad appreciations of society by crude disaggregation and this necessarily increased the number of broad groups into which society could be divided. Thus, freeholders for example were separated into those of the lesser sort and those of the greater sort, crudely bigger and smaller. For most historians, numbers cannot comfortably be attached to these distributions, and let us be honest, such numbers when so attached cannot carry any guarantee of certainty. Instead,

registries and the study of building fluctuations”, *The London Journal*, 5.2 (1979), 176-217. For the latest work, on the North Yorkshire Register, see Joan K.E. Heggie, “Women’s involvement in property in the North Riding of Yorkshire in the eighteenth and nineteenth centuries”, in Capern, McDonagh, and Aston (eds), *Women and the Land, 1500-1900*, 201-25, especially 202-3.

⁴ Ed Conway, “Riddles of land ownership must be solved”, *The Times*, 17 Jan (2020), 26.

⁵ All of whom have been reworked subsequently, including P. Mathias, “The social structure in the eighteenth century: a calculation by Joseph Massie”, *EcHR*, 10.1 (1957), 30-45; P.H. Lindert and J.G. Williamson, “Revising Britain’s social tables, 1688-1913”, *Explorations in Economic History*, 19.4 (1982), 385-408; N.F.R. Crafts, *British Industrial Growth during the Industrial Revolution* (Oxford, 1985), 11-14; C. Knick Harley, “Reassessing the Industrial Revolution: a Macro View”, in Joel Mokyr (ed), *The British Industrial Revolution: An Economic Perspective* (Westview Press: Oxford, 1993), 171-226, especially 212-216.

⁶ In this context see my criticism of John Middleton, *General View of the Agriculture of the County of Middlesex* (London, 1st edition, 1798), 483-4: (2nd edition, 1807), 639 in M.E. Turner, “Counting Sheep: waking up to new estimates of livestock numbers in England c. 1800”, *AgHR*, 46.2 (1998), 142-61, especially 151-2.

broad descriptive terms have been adopted. One of these descriptions is associated with the relatively self-sufficient owner-farmer or owner-producer. The words cover a multitude of variations, from those who not only were self-sufficient but also had enough produce to bring surpluses to markets, to those who were not self-sufficient at all but had to supplement their incomes by selling their labour or by renting land from others to supplement their own land and income.

To add further complications, historians have adopted language that sometimes is meant as a catch-all description of these mostly small owner-producers, but in doing so perhaps they have unwittingly attached to them politically charged descriptions. At one level it might be bucolic or over sentimentalised but at another level a term like “peasant”, for example, conjures up images alluding to size and social and economic standing, as in its own way does the term “yeoman”. They are eye catching, but they may mean different things in different parts of the country, and different things at different times. They may also mean different things to different historians.⁷ R.C. Allen used the term “yeoman” in the headline title of what has become a very influential and much quoted and footnoted book. But he did explain what he meant by the term:

“By the sixteenth century, three major tenures had emerged – copyholds of inheritance, copyholds for lives, and beneficial leases. Together with freehold, these were the tenures by which most yeomen farmers held their land in the late sixteenth and seventeenth centuries.”⁸

Allen meant that the small owner occupier or owner farmer was in the ascendant at the time.⁹ He proceeded from his initial definition to measure,

⁷ For a wide-ranging discussion see Kathryn Beresford, “‘Witnesses for the Defence’: the yeomen of old England and the land question, c.1815-1837”, in Cragoe and Readman (eds), *The Land Question*, 37-56.

⁸ R.C. Allen, *Enclosure and the Yeoman: the Agricultural Development of the South Midlands, 1450–1850* (Oxford, 1992), 66-7. In a second reference he varied and narrowed this slightly when he said, “The yeomen held their lands by copyholds of inheritance, copyholds for lives, and beneficial leases”, 312. See also P. Bowden, “Agricultural Prices, farm profits, rents”, in Thirsk, *Agrarian History*, IV, especially 683-5.

