Making Private Property: Enclosure, Common Right and the Work of Hedges

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Abstract Analyses of enclosure in late sixteenth and early seventeenth century England have tended to focus on the social work of representations, in particular estate maps. I depart from this emphasis, however, in my attempt to focus on the consequential and often contradictory role of material objects in producing enclosure. In particular, I emphasise the important work that hedges did, physically, symbolically and legally, in the dispossession of the commoner. Acting as an organic barbed wire, the hedge was increasingly put to work to protect the lands of the powerful. Disrupting the propertied spaces of the commoning economy, hedges were not surprisingly targeted by those who opposed privatisation. The hedge, as both a sign and material barrier, served complicated and sometimes opposing ends. It materialised private property’s right to exclude, but thus came into conflict with common property’s right not to be excluded. The hedge was both an edge to property and was itself property. Both the encloser and the commoner, however, had property interests in the hedge. If broken, the hedge could signal violence and riot, or the legitimate assertion of common right. The hedge served as an often formidable material barrier, yet this very materiality made it vulnerable to ‘breaking’ and ‘leveling’.

‘The history of private property is rather silent on the conditions that produced it’ (Mitchell, 2002)

‘Enclosure was an act, or a series of actions, of creating new forms of boundary. It involved placing hedges, ditches, fences, walls, pales’ (Johnson, 1996: 71)

Early modern rural England was a site of marked social change, conflict and inequality. English society ‘had perhaps never been so markedly polarized between the rich and poor’ (Bending and McRae, 2003: xix) as it became in the late sixteenth and early seventeenth centuries (Everitt, 1967). Stone (1966) characterises 1540 to 1620 as the century of mobility, both upward and downward. He notes that while the upper classes trebled between 1500 and 1700, at a time when the total population barely doubled, the numbers of the lowest ranks in society increased. Living standards for the labouring classes declined sharply in the sixteenth century, and remained low in the seventeenth century. The prices of agricultural products increased, while real wages lagged behind inflation (McRae, 1996: 12–13). The distinctions between rich and poor labourers became more pronounced. Some farm workers were able to work their way up into the ranks of
the husbandmen, while many in the middle and lower ranks of cottagers lost their landed rights and sank to the level of mere wage-workers. Harvest failure in the 1590s produced dearth, impoverishment and growing rural discontent (Walter, 1985: 96). A swelling army of masterless men and landless, or nearly landless, vagrants became a growing concern for elites. Yet Stone (1966) notes a striking rise in the material comforts of all ranks from the yeoman upwards, also suggesting that the period between 1575 and 1625 may have seen evidence of more country house building than any other fifty year period in English history.

Land, as both a symbol of status and power, and vehicle for capital accumulation, played a crucial role in this social remaking. Stone (1966) identifies a massive transfer of land by purchase and sale in the late sixteenth century, rising to a peak in the 1610s (250% higher than in the 1560s). Many yeomen rose into the lesser gentry through the shrewd manipulations of land and agricultural markets. One estimate suggests that the proportion of cultivated land owned by the middling and lesser gentry, and yeomen and smaller owners, increased from around forty-five per cent in the mid-fifteenth century to between seventy-five and eighty-three per cent in the late seventeenth century (McRae, 1996: 14).

This period also saw a hardening and concretion of the notion of property in land, with a slow, tentative and contested movement away from feudal entitlements, where land was held ‘of’ others, to a more recognisably modern conception of land as a basis for secure entitlements that could be rented, used, sold and willed (Overton, 1996). Of particular consequence is the process of enclosure: that is, the conversion of commonable lands, whether on wastes, commons, or village fields, into exclusively owned parcels, and the concomitant extinction of common rights, of which the most important was that of pasture. While enclosure was a long-standing rural practice, it began to take on a qualitatively different scale and scope. Not only did the pace of enclosure, in many parts of England, begin to accelerate, but also it was often undertaken without agreement. Particularly controversial were enclosures for convertible husbandry and intakes of wastes, or commons.

