



Occupy! Historical geographies of property, protest and the commons, 1500–1850



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ABSTRACT

This paper examines issues surrounding protest, trespass and occupation – brought to the fore as a result both of recent social movements including the global Occupy movement and of emerging critical discourses about so-called ‘new enclosures’ – through a historical lens. Wary of histories of property and protest that rely heavily on the notion of the ‘closing of the commons’, the authors present a different story about the solidification of property rights, the securitisation of space and the gradual emergence of the legal framework through which protest is now disciplined. They do so via an exploration of three episodes in the making of property in land and three associated moments of resistance, each enacted via the physical occupation of common land. The first examines strategies for opposing enclosure in early sixteenth century England; the second the Diggers’ reimagining of property and the commons in the mid seventeenth century; and the third analyses the challenge to property rights offered by squatting and small-scale encroachments in the late eighteenth and early nineteenth century. These episodes also serve to detail some of the foundational ways in which the securitisation of space, and the attendant legal framework used to discipline protest, emerged. In so doing, the paper begins to rethink the relations between past and contemporary protest, considering how a more nuanced account of the history of common rights, enclosure and property relations might nevertheless leave space for new solidarities which have the potential to challenge the exercise of arbitrary power.

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Suddenly, in 2011 occupations were everywhere. Student sit-ins, the symbolic gathering and occupying of prominent ‘public’ spaces during the so-called Arab Spring, the *Indignados* of Spain, the Direct Democracy Now movement in Greece, and the Occupy movement, all united by their shared use of the physical occupation of prominent and symbolic spaces by way of protest. If ultimately their aims were different, the technique of gathering together and occupying tied the protests together. The act of occupation is not a new one, though rarely has the physical and spatial act been given such symbolic prominence as in the Occupy movement. The practical and symbolic act – and thus public performance – of occupying public space was not just rooted in political symbolism but also a direct critique of the ‘privatization’ of public space. Occupy thus reclaims and remakes space for the public against the interests of those who seek to exclude and delimit the use of space

supposedly once of the public.¹ Central to this assertion is the mobilization of the idea of the ‘commons’ to historically and conceptually underpin its actions. Indeed, central to Occupy’s declared intent is the belief in the importance of, and a desire to return to, the ‘commons’, to throw off private property in land and, simply put, return the land to the people. In this oft-repeated narrative, before the demonic act of enclosure – on which more below – the land was of the people, unrestricted and unregulated for all to use. Enclosure closed the commons down, the hedges and fences erected forcing the poor from their land and gifting it to the wealthy rulers of rural England.² A similar story can be written for many countries worldwide, variably with colonists and capitalists appropriating the land of the indigenous and indigent. But we use England here deliberately because the contextual story told in this

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¹ J. Pickerill and J. Krinsky, Why does Occupy matter? *Social Movement Studies* 11 (2012) 279–287.

² On the prevalence of this discourse and its mobilization in Occupy see: <http://occupywallstreet.net/story/think-commoner>, accessed 24 March 2015.

emergent 'new enclosures' discourse – not just in geography but in the wider critical social sciences and humanities – is a story about enclosure in England. The reasons for enclosure in England assuming such a totemic global status await systematic analysis, but it is important to note that the lessons learnt from enclosing rural England were directly applied in the carving up and making private property of those sovereign states the British Empire colonized.³ In this way, privatization and colonization are intertwined in land, and struggles against privatization and colonization similarly rooted in the soil of the dispossessed.

Or so the oft-repeated narrative goes. The problem, so this paper goes on to argue, is that this narrative offers a mythic version of the commons wherein the land belonged to the people. Yet the land has never been public in this sense. The idea, the cultural construct, of public space is a relatively recent thing, a product of Victorian civics and the rise of liberal thought and stabilised in the now prevalent discourse of the popular 'right to the city'.⁴ But the land never belonged to the people. The commons, common land, were not common in that it was held in common. What made it common was its being used in common facilitated by the granting of common rights: variously, to farm strips of land in the 'open' fields; to graze livestock upon commons and wastes; or to gather fuel, fodder, food, building materials and minerals from commons.⁵ While this is not, as we will see, the same thing as stating that there has always been property in land – our current understanding emerged in the sixteenth century – access, use and settlement of land since time immemorial has been granted as a right enrolled in the local manor. And such rights came with responsibilities and/or the payments of 'fines', and with varying degrees of enforcement and efficacy of regulation and restriction. Thus contra to the discourses of Occupy – and here it is important to note that Occupy's language and claims draw upon and precisely mirror recent reappropriations of the 'commons' in critical studies – the 'commons', or rather common land, was neither an individualistic, uncontrolled Hardin-esque free for all, nor an unregulated, communitarian public space.⁶