⁹ John Beckett in his essay on the use of the terms “peasant” and “yeoman” down the ages, and when referring to the sixteenth century, said more specifically and regionally that the term “yeoman” was employed in the Midlands where it “seems to have reflected the importance of copyhold in that region.” J.V. Beckett, “The peasant in England: a case of terminological confusion?”, *AgHR*, 32.2 (1984), 113–23, especially 114, deferring to Maurice Barley, “Rural housing in England” in Thirsk, ed, *Agrarian History*, IV, 696–766, but specifically 734.

amongst other things, the contribution of his yeoman to agricultural output and productivity relative to the contribution of the so-called capitalist agricultural producers.¹⁰ Notwithstanding remnant survivals of their breed, the argument contended that the yeoman producer, the relatively small owner-producer was largely replaced by the mid-eighteenth century by a tenure system based on capitalist landlords and their tenant farmers. Populist politics of late Victorian and Edwardian England obviously thought the transition was so complete that state intervention was required to reinvent or rather to recreate circumstances for small owner farmers, yeoman farmers, peasant farmers (all such expressions were used) to exist again, as if they had truly disappeared.¹¹

But had these small independent owner producers disappeared to quite that degree? The term “yeoman” was widely used, for example, in the seventeenth and most of the eighteenth century. Richard Hoyle found from many thousands of wills from people with farming occupations registered or proven in the Canterbury Prerogative Court from 1600-1859 that in the early seventeenth century nobody it seems was called or rather called themselves in their wills, a farmer, one fifth called themselves “husbandman”, and four fifths called themselves “yeoman”. The proportion called yeoman hardly changed until the second and third quarters of the eighteenth century, but by the 1850s still just over two fifths were styled yeoman, but less than two per cent were styled husbandman, and over one half were now styled as farmers.¹² How you wished to be known or regarded may have suggested how you wished others to recognise you. An independent farmer or owner farmer might suggest yeoman as a suitable title, it carried with it status. While if you farmed for purely economic reasons (thereby also paying rent), farmer more correctly defined your position.¹³

Allen in his study had re-contextualised an older and much politicised approach to agricultural change and commercialisation which at times was dominated by a literature packaged with political issues and overtones running from Marx, through the Hammonds, and on into more modern times

¹⁰ R.C. Allen, “The two English agricultural revolutions, 1450–1850”, in Campbell and Overton (eds.), *Land, Labour and Livestock*, 236–54.

¹¹ See a number of the essays in the Cragoe and Readman volume and perhaps especially on this theme, Paul Readman, “The Edwardian land question”, in Cragoe and Readman (eds.), *The Land Question*, 181-200, and explicitly on 182-7.

¹² R.W. Hoyle, “Introduction: Recovering the farmer”, in Hoyle (ed), *The Farmer in England*, 5.

¹³ See Hoyle, “Introduction”, *Ibid*, especially the early discussion, 6-9.

through Saville and the much-debated Brenner thesis.¹⁴ A more empirical approach guided by extensive regional archival research directly addressed the received history about smaller owner-producers and at times questioned Brenner's thesis.¹⁵ Major studies covered the northern and western counties of England.¹⁶ The standard picture still suggested that there was a general, not necessarily a complete, but a widespread conversion of the tenures of the sixteenth century by or in the eighteenth century.¹⁷ But as such tenures

¹⁴ J. L. Hammond and B. Hammond, *The Village Labourer, 1760–1832* (London, 4th ed., 1927); Anon, "Enclosure and population change", *Our History, Historians Group of the Communist Party*, 7 (1957, reissued 1966); J. Saville, "Primitive accumulation and early industrialisation in Britain", *The Socialist Register*, 6 (1969), 247–71; R. Brenner, "Agrarian class structure and economic development in pre-industrial Europe", *Past and Present*, 70 (1976), 30–75.

¹⁵ Responses to the Brenner thesis appeared in the pages of *Past and Present* and were then brought together in a collected volume, T.H. Aston and C.H.E. Philpin (eds.), *The Brenner Debate: Agrarian Class Structure and Economic Development in Pre-Industrial Europe* (Cambridge, 1985). See also see R. W. Hoyle, "Tenure and the land market in early modern England: or a late contribution to the Brenner debate", *EcHR*, 43.1 (1990), 1–20.

¹⁶ For example C. E. Searle, "Custom, class conflict and agrarian capitalism: the Cumbrian customary economy in the eighteenth century", *Past and Present*, 110, (1986), 106–33; C.E. Searle, "Customary tenants and the enclosure of the Cumbrian commons", *Northern History*, 29 (1993), 126–53; N. Gregson, "Tawney revisited: custom and the emergence of capitalist class relations in north-east Cumbria, 1600–1830", *EcHR*, 42.1 (1989), 18–42; J.V. Beckett, *Landownership in Cumbria, 1680–1750*, PhD thesis (University of Lancaster, 1975), 265–6; P. Brassley, *The Agricultural Economy of Northumberland and Durham in the Period 1640–1750* (London, 1985); Jean E. Morin, *Merrington: Land, Landlord and Tenants 1541–1840*, PhD thesis (University of Durham, 1987); C. Clay, "Lifeleasehold in the western counties of England, 1650–1750", *AgHR*, 29.2 (1981), 83–96; see also C. Clay, "'The greed of Whig bishops'? Church landlords and their lessees, 1660–1760", *Past and Present*, 87 (1980), 128–57; C. Clay, "Landlords and estate management in England", in Thirsk (ed.), *Agrarian History*, V(ii), 1640–1750, 189–230, especially 198–208.