Enclosure has been the subject of extensive scrutiny. Legal commentators, such as Locke and Blackstone, take it as a crucial moment in the telos of property. Twentieth-century historians have documented the variegated ways in which it was played out and opposed, with conservative and leftist analysts sparring over both its causes and effects. My question, for now, is a more modest one: how was it achieved? How did one social group lay claim to land and then persuade or coerce others into accepting their exclusive claim to these things? To answer this question, some scholars have tended to focus on enclosure as a largely imaginative undertaking, produced through a bundle of signs, discourses, and representations. Thus, several commentators (Bennett, 1991; Brückner and Poole, 2002; Delle, 1999; Sullivan, 1994) have focused on shifts in estate surveying and cartography, the effect of which is to encourage a view of property as a bounded and territorialised thing, rather than a set of interlocking local obligations and relations (cf. Macpherson, 1975). Increasingly disembedded from local social conditions, it begins to be possible to treat property as an abstract relation between an owner and a thing rather than a conditional tenure, associated
with obligations to others. Andrew McRae (1993, 1996) emphasises the active role of the survey in this transformation, both through the map and the didactic treatises written by surveyors, the effect of which was the reconstruction of rights to land as something that can be:

Clearly and objectively . . . determined, in a manner which precludes competing or loosely held customary claims. Land ownership is thus figured as reducible to facts and figures, a conception that inevitably undermines the matrix of duties and responsibilities that had previously been seen to define the manorial community. In the perception of the surveyor, the land is defined as property, as the landlord’s ‘own’ (1993: 341).

Harley (1988), arguing for the Tudor surveyor’s role in ‘spreading capitalist forms of agriculture’ (285), claims that maps introduced ‘space discipline’ (285): ‘boundary lines on the map were a medium of appropriation . . . . Maps entered the law, were attached to ordinances, acquired an aureole of science, and helped create an ethic and virtue of ever more precise definition. Tracings on maps excluded as much as they enclosed’ (285).

New forms of property, one might suppose, were enacted through signs and meanings. Scholars of property, more generally interested in how property is performed or enacted within the world, similarly tend to turn their attention away from the world of things, whether those are human bodies or material objects more generally, and focus on representation, culture and discourse. For example, a number of theorists of property, particularly those interested in the ways in which contests over property play themselves out in particular social contexts, have evoked story telling as a central framework (cf. Milner, 1993), arguing that ‘property needs a tale, a story, a post hoc explanation’ (Rose, 1994: 38). Scholars interested in dispossession have also pointed to the crucial work that representation does. Thus, Stuart Banner (1999) describes the particular ways in which colonial settlers in New Zealand represented property as composed of geographic spaces rather than use rights: ‘The colonization of land, the physical substance, could not have proceeded without the simultaneous colonization of property, the mental structure for organizing rights to land’ (847).

The importance given to representation reflects the power of the ‘cultural turn’ throughout the academy. However, in the case of property, it may also reflect a more particular predisposition. For property theorists and lawyers have long argued that property itself has little to do with things, worrying at the analytical confusions that arise when we conflate property (a set of relations) with objects (Hohfeld, 1919). As McPherson (1978: 2) puts it, ‘property is not things, but rights, rights in or to things’. For Jeremy Bentham:

There is no image, no painting, no visible trait, which can express the relation that constitutes property. It is not material, it is metaphysical; it is a mere conception of the mind. To have a thing in our hands, to keep it, to make it, to sell it, to work it up into something else; to use it – none of these physical circumstances, nor all united, convey the idea of property. (1978: 51)

While such accounts can offer marvelous insight into the logic and politics of property, they seem curiously partial. Pickering’s (1995) comments on science seem appropriate: he refers to the ‘representational idiom’ in describing a form of science in which people and things tend to appear as ‘shadows of themselves’: ‘Scientists figure as disembodied
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intellects making knowledge in a field of facts and observations [and] language’ (6). For in an obvious, and not so obvious sense, property is not only about discourse (Pietz, 2002). Property does not just rule through signs, but enrolls things, such as fences, contracts, and closed circuit television cameras. It does not simply work on the imagination, but also requires that bodies behave and move in particular ways. Those things seem more than ‘bit-players’. In this paper, I wish to argue for the importance of the material and the corporeal to property. I want to try to think about property as if things mattered (Brown, 2001; Pels et al., 2002; Winner, 1980). In so doing, I try to avoid either a functionalist stance in which material conditions determine social relations, or a humanist account that regards the material merely as an extension of the human. While influenced by much contemporary scholarship on the work of things, notably actor-network theory, I also do not wish to jettison the representational, but aim to acknowledge the material dimensions of the sign. In so doing, I also wish to take social power seriously. As some have noted, actor-network theorists do not always fully acknowledge the ways things can materialise and realise social power (Kirsch and Mitchell, 2004).

