



Conflict, agreement and landscape change: methods of enclosure of the Northern English countryside



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Abstract

The enclosure of commons and open fields was carried out by many different methods over a long period of time. Traditionally, enclosure methods have been thought to have replaced one another chronologically, unity of possession being replaced by agreements, which were in turn replaced by Acts of Parliament in the mid-eighteenth century. Recent research has however revealed the continuing importance of non-parliamentary methods in the eighteenth and nineteenth centuries. In light of this it is necessary to examine the reasons behind the selection of a particular method of enclosure, which will be attempted in this paper. It is found that the most formal, and thus most expensive, methods were used only when necessary in order to avoid conflict or legal ambiguity, or where specific local problems required them. Less formal methods were preferred where the circumstances were appropriate. Parliamentary enclosure was used as a particularly formal type of enclosure in the most complex or contentious situations.

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Enclosure is one of the most important events in recent landscape history.¹ It occurred from the end of the middle-ages to the close of the nineteenth century, varying in intensity both chronologically and regionally.² A large number of different methods were used to achieve it, from informal piecemeal enclosure and unity of possession to private Acts of Parliament. This paper attempts to explain why such a large number of different methods existed and why one method was chosen over another in any particular enclosure. No study to date has examined this directly.

In theory the simplest enclosure processes were the informal methods known as piecemeal enclosure, assarting and unity of possession. Piecemeal enclosure occurred when individual farmers purchased strips of open field arable next to their own in order to fence off a small area. Assarting is similar but involves the intake of small pieces of common grazing rather than arable. This could be

carried out by the lord of the manor under the Statute of Merton of 1236, by tenants with the lord's permission or illegally by tenants or freeholders.³ Unity of possession is also informal but affects an entire township.⁴ It required that all properties, and therefore all common rights, in a township were held by one individual, who was then free to enclose without any legal barrier. All three informal methods have long histories. Assarting is perhaps the earliest, having been common in the thirteenth century.⁵ The other two are particularly associated with the late medieval and Tudor periods,⁶ but recent scholarship shows that they remained important up to the twentieth century.⁷ Enclosure could also be achieved by agreements between landowners. These ranged from informal, often unwritten, bilateral agreements between neighbours to quite complex written documents. At their most complex they mimicked the processes of parliamentary enclosure,⁸ and were enrolled in Quarter Sessions or

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¹ P. Frodsham, From trauma to tranquility: the post-medieval period, in: P. Frodsham (Eds), *Archaeology in Northumberland National Park*, London, 2004, 119.

² W.E. Tate, *The English Village and the Enclosure Movements*, London, 1967.

³ B. Shannon, Approvement and improvement in the lowland wastes of early modern Lancashire, in: R.W. Hoyle (Eds), *Custom, Improvement and the Landscape in Early Modern Britain*, Farnham, 2011, 189.

⁴ J.A. Yelling, *Common Field and Enclosure in England 1450–1850*, London, 1977.

⁵ C. Dyer, Conflict in the landscape: the enclosure movement in England, 1220–1349, *Landscape History* 28 (2006) 21–33.

⁶ Tate, *The English Village* (note 2); M. Beresford, *The Lost Villages of England*, Gloucester, 1983.

⁷ I.D. Whyte, Wild, barren and frightful: parliamentary enclosure in an upland county: Westmorland 1767–1890, *Rural History* 14 (2003) 22; Shannon, Approvement and improvement (note 3), 175–202; J. Chapman and S. Seeliger, *Enclosure, Environment and Landscape in Southern England*, London, 2001.

⁸ Whyte, Wild, barren and frightful (note 7).

Chancery.⁹ Enclosure by agreement is usually associated with the late sixteenth and seventeenth centuries,¹⁰ but as with informal methods are now known to have been important in later periods as well.¹¹ Finally, enclosure could be brought by a private Act of Parliament. This was an expensive and lengthy process, but was particularly legally secure.¹² Parliamentary enclosure began in the seventeenth century, but did not become common until around 1750. It remained common into the nineteenth century. The process was not homogeneous over time. Recent research has demonstrated that General Enclosure Acts of 1801, 1836, 1840 and 1845 were particularly important in making the process easier and cheaper.¹³

Few studies have examined why one method was chosen over others in any particular event. In many studies it is implied that one method replaced another chronologically. One of the earliest proponents of this model was Tate, who implied that informal methods were replaced by agreements which were superseded by parliamentary enclosures.¹⁴ Some investigations have supported this, as, for example, Yelling found that piecemeal enclosure was more common in the sixteenth century,¹⁵ while Beresford found that unity of possession was most common in the late fifteenth century and early sixteenth centuries, in contrast to the preference for agreements in the seventeenth.¹⁶ More recently Wrightson has suggested that as enclosure began to be used to introduce improved mixed farming rather than to convert arable to pasture that agreements were used with greater frequency.¹⁷ A chronological explanation for different enclosure methods is even more strongly implied in studies which examine the period after 1750. Often those works which discuss the post-1750 period concentrate on parliamentary enclosure, implying or explicitly arguing that this became the dominant method after 1750. An important example is the work of Turner who argued that an estimate by Kerridge that one quarter of England had been enclosed by 1700 did not leave much room for non-parliamentary enclosure after this time.¹⁸ This, plus a renewed faith in the returns of inquisitions on enclosure suggested, Turner argued, that high estimates of non-parliamentary enclosure post-1750 must be incorrect. Similarly, Mingay claimed that parliamentary enclosure accounted for the major part of the land enclosed between 1750 and 1830, but that agreements may have been significant at least in some parts of the country.¹⁹