¹⁷ See a concise depiction of this in M. Overton, *Agricultural Revolution in England: The Transformation of the Agrarian Economy 1500–1850* (Cambridge, 1996), 155–7. At the local level see H.R. French, and R.W. Hoyle, *The Character of English Rural Society: Earls Colne, 1550–1750* (London, 2007), especially chapter 5. E.P. Thompson noted the paucity of "firm evidence" for measuring the strength of property held as copyhold or other customary tenures in the eighteenth century, also note Clay's suggestion that it might be about one third, E. P. Thompson, "Custom, law and common right", chapter 3 of his *Customs in Common*, 114. See also his essay "The grid of inheritance: a comment", chapter 9 of Goody, Thirsk and Thompson (eds), *Family and Inheritance*, 328–360.

were replaced by commercial leases, so at the same time personal descriptive titles for “farmers” also changed; and while Hoyle’s study of wills suggested that a moving picture was underway, it still left a large residue of probable owner-farmers. The concern in this book is with the copyholder element of that residue.

The precise timing of the evolutionary process and its outcomes may be doubted, and equally there might be doubts about the undue simplicity of commercial agriculture and its implied tripartite division of rural society into landlords/owners, tenants, and labourers.¹⁸ Yet few doubted that generally this was the broad and dominant form of relationship that emerged by the mid-nineteenth century. There is widespread agreement that eventually agriculture became more commercialised, with the concentration of ownership and occupancy in large estates organised in large tenant farms employing much wage labour.¹⁹ Yet that is not the same as saying that the small owner-farmer had completely disappeared from view.

The present study attempts to revive one aspect of the debate, not through semantics or polemics, but rather through a form of measurement. This measurement at times may look precise but in truth it will be the weight of examples gathered together rather than the precise measurements from those examples that might persuade a rethink. Moreover, the independent landowner in question will be further narrowed down because this is a study specifically about one element of Allen’s definition, the decline of copyhold tenure and hence of the influence of the English manor. The collated research of the book suggests that substantial numbers of copyholders persisted in large parts of England in large numbers well into and through the nineteenth century, and then beyond and deep into the twentieth century. The major boundary dates of this study linking the final decline of copyhold tenure with the manor are 1841 and 1957, the significance of which years will become clear as the story unfolds. What will remain unclear is the extent to which this sizeable survival of copyholders signals the survival of the independent owner-farmer. The degree of absentee ownership was profound, and absentee ownership implies a rentier society, a commercial society.

¹⁸ This tripartite division of rural society was debated in the *Journal of Peasant Studies* from 1979 to the late 1980s, and contributions collected in M. Reed and R. Wells (eds.), *Class Conflict and Protest in the English Countryside, 1700–1880* (London, 1990), especially Reed’s introductory essay, “Class and conflict in rural England: some reflections on a debate”, 1–27, especially 6, 8.

¹⁹ The uncertainties in this story are nicely described in David Grigg, *The Dynamics of Agricultural Change* (London, 1982), 197–214.

There is a wider context into which this story must be located. When Britain emerged from the close of the French wars in 1815 it was as a triumphant nation not only in Europe but also in the World. France, the great rival, was knocked sideways in defeats throughout much of the previous century. Britain's major setback was the loss of the United States to independence. Whether we agree or not politically with Eric Hobsbawm, nonetheless we can concede he had a point when he said Britain had "waged war" and was prepared "to subordinate *all* foreign policy to economic ends".²⁰ The outcome is visible in trade statistics with an expanding Empire bringing with it new markets and crucially new sources of raw materials. The outcome is also visible in another way through the enormous burden of debt, as brought out in Hoppit's summary of the literature of the mainly eighteenth-century rise of the fiscal state.²¹ Yet the fruits from debt could be considerable and not entirely on the debit side of the spreadsheet, because arguably, Britain emerged from the French wars in 1815 as the leading industrial nation in the world, a position reinforced down to the early twentieth century.²² This all came from a group of small islands where everybody lives within about 65 miles of some tidal water, with a relatively tiny population providing a limited home market. It was audacious to say the least. The transition within the British economic state was complete: from Britain emergent; it became ascendant; and finally blossomed as a triumphant or resplendent state.