Although the map, in creating a divide between land and law, and between material and ideational realms, may have played a critical role in creating an abstracted view of property, it did not, in itself, take the commons from the poor. Harley’s conception of ‘space discipline’, at least within this era, does not seem to mesh with the empirical record. Pottage (1994) notes than even when maps were drawn, ‘they could not speak for themselves’ (366) but needed to be interpreted according to local understandings and practices (cf. Bendall, 1993). Even when surveys were accomplished and maps produced, it is not necessarily the case that material rearrangements occurred. Frazer (1999) documents the ways in which land set aside for enclosure was never, in fact, subdivided, concluding that smallholders continued to use the land as open common. Second, maps did not ‘enter into law’ as Harley describes it, for the simple reason that most enclosures were technically illegal. Indeed, eleven Acts forbidding enclosure were passed between 1489 and 1624, with four official Inquisitions held to ensure that the Acts were observed (Pollard et al., 1974: 38; Thirsk, 1967a). Enclosure was viewed, even by many elites, with suspicion. Maps, then, could not necessarily be used to mobilise the powers of the state in the way that applied in later years. Third, enclosure and the rollback of common right, as we shall see, also often generated fierce opposition from commoners. Finally, the formal legal recognition of absolute property was slow in coming. Aylmer (1980) suggests that private property was not acknowledged in legal writing until later: ‘Although a “tenurial revolution” may have been in progress, it certainly was not yet completed . . . no clear and unqualified definition of “property” can be found in any legal dictionary or the works of any legal writer before the eighteenth century’ (Manning, 1988: 5).

Private property was not made through maps alone. For dispossession to happen, other things had to be mobilised. As a practical matter, when Tudor and Stuart enclosures were made, maps were occasionally drawn. However, enclosure nearly always entailed the production of fences and hedges. The arrangement of things on the ground seems to have been deemed more important to contemporaries than the making of representations on paper. But we know a lot more about map-making and enclosure, than we do about hedges. When contemporary scholars mention hedges, they are often little more than an obvious
outcome and manifestation of enclosure. Property, put another way, seems to happen elsewhere, most notably in the realms of signs and stories, circulating in Star Chamber, maps, and the surveying manual. Yet my argument (unavoidably a preliminary one) will be that the hedge was equally important. The hedge did not dispossess on its own. This was obviously a much more complex process that entailed contingent assemblages of ideas, relations, and things (Haggerty and Ericson, 2000). Yet, the hedge’s very materiality as well as its (apparently) mundane obviousness makes it too easy to overlook (cf. Johnson, 1996). How then did hedges re-make property?

My argument is this: first, as noted, this era saw property itself, previously imagined as a bundle of overlapping and often non-exclusive rights and obligations, recast as a bounded thing. Surveyors, husbandry experts and map-makers, while partly engaged in a representational endeavour, played a crucial role in property’s transition from tenure to territory. Once imagined as a bounded space, questions of spatial access acquired a new significance. This shall be my main point: I shall argue for the crucial importance of the hedge as a device through which new forms of spatial discipline were both materialised and enforced. The work that hedges did, which was often complicated and even contradictory, was both resolutely material and also representational (it is not my intention to force a distinction here). The hedge both helped to concretise a new set of controversial discourses around land and property rights, and aimed to prevent the forms of physical movement associated with the commoning economy. I shall argue, secondly, that this spatial discipline was socially directive: in other words, it drew from and helped produce an emergent set of social hierarchies that rested on developing conceptions of private property. I wish to point to the body, notably that of the commoner, and his or her beasts, as the site upon which new forms of discipline, materialised in the hedge, were to be realised. Property, I have argued elsewhere (Blomley, 2003), frequently implies forms of organised violence directed at bodies. Thirdly, however, things, such as the hedge or the body, are also signs. My intent, in other words, is not to abandon the representational, but rather to note the complicated material dimensions to the sign. Hedges, as we shall see, signified. However, they did so in complicated and often contradictory ways. Indeed, the very meaning of the hedge in relation to property was itself a site for politics. Was the hedge a legitimate marker of private land, or was it an illegitimate encroachment upon the entitlements of the commoner? For it is clear that the hedge, more so than the map, was at the centre of a fierce political struggle over enclosure and privatisation. This conflict, however, was often very practical. While enclosers planted hedges, commoners tore them down. As both a barrier and a sign, the hedge was a powerful machine of enclosure. However, its very materiality made it vulnerable to those who opposed privatisation.