Recent work is beginning to challenge this view by showing that non-parliamentary methods continued to be important after

1750. Chapman and Seeliger produced a particularly detailed study of Hampshire, Sussex, Dorset and Wiltshire. This showed that only Wiltshire had a high proportion of eighteenth-century and nineteenth-century parliamentary enclosure, the enclosure of the other three relied at least as much as on non-parliamentary means.²⁰ More recently French has discussed the loss of the townfields of Litchfield to piecemeal enclosure in the early eighteenth century.²¹ Similarly, in north-west England Silvester has found many instances of encroachment, and intakes of commons in eighteenth-century and nineteenth-century court leet records.²² Whyte also found four private agreements in Westmorland in the eighteenth and nineteenth centuries,²³ showing that it was not only piecemeal enclosure which continued after the beginning of the parliamentary enclosure period.

The use of different methods of enclosure in any one period refutes the traditional model of one method replacing another over time, though there clearly were general chronological trends towards one method or another. This means that it is necessary to explain why one method was used in any particular circumstance. To date this has not been addressed directly, though some researchers have speculated on a number of possible reasons. It is likely that there was a preference for the cheapest methods, meaning that the long and often expensive process of bringing a bill through parliament or drawing up a formal agreement was often avoided.²⁴ Shannon has demonstrated this in early modern Lancashire, showing that approvement and intakes, both types of assarting in the classification used here, were the most common types, with only modest amounts of encroachment, agreements and partition, the latter two of which are formal enclosures.²⁵ The most formal methods were, then, used only where necessary. Some studies have suggested that commons were often a particular problem, for a number of reasons. Firstly, they were often intercommoned. Shannon's study of Lancashire found that partitioning was used to overcome this problem. Indeed intercommoning was often the reason that the enclosure appeared in the court records that he examined.²⁶ It has also been shown that claims to commons were more difficult to prove than those to arable. For instance Whyte found that one hundred and nineteen claims to Quernmore common, Lancashire were rejected by commissioners, and that upland enclosures in general were more time consuming.²⁷

⁹ Shannon, Approvement and improvement (note 3), 185.

¹⁰ Tate, *The English Village* (note 2); K. Wrightson, *Earthly Necessities: Economic Lives in Early Modern Britain, 1470–1750*, London, 2000, 136.

¹¹ Chapman and Seeliger, *Enclosure, Environment and Landscape* (note 7); Whyte, Wild, barren and frightful (note 7).

¹² Whyte, Wild, barren and frightful (note 7), 33–4; E.A. Straughton, *Common Grazing in the Northern English Uplands, 1800–1965: A History of National Policy and Local Practice with Special Attention to the Case of Cumbria*, Lampeter, 2008, 41–42.

¹³ Straughton, *Common Grazing in the Northern English Uplands* (note 12), 41–42.

¹⁴ Tate, *The English Village* (note 2).

¹⁵ Yelling, *Common Field and Enclosure* (note 4), 71–93.

¹⁶ Beresford, *The Lost Villages of England* (note 6), 141.

¹⁷ Wrightson, *Earthly Necessities* (note 10), 136.

¹⁸ M. Turner, *English Parliamentary Enclosure: its Historical Geography and Economic History*, Polkestone, 1980, 33; E. Kerridge, *The Agricultural Revolution*, London, 1967, 24.

¹⁹ G.E. Mingay, *Parliamentary Enclosure in England: an Introduction to its Causes, Incidence and Impact*, London, 1997, 11.

²⁰ Chapman and Seeliger, *Enclosure, Environment and Landscape* (note 7).

²¹ H.R. French, The common fields of urban England: communal agriculture and the 'politics of entitlement', 1500–1750, in: R.W. Hoyle (Eds), *Custom, Improvement and the Landscape in Early Modern Britain*, Farnham, 2011, 152.

²² R.J. Silvester, The commons and the waste: use and misuse in mid-Wales, in: I.D. Whyte, A.J.L. Winchester (Eds), *Society, Landscape and Environment in Upland Britain*, Birmingham, 2004, 53–66.

²³ Whyte, Wild, barren and frightful (note 7).

²⁴ J. Chapman and S. Seeliger, Formal agreements and the enclosure process: the evidence from Hampshire, *Agricultural History Review* 43 (1995) 37; see I.D. Whyte, The costs of parliamentary enclosure in an upland setting: south and east Cumbria 1760–1860, *Northern History* 43 (2006) 97–115 for discussion of the expense of parliamentary enclosure.

²⁵ Shannon, Approvement and improvement (note 3), 191–192.

²⁶ Shannon, Approvement and improvement (note 3), 191–192; see also I.D. Whyte, *Transforming Fell and Valley: Landscape and Parliamentary Enclosure in North West England*, Lancaster, 2003, 56.

²⁷ Whyte, *Transforming Fell and Valley* (note 26), 53.

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