Yet when we review the first two decades or so after that triumph over the French, Britain looked anything but resplendent. The demobilised forces came back to depression. It was not unremitting, but it was long lasting. Agriculture, the founding base of most economies, was in long-term free fall. It was not imagined: it was more than simply not as good and comfortable as the period that preceded it: it was a real depression, a

²⁰ E.J. Hobsbawm, *Industry and Empire: An economic history of Britain since 1750* (London, 1968), 33. See also the many essays by Patrick O'Brien on the rise of the fiscal state, for example, P.K. O'Brien, "Inseparable connections: trade, economy, fiscal State, and the expansion of Empire, 1688–1815", in Marshall (ed), *The Oxford History of the British Empire*, vol. 2, 54–77, General ed. W. R. Louis in 5 vols. (Oxford, 1998–2001), 2:54–77.

²¹ J. Hoppit, "Political power and British economic life, 1650–1870", in Floud, Humphries and Johnson (eds.), *The Cambridge Economic History of Modern Britain*, vol. 1, especially 352–5.

²² A tale simply but effectively told in some of the old literature like J.L. and Barbara Hammond, "The effect of the wars of Europe" chapter 3 of *The Rise of Modern Industry* (London, 1925), 38–49, and more analytically explored in the essays in Leandro Prados de la Escosura (ed), *Exceptionalism and Industrialisation* (CUP, 2004).

persistent depression. The governing class was the same extensive and connected group as it was before the French Revolutionary Wars, but the depression had damaged it severely. Landed society still had a commanding presence in government and parliament. It instigated a series of long-term enquiries and Royal Commissions in the 1820s precisely into the question of agricultural depression and the role of agriculture in the future. Those inquiries continued deep into the 1830s, the titles of their reports identifying ongoing concerns.²³

Agriculture was only one concern: society more generally was put under the microscope. By the measures of its own times, a period of massive reform ensued. Partly this had to happen because of a “needs-must” requirement to change and adapt to massive technological developments, not least a revolution in transport, in which otherwise static steam engines were developed into railway engines. This particular development came about through longer-term transport developments. Improved water engineering in the late seventeenth century and much of the eighteenth massively developed water-borne transport and led almost naturally to the creation of improved river navigation. This was followed by developing artificial waterways, the canals. They emerged from c 1760 and the canal network expanded deep into the nineteenth century. At the same time, there was improved road technology, certainly from the 1790s. Together, these developments up to the 1820s constituted a transport revolution. The railways then eclipsed those technologies. From exciting yet small beginnings in the 1820s, through the next two or three decades as their potential was realised, a railway network was established, and if not complete then certainly mostly on the drawing board by c. 1865.²⁴ Many legal reforms had to follow these large economic and society changes, not least in the case of railway development that of compulsory purchase

²³ *First Report from the Select Committee Appointed to Inquire into the Allegations of the Several Petitions Complaining of the Distressed State of the Agriculture of the United Kingdom*, BPP (1822), V; *Second Report etc.*, BPP (1822), V; *Report from the Select Committee Appointed to Inquire into the Present State of Agriculture*, BPP (1833), V; *First Report from the Select Committee on the State of Agriculture: with Minutes of Evidence and Appendix*, BPP (1836), VIII, part I; *Second Report etc.*, BPP (1836), VIII, part 1; *Third Report etc.*, BPP (1836), VIII, part 2; *Report from the Select Committee of the House of Lords on the State of Agriculture in England and Wales*, BPP (1837), V.