**Materializing privatisation: the work that hedges do**

It is important to note that hedges were a long-standing feature of the English landscape (Williamson, 1992). References are made to them as early as 547 A.D. (Pollard et al., 1974: 21). They appear to have taken a number of forms. While a hedge could be made of earth or stone, the term usually referred to a row of closely planted bushes.
An important distinction was made between the ‘dead’ hedge (a temporary fence of interwoven branches), and ‘quick’, or living hedges. Whitethorn or hedging hawthorn (*Crataegus Monogyna*) has long been used for enclosure and gets its name from the Old English word *haga*, meaning hedge or enclosure (Hoskins, 1969: 152). For Beddall (1950: 45) hawthorn is the ‘paragon of hedging plants’. It is both adaptable and hardy, and is tolerant of both dryness and excessive moisture. While planting a hedge may be laborious, once established it will last almost indefinitely, with maintenance.

While one could find some fields in the sixteenth-century landscape, called ‘closes’ or referred to as ‘enclosed’, surrounded by ditches and hedges, with the whole field under one crop, these were not as widespread as they were to become. Enclosed land was not always hedged, while a hedge did not necessarily signal the extinction of common right: for example, hedges were often used to mark parish boundaries. Particularly in the traditional ‘champion’ regions such as the Midlands, much land was left unhedged. The traditional open or common field system was divided into furlongs by grassed baulks or furrows rather than hedges (Beddall, 1950: 24). Meadows would be shut up for hay early in the year, with the cattle kept out by tethering or ring fences (Pollard et al, 1974: 43).

The hedge, then, was not new. Much arable land in the south-east and west had long been in enclosed fields. Even later opponents of enclosure celebrated the ancient hedges that were a familiar feature of the English landscape (Williamson, 1992: 269). Yet quick hedges were to take on a very different significance in the early modern era. This shift can be traced through, and was in part produced by, the husbandry manuals of the day. John Norden (1610), described by MacRae (1996) as transitional between traditional and proto-capitalist husbandry, discusses the hedge in traditional terms, as a defence against cattle and sheep, and in terms of its function within a commoning economy. His advice is for a modest hedge, laid along a single ditch. This was to change, however, as property changed. The frontispiece of John Worlidge’s (1669) pro-enclosure *Systema agriculturæ* shows a thoroughly hedged manor, full of cattle, pastures and fruits (figure 1): ‘Plenty unto the husbandman, and gains/are his rewards for industry and pains’, reads the accompanying poem. The quick hedge, for Worlidge, is clearly expressive of active and ‘ingenious’ ownership.

*Systema agriculturæ* was one of a wave of similar manuals. Directed at a broader readership of landed owners, including the emergent middling-ranks of yeomen and husbandmen, these resolutely practical primers espoused a new set of attitudes towards rural land. As has been noted (McRae, 1996; Thirsk, 1983), these books began to use a radically new rhetoric of improvement, productivity, ingenuity and profit. Evangelical in their zeal, they characterised improvement as a divine imperative. Passive ownership was an affront to God’s will; innovation and enterprise were to be encouraged. These manuals both reflected, and helped advance shifting conceptions of landed property. Customary forms of tenure, including common-right, were deemed an obstacle to the ingenious and active farmer. The freehold estate was to be preferred because it allowed the owner to make the most of what was now deemed his own (cf. McRae, 1993).

Enclosure, in particular, was deemed necessary, even natural. It was taken for granted, Thirsk (1967b) notes, that the pasture and arable land of the more active husbandman would be enclosed. Adam Moore reasons that enclosed land is not only more productive
Figure 1. The well hedged manor: frontispiece to John Worlidge’s *Systema agriculturae* (reproduced with the permission of the Huntington Library).
than the ‘confused Common fruitlesse, naked, and desolate’, but also accords to a commonsensical self interest. Is it better, he asks rhetorically, for you to ‘have no particular property in [land]… [o]r to say this is mine, I can let, sell, or dispose it at my pleasure, and so assure me a certain means and estate (out of nothing) wherein others have not to do? *Doth not every man covet to have his alone?’ (1653, no page shown, my emphasis). Worlidge (1669) argues for ‘the great benefits and advantages of enclosing land’, characterising enclosure as the ‘most principal way of improvement’ as it ‘capacitates all sorts of Land whatever for some of the improvements mentioned in the subsequent Discourse’. Moore (1653: 12–13) argues that waste cannot be brought to productive use through the ‘common husbandry’ of the ‘vulgar’: the only solution, again, is enclosure, with the land distributed to ‘private owners, which being appropriated to their particular uses, will then be cleansed and purged of the former deformities, and so fully improved…’.