In this narrative, the enemy – the commons' antonym – is enclosure, those acts of making private that which was once supposedly public. But before enclosure common land was 'owned'. The act of enclosure signified the removal of (some or all) common rights and the excluding of those now without use rights (though note that certain rights of access were retained in some places, for instance to kill vermin).⁷ Moreover, enclosure as an act of making private property, as a way of spatially excluding, is neither a temporally nor conceptually stable practice. The emergence of

modern property rights, and specifically the idea that property in land was an enactment of spatial exclusion, emerged only in the sixteenth century. As the next section asserts, before then the concept of property was not invested in the thing itself but in rights to and in the thing. This is not to argue that there were not earlier acts of enclosing – clearly there were – but rather that each episode of enclosure and resistance to it always has its own particular geographies and histories.⁸

While the politics of land and the commons has long been a canonical concern in rural history – essays by Alun Howkins in *History Workshop Journal* in 2002 and 2014 being notable recent landmarks – outside of work on international development, the interest of geographers has waxed and waned.⁹ The recent resurgence of interest by geographers in ideas of the commons and enclosure is therefore of particular note. Responding to, as Jeffrey et al. have put it, the fact that 'enclosure has emerged in recent years as a key process of neoliberal globalisation', geographers have both returned to the foundational intellectual and legal contexts of the 'enclosure movement' and revived and reframed the 'commons' and 'enclosure' as more-than-material metaphors in the present.¹⁰ But there is a disjuncture between historical analyses and geographers' metaphorical appropriations.

It is here that this paper offers both a historical geographical corrective and a point of historiographical departure. It presents a different story about the history of land becoming property, something gradual and processual, a testing and teasing out of rights and access through which the modern concretized version of exclusive property in land emerges. This process provoked opposition: property did not suddenly become, nor was the becoming uncontested. Notwithstanding the conceptual slippage and Occupy's challenge to the modern idea of property, the parallels with Occupy are striking in the shared attempt to assert use rights. Moreover, the tool of resistance was the same: occupying land to make the claim to use rights, engaging in acts of transgression and trespass. We also argue that attempts to concretize property rights and thus exclude others from land were in themselves the catalyst for the emergence of the technique of occupation as a spatial strategy for the excluded. This is not to say that the practice of occupation was invented in the sixteenth century, for earlier practices of literally staking claims to title represented occupations of a sort. Rather, it is to argue that the practice of occupation took on a different political meaning against the emergence of property as a spatially exclusive concept. And herein lies an irony: occupation as a protest practice borrows the logic of property, while at once trying to resist it. An individual or small group might occupy space as a means to resist the extension of private property rights, but whatever their claims for the commonweal their act of occupation was mimetic of individual, private possession.

What follows teases out these emergences and complexities through the lens of three moments in the making of property in land and three associated moments of resistance, each enacted via physical occupations of common land. The first examines strategies for opposing enclosure in early sixteenth century England; the second considers the Diggers' reimagining of property and the

³ J. Powell, *The Public Lands of Australia Felix: Settlement and Land Appraisal in Victoria 1834–1891*, Melbourne, 1970, 32; R. Guha, *The Unquiet Woods: Ecological Change and Peasant Resistance in the Himalaya*, Berkeley, 2000, 59–60 (originally published in 1990).

⁴ S. Gunn, *The Public Culture of the Victorian Middle Class: Ritual and Authority in the English Industrial City, 1840–1914*, Manchester, 2007. On the 'right to the city' discourse see D. Mitchell, 'The end of public space? People's park, definitions of the public, and democracy', *Annals of the Association of American Geographers* 85 (1995) 108–133; D. Mitchell, *The Right to the City: Social Justice and the Fight for Public Space*, New York, 2003.

⁵ On common rights and their uses, see R. Allen, *Enclosure and the Yeoman: The Agricultural Development of the South Midlands, 1450–1850*, Oxford, 1992; J. Neeson, *Commoners: Common Right, Enclosure and Social Change in England, 1700–1820*, Cambridge, 1993.

⁶ For two useful overviews of the ways in which the idea of the commons has been repurposed in recent work in the wider humanities and social sciences, see A. Jeffrey, C. McFarlane and A. Vasudevan, 'Rethinking enclosure: space, subjectivity and the commons', *Antipode* 44 (2012) 1247–1267 and B. Maddison, 'Radical commons discourse and the challenges of colonialism', *Radical History Review* 108 (2010) 29–48.

⁷ B. McDonagh and S. Daniels, 'Enclosure stories: narratives from Northamptonshire', *Cultural Geographies* 19 (2012) 107–121.

⁸ See, for example, C. Dyer, 'Conflict in the landscape: the enclosure movement in England, 1220–1349', *Landscape History* 29 (2007) 21–33.

⁹ A. Howkins, 'From Diggers to Dongas: the land in English radicalism, 1649–2000', *History Workshop Journal* 54 (2002) 1–23; A. Howkins, 'The use and abuse of the English commons, 1845–1914', *History Workshop Journal* 78 (2014) 107–132.

¹⁰ For notable examples see N. Blomley, 'Enclosure, common right and the property of the poor', *Social and Legal Studies* 17 (2008) 311–331; Jeffrey, McFarlane and Vasudevan, 'Rethinking enclosure'; A. Vasudevan, C. McFarlane and A. Jeffrey, 'Spaces of enclosure', *Geoforum* 39 (2008) 1641–1646.

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