²⁴ See the detailed map of railway development inside the back cover of Jack Simmons, *The Railways in England and Wales 1830-1914* (Leicester, 1978).

provisions. The railways had an insatiable appetite for land, including manorial land and hence copyhold.²⁵

Add to technological revolutions another unprecedented change in economy and society when in the decades from 1810 to 1840 there was the fastest growth rate in British population that there had ever been. The rise of the towns and cities and the attendant enormous problems as well as advantages accompanying that urbanisation required land acquisition and building on an unprecedented scale. This was yet another revolution, and a direct link with the freeing of land from any constraints of tenure, including manorial property tenure, to provide space for housing as well as for industrial developments. As Hoppit has put it, “Britain’s demographic and industrial revolutions were creating problems that could not be left to the market to solve.”²⁶

These were all highly visible emblems of change, and they required incredible inquiry, scrutiny and influence from government and its bureaucracies. The eighteenth century had already been a century of parliamentary engagement with modernisation, especially with public and private members bills regarding turnpikes, trade, canals, enclosures, national identity, and naturalisation of erstwhile aliens. All of this legislation demonstrated the increasing involvement of government in everyday affairs, and all has come more readily to life through modern scholarship.²⁷ Perhaps never before had central government been quite so involved in everyday lives, and this involvement continued after the conclusion of the long French wars. The three decades from the 1820s became the balancing point between a rather romanticised though in its own terms shady and unequal past and an age of mighty reforms. The changes that ensued were rapid and embraced more and more of the staid or

²⁵ As clear an exposition of compulsory purchase provisions in the period under review in this book is, William D. McNulty, “The power of “Compulsory Purchase” under the law of England”, *Yale Law Journal*, 21.8 (June 1912), 639-54, especially 647-8 for railways. See also Jack Simmons, *The Railway in Town and Country 1830-1914* (Newton Abbot, 1986), especially 299-305.

²⁶ Hoppit, “Political power”. 361.

²⁷ See particularly J. Hoppit, “Patterns of parliamentary legislation, 1660–1800”, *Historical Journal*, 39 (1996), 109–31; D. Bogart, “Turnpike trusts and property income: new evidence on the effect of transport improvements and legislation in eighteenth-century England”, *EcHR*, 62.1 (2009), 128-52; M.E. Turner and T. Wray, “Sources for parliamentary enclosure: The House of Commons’ Journal and commissioners’ working papers”, *Archives*, XIX, no. 85 (1991), 257-88; a good starting point for which is George Bramwell, *An Analytical Table of the Private Statutes, 1727-1812* (London, 1813).

conservative institutions of the state as well as institutions of interest to most people.

One of its earliest changes involved *Catholic Emancipation*, but perhaps the most important involved the institute of Government or governance itself with the *Reform Bill and Act of 1832*. It was a long way short of the finished article, but it was a start in breaking down the dominance of a landed class that now had to accommodate the clamour for reform from the rising merchant, industrial, and eventually professional and middle classes.²⁸ Closely in its wake came the *Municipal Corporations Act of 1835* which in its way opened up the electoral process more widely across classes and therefore of representation in over 250 towns.²⁹ With the general widening of the franchise came a better method of electoral registration, though property remained the key to having a say at the ballot box.³⁰ The Georgian world of deference and selection based on wealth was giving way, albeit slowly, to the seeds of modernisation and greater representation. There were also labour reforms of a rather special and controversial sort, principally the abolition of slavery in the British Empire in 1833,³¹ and the *Poor Law Amendment Act* in 1834, more a measure to organise the poor than save them from their circumstances.³²

One of the biggest reforms involved the church, first with the *Tithe Commutation Act of 1836* replacing the traditional but controversial annual tithe income with a land or money settlement. This was a long overdue reform of a long-resented form of tax.³³ The church also endured a much

²⁸ Though note the cautious enthusiasm in much of the literature, for example, J.V. Beckett, *The Aristocracy in England 1660-1914* (Oxford, 1986), especially chapter 13.

²⁹ *An Act for the Relief of His Majesty's Roman Catholic Subjects*, 10 Geo IV, c. VII (1829), allowed Roman Catholics to sit and vote in Parliament by swearing an alternative oath to the traditional oaths of allegiance, supremacy, and abjuration; *An Act to amend the Representation of the People in England and Wales*, 2 & 3 Wm IV, c. XLV (1832); *An Act to provide for the Regulation of Municipal Corporations in England and Wales (or the Municipal Corporations Act)*, 5 & 6 Wm. IV., c. LXXVI (1835).

³⁰ See the essays in M.E. Turner and D.R. Mills (eds.), *Land and Property: The English Land Tax 1692-1832* (Gloucester, 1986).

³¹ *An Act for the Abolition of Slavery throughout the British Colonies*, 3 & 4 Wm IV, c. LXXIII (1833).

³² *An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales*, 4 & 5 Wm IV, c. LXXVI (1834).