Blith (1652) argues that when ‘men know their own’, improvements will follow: ‘were every mans part proportioned out to himself, and laid severall [i.e. enclosed], it would so quicken and incline his spirits, that he would be greedy in searching out all opportunities of Improvement whatsoever the Land is capable of…’ (86).

Hedges became an increasingly common sight in many rural areas: Beddall (1950: 28) claims that the counties of eastern England were full of hedges by the end of the seventeenth century. Yet the cutting of ditches and the laying of hedges entailed considerable capital investments (Manning, 1988: 17). Why, then, hedge? What did hedges do? According to the improvers of the day, the hedge served several practical goals. It provided a windbreak for crops, and shelter for animals, as well as protecting against the cattle of others. It also provided timber, feed for pigs, and fruit (Moore, 1653). But the hedge also communicated property in culturally specific ways. An enclosure served communicative functions, signaling the creation of a ‘close’, that is, a space of exclusive use and entitlement. Deep-seated customary principles sustained this association. Patricia Seed (1995) notes that ‘deploying physical objects such as houses to establish title to land was a unique and remarkable character of English law… The ordinary object – house, fence, or other boundary marker – signified ownership’ (18–19). While such forms of ownership could be collective (such as the parish boundary), the fence or hedge came to be the principal symbol of private ownership of land, she argues, from the fourteenth century onward. Thus, ‘the appearance of the enclosing hedge in the landscape served notice that henceforth the commodity of one individual was to preferred’ (Manning, 1988: 25). Given that property requires forms of persuasive communication (Rose, 1994), such visual notices are not to be underestimated. As we shall see below, they must also have wrought a profound remaking of the rural landscape. A new visual order signaled a new social order.

However, the hedge did more than signal private property. It also aimed to enforce it (Sack, 1986). It was not only a sign, and to the extent that it was, it signified ownership in more complicated ways. The hedge did important practical work. Most immediately, it made it difficult for human and nonhuman bodies to move as they had done in the past. In particular, however, it is the body of the threatening commoner and his or her animals that figures most clearly in the husbandry manuals of the day. As tenure turned to territory, the movements of the commoner took on a different meaning. Gleaning and grazing over
common land became construed as theft and trespass. However, given official ambivalence towards enclosure, the organised violences of the state could not always be relied upon to sustain property’s new regime. Thus other forms of corporeal violence had to be put to work. The thorn hedge sought to protect private property from the bodies of the poor and became an instrument of class discipline, put to work in socially directive ways. Property may be enacted through persuasion, but it is also enacted through compulsion, force and violence.

Where the hedge used to guard against the bodies of animals, now it was also human bodies that were to be disciplined. This became a repeated refrain. Leonard Mascall’s (1640: i) first advice to the creator of an orchard is to ‘make a sure Defence’ against ‘rude Persons’ and ‘hurtfull Cattle’. Conrad Heresbach’s (1586) treatise on husbandry recommended that the garden, at least, was ‘wel enclosed; both from unruly folks and theees, and likewise from beasts … lying in waite for your Herbes and your Fruites’ (1586: 50). Estienne (1600) also suggests a hedge of quickset, perhaps with a ditch, as the ‘inclosure or defence’ for an orchard, such that ‘no man can come, except he enter in at the gate’ (424). By the later sixteenth century, it was not just the garden that was to be protected, but also the estate itself. John Worlidge (1669) commended the fence or hedge as a protection against cattle and the ‘lusts of vile persons’ (85). He recommended the white-thorn, as fast growing, or the holly that ‘may compare to a Wall or Pale to defend your inclosure from Winds, or the eyes of ill neighbours, and for its strength against man or beast it [is] impregnable’ (86). ‘Improvement’ must be defended: ‘we are obliged to maintain a good Fence’, Worlidge insists, ‘if we expect an answerable success to our Labours’ (86).