³³ For tithes see Eric J. Evans, *Tithes and the Tithe Commutation Act 1836* (London, 1978); E. Evans, *The Contentious Tithe: the tithe problem and English agriculture, 1750-1850* (London, 1976). On the conversion of tithes to a money redemption

greater reform resulting in a centralised and accountable management system to control or influence the way bishops and the deans and canons generally conducted their affairs, of which more in chapter 8. This shopping list of reforms dominated the movement for change in the 1830s and preceding them were a series of audits and a centralised scrutiny of these major institutions.

In short, the second quarter of the nineteenth century was an age of reform but also an age of scrutiny and public accountability. Yet apart from tithe reform, audit of property itself was rather slower to develop. There was little reference to land audit. The introduction of the annual June agricultural returns in 1866 remained the concern of a future generation. The parliaments of the 1830s were still parliaments of landed society.³⁴ They were very good at inspecting and reforming others and other institutions and their internal functions, but dragged their heels when looking at themselves, when looking at one of the institutions that qualified them to govern. Agricultural inquiry had been a central feature of the 1820s and 1830s, but it was more a panic response to a crisis in agriculture for the landed interest rather than bound up in the general spirit of reform.

Reform also eventually embraced other great institutions of the mid-nineteenth century, the universities, and the public schools. They were subject to commissions of enquiry and accountability in the 1850s, 1860s and into the 1870s and beyond.³⁵ We might add to this list the audit,

payment or corn rent see, R.J.P. Kain, *An Atlas and Index of the Tithe Files of Mid-Nineteenth-Century England and Wales* (Cambridge, 1986); R.J.P. Kain and H.C. Prince, *The Tithe Surveys of England and Wales* (Cambridge, 1985). For church property management see chapter 8 below.

³⁴ Beckett, *The Aristocracy*, q.v. The actual powers of the landed interest to halt so-called progress however can be argued to the contrary, J. Hoppit, "The landed interest and the national interest, 1660–1800", in Hoppit, *Parliaments, Nations and Identities in Britain and Ireland, 1660–1850*, 83–102.

³⁵ Cleveland Commission, *Report of the Commissioners appointed to Inquire into the Property and Income of the Universities of Oxford and Cambridge, and of the Colleges and Halls therein*, Vol. I. Report including *Abstracts and Synoptical Tables, and Appendix*, BPP, C. 856, XXXVII, part I (1873); Vol. II, *Returns from the University of Oxford and from the Colleges and Halls therein* BPP, C. 856-1, XXXVII, part II (1873); Vol. III, *Returns from the University of Cambridge and from the Colleges and Halls therein*, BPP, C. 856-11, XXXVII, part III (1873). See also Cambridge University Commission, *Report of Her Majesty's Commissioners appointed to Inquire into the State, Discipline, Structures and Revenues of the University and Colleges of Cambridge*, BPP, XLIV (1852-3); Oxford University Commission, *Report of Her Majesty's Commissioners appointed to Inquire into the State, Discipline, Structures and Revenues of the University and Colleges of Oxford*,

management, and administration of Crown property of various descriptions through the Crown Estate, the Duchy of Lancaster, and HM Woods and Forests.³⁶ The Duchy of Cornwall and its property remained and continues to this day as the private estate of successive heirs to the throne, but also subject to public oversight. These reforms involved a lot of introspection through parliamentary commissions. These in turn generated basic data on income and its derivation and inquired of the governing bodies of these institutions as to their role in a modernising society.

The missing piece from this property jigsaw was the changing administration of lay property, because in essence it was not in view. It was hidden in private hands and any attempt to create a land registry and thereby a changing audit of property, was fiercely resisted. The creation of property registries date from the eighteenth century, for the three Ridings of Yorkshire and for Middlesex.³⁷ Yet for the greater parts of England and Wales, let alone Scotland and Ireland, the ownership and occupation of land remained something of a mystery, and that included the distribution of property by different tenure types.³⁸ In this age of reform, it remained largely unaccountable to anyone but the private owners themselves. We have no idea about the extent of tenure types including the extent and survival of base tenure or copyhold.

This last reform, specifically the reform of property tenure, is now the subject of this book: it is an investigation of the extent and final demise of manorial tenure, especially copyhold. This also meant the further diminution of manorial power and the manorial system which otherwise had prevailed from the conquest, if not always with much power.³⁹ Politically sponsored reform of copyhold tenures was late to arrive, but it did arrive finally with its own brand of emancipation. By the end of the 1830s manorial tenants, principally copyholders, were on the threshold of acquiring their own version of freedom. State legislature provided the tools to make it easier for them to claim that freedom. The question now is, did

BPP, XXII (1852); Schools, *Report of Her Majesty's Commissioners Appointed to Inquire into the Revenues and Management of Certain Colleges and Schools*, Vols. I-IV, BPP, XX, XXI (1864).

³⁶ For which see chapter 7.

³⁷ See Sheppard, Belcher, and Cottrell, "Middlesex and Yorkshire deeds registries".

³⁸ See the background in Cahill, *Who Owns Britain*. See also Avner Offer, "The origins of the Law of Property Acts 1910-25", *The Modern Law Review*, 40.5 (1977), 505-22, for a discussion of late nineteenth and early twentieth-century struggles to institute a widespread system of property registration.

³⁹ Not the least of the doubters were Sidney & Beatrice Webb, *English Local Government: The Manor and the Borough* (London, 1908), chapter 2.

they want it? Unlike slaves in manacles, the shackles binding copyhold tenants to their manors were quite different, and altogether much more comfortable.

There had been some prior reforms at the margins of manorial management and procedures, but this was tinkering, not major reform. One such minor reform involved procedures for transferring copyhold or customary property from one person, in this case the deceased, to another, by will. Formerly it was necessary first for trustees and lawyers to surrender the property to the “use of a will” at a customary court, and then to present again at court in order for the new copyholder to be admitted. Even if it meant doing it all at the same court, it still required two procedures. That double process involved attendant extra costs and perhaps delays. Parliament introduced a bill in 1814 to allow all of this to take place in one procedure. It would act as though a previous surrender had been made, and at the same time respect the wishes of the devisee.⁴⁰ Fifteen years later as part of a general package of revisions, stamp duty was reviewed. It included a revision of fees on copyhold property where at the point of every admission, surrender, mortgage, and licence to demise, a duty was required. The revisions were quite detailed, distinguishing those transactions taking place both in and out of court, distinguishing property of different sizes measured in terms of annual values, and including charges for making copies of court rolls according to the number of words in a deed.⁴¹ This may have made old practices more efficient, but it did not reform them.

What was required was a genuine reform of the relationship between lords and their tenants, and this came about initially through the *Copyhold Enfranchisement Act, 1841*. There were subsequent revisions and reforms of that act which will unfold as the book develops, but essentially, they were all about transferring what were known as the manorial incidents from the lords to the copyholders. Those incidents included mainly the entry fee, known as a fine, that the incoming tenants to copyhold property had to pay to the lord in order to take up the tenancy. The lesser incidents included an annual rent, known as a quit rent, which was fixed and relatively trivial, and mostly measured in shillings and pence rather than £s. There were also obligations known as heriots. These were payments to the lord on the death of a tenant, traditionally defined as the best beast or chattel owned by the tenant but in practice by the mid-nineteenth century this was often

⁴⁰ *An Act to remove the Difficulties in the Disposition of Copyhold Estates by Will*, 55 Geo III, c. 192 (1815).

⁴¹ *Table of stamp duties proposed to be made payable throughout the United Kingdom; showing also those now payable in Great Britain and Ireland respectively*, BPP, XXV (1830), especially 55-9, a section on copyhold conveyancing.

commuted to a money payment. In many places, perhaps even most places, heriots had disappeared entirely from view.

The institution at the heart of the issue was the manor, but the story of enfranchisement is more about the relationships between lords and their copyhold tenants who together owned and ran the manor. Yet their joint story cannot be told without some understanding of the way the manor operated. It had been a central institution in the running of local government and governance from the Middle Ages until relatively recent times, and, in spite of the reforms outlined in this book, it is an institution whose influence simply will not go away.⁴² It returned to public view again through ramifications arising from the *Land Registration Act 2002* (hereafter *LRA 2002*).⁴³ The need to register otherwise unregistered ownership of certain manorial rights caused a major upset when that act matured in October 2013. This resurgence of the manor will be reviewed in the penultimate chapter.