The hedge plays a central role in Thomas Tusser’s (1580/1873) widely read husbandry manual. Targeted at husbandmen of middling degree, he promotes a discourse of profit and personal advancement, urging his reader to ‘folow profit earnestlie’ (13). To do this, he repeatedly claims, requires a stout, maintained hedge: ‘Keepe safely and warely thine uttermost fence,/with ope gap and breake hedge do seldome dispence’ (42). The concern seems less that of the predations of animals than an insistent and paranoid concern at the incursions of the poor. The hedge provides protection from the ‘champion’, or commoner, who now figures not as a holder of legitimate use-rights (to graze, glean, and so on), but as a predatory and threatening violator of the private property rights of the husbandman. He harps on this theme in his eulogy to enclosure, which begins ‘[t]he countrie enclosed I praise,/the tother delighteth not me’ (140), frequently cited by later proponents of enclosure, such as Worlidge (1669: 11) and Blith, (1652: 87–92). The commoner and his cow threatens your grass, corn, and peas, he warns:

The champion [commoner] robbeth by night,
And prowleth and filcheth by day:
Himselfe and his beast out of sight,
Both spoileth and maketh away
Not onely thy grasse, but thy corne,
Both after, and er it be shorne [the reference is to gleaning] ….
Pease bolt with thy pease he will have,
His household to feede and his hog:
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Now stealeth he, now will he crave,
And now will he coosen and cog [cheat and defraud] . . .
Laie [plan] never so well for to save it
By night or day he will have it.

‘More profit is quieter found’, he concludes, ‘where pastures in several [enclosed] bee’; ‘what joie is it knowne/When men may be bold [confident, certain] of their owne!’ (143–5). But for men to be ‘bold’ requires that that which is now ‘their owne’ be well guarded: ‘keep safe thy fence’, he counsels, ‘scare breakhedge thence./A drab and a knave/will prowle to have’ (33).

Markham (1614) argues that hedging will create ‘a continuance of amitie amongst neighbours, when one lives free from offending another’ (80–1). The hedged enclosure, Worlidge (1669) claims, settles property, and ensures ‘every man his just and due propriety and interest’ (10). But the language of Tusser and others speaks not of amity, but of enmity. Under the new regime, the ‘propriety’ of the rising middling ranks must be defended from the predations of the poor. Privatisation produces fear, even paranoia, rather than friendship and security: ‘Go to my thriftie Yeoman, and uppreare/A brazen wall to shend [shield] thy land from feare’ runs Joseph Hall’s Virgidemiarum, published in 1597–8 (quoted in McRae, 1996: 89). Donald Lupton (1632), who laments the passing of the old order, lampoons the paranoia of the new landlord, pointing perceptively at the ways in which he militarises property. The landlord, he claims, is like a ‘Lord-General’, the bailiff is his ‘Intelligencier’, the surveyor is his quartermaster, and the hedge and ditch is his fortification:

The Land-lords that inclose their Villages are afraid that either the Towne, or the Land would runne away, or rebell against them. Therefore they beleaguer [fortify] it with deep Trenches and Thorn-roots for Pallizadoes [palisades]: they could not make their Trenches so easily, if all were true within. (Lupton, 1632: 104–5)

Tusser’s paranoid doggerel presages later characterisations of the commoner as idle, dissolute, miserable and predatory, suggesting a departure from many early renderings of the honest ploughman as the basis of rural social order (McRae, 1996). Both the commoner and the common were increasingly imagined as disorderly and irrational. One mid seventeenth-century pamphleteer characterised the ‘wild vacant waste land, scattered up and down this nation . . .’ as ‘like a deformed chaos’ (quoted in McRae, 1996: 162). Unenclosed lands, for Moore, were ‘nurseries of Thieves and Horse-Stealers’ (1653: 21). Commoners came to be likened to ‘buccaneers’, who ‘sally out, and drive, or drown or steal, just as it suits them (Thompson, 1769: 163). Imagined thus, the hedge was a crucial form of ‘target hardening’ for those with property.

However, it was not only the commoner that must be guarded against. A growing population of indigents, vagrants, and subtenants, many of them produced through enclosure and its attendant dislocations, caused growing anxiety amongst landed elites (Hill, 1996: 47–56). McIntosh (1998) notes a growth in judicial concern at offences relating to poverty, such as vagabondage. Some of these offences related to the hedge, as poverty drove the rural underclass to ransack hedges and fences for firewood and building materials, particularly in the 1590s, when rural poverty was intense. Like gleaning, this
often entailed women, who traditionally played a central role in gathering fuel. By