It is worth dwelling on aspects of manorial law and jurisdiction that until relatively recently were still in force. The historical functions of the manor can be resolved into four main parts. The *court baron* was the relationship between the freeholders and the manor where those freeholders paid obligations to the lord but also had a say in the running of the manor. Like many courts, the decisions that were made needed a jury, known as the homage, the typical size of which became two members, though much greater numbers can be seen in many nineteenth-century court books.⁴⁴ The *customary court* was for the interaction between the copyholders, the lord, and the manor in general, where the lord, or more likely his or her steward, was the judge, and the jury came from the tenants themselves. This court conducted copyhold business, including surrenders of and admissions to property, mortgage arrangements, and proclamations or announcements of

⁴² For the historians' take on the early manor see Mark Bailey, *The English Manor, c. 1200-1500* (Manchester, 2002); then Eric Kerridge, *Agrarian Problems in the Sixteenth Century* (London, 1969) for developments by early modern times, also Thompson, "The grid of inheritance"; and for the nineteenth century see the Webbs, *English Local Government*, chapters I and II. For the lawyers' view see Christopher Jessel, *The Law of the Manor* (Chichester, 1998).

⁴³ *Land Registration Act*, Eliz II, c. 9, (2002).

⁴⁴ Roos homage and court baron (East Yorks) had a foreman and 12 other members, HHC, U DDCV/134/16, Manor of Roos, Ct Roll, 1860-1935, 1. This was also the case at Faxfleet (East Yorks), HHC, U DDDBA 2/9/2 Manor of Faxfleet in South Cave 1841-1845, 1, and at West Hall in South Cave (East Yorks), HHC, U DDDBA 2/8/2 Manor of West Hall in South Cave 1829-1872, 1. At Withernsea (East Yorks) from the 1860s to the 1890s court members varied between two and ten, averaging 5/6, ERA, Beverley, DDCC /154/5/4 Manor of Withernsea with Owthorne, Ct Bk 1860-1907, from 33 successive courts.

deaths that signalled a vacant property and an invitation for inheritors to come forward to claim inheritance and enter the vacancy. The jury was typically 12 in number in the nineteenth century but in truth, some manors had greatly fluctuating numbers.⁴⁵ Fines applied if customary tenants failed to attend these courts.

The *court leet* was like a police court, dealing with petty nuisances and squabbles such as failures to maintain fences and drains.⁴⁶ The Conisby court in Lincolnshire was particularly assiduous in chasing up members who had failed to clean out their sewers (drains). The bailiffs were on hand to distrain property for failure to pay fines. This court also received reports of animals straying over commons illegally, or in numbers that were against the local rules.⁴⁷ Pinders policed common places for stray animals, kept them in pinfolds or pounds, and amerced the offending owners, as the language had it, by a process of appearance by officers known as affeerors. In lay terms, it meant levying fines on miscreants. For example, the West Yorkshire manor of Altofts near Wakefield revised its poundage fines in 1839 so that for every stray beast, horse, or ass the fine was sixpence per head, for every sheep it was one penny per head up to 20 head, and for every horse it was half a penny. It was three pence for every pig, and six pence for every goose or flock of geese. In the neighbouring manor of Warmfield-cum-Heath sharing the same family of lords the charges in 1818 were set at two pence per head of sheep, four pence per beast, cow, horse, mule, or ass, three pence for every flock of geese and four pence for every pig, with higher charges for non-Warmfield residents.⁴⁸ The other major officers appointed by the manor court on a regular basis were the constables.⁴⁹ The

⁴⁵ As in Conisby later Coningsby Manor (Lincolnshire), LAO, THIMB/6/3/2, Conisby Ct Bk, 1854-1914, where jury size varied from 9-16 members averaging 13; at Kirton, also Lincolnshire, LAO, Bacon/Manor of Kirton/, Ct Bk, 1891-1939, the jury varied between 11 and 16, and the homage was always 3 members.

⁴⁶ A good in-depth study of the wider concerns, specifically of court leets, over a large and closely related area is the study of 17 Cumberland manors spanning the years 1634 to 1869 by Robert S. Dilley, "The Cumberland court leet and the use of common lands", *Transactions Cumberland & Westmorland Antiquarian & Archaeological Society*, 67 (series 2) (1967), 125-51. See also Thompson, "Custom, law and common right", 144-51.

⁴⁷ LAO, THIMB/6/3/2, Conisby Ct Bk, 1854-1914, especially courts 1908-13.

⁴⁸ WYAS (Leeds), WYL 160/153/5, Altofts Ct Bk (1836-1932), entry for 21 October 1839. WYAS (Leeds), WYL 160/153/65, Warmfield cum Heath Ct Bk (1816-1934), entry for 29 October 1818.

⁴⁹ Pindars or pinders were regularly appointed at Orby (Lincolnshire), LAO, HD 67/28, Orby Ct Bk 1849-1888. In Crowland (Lincolnshire) dyke reeves were appointed more or less annually, as well as two pindars, LAO, 2-CROWLAND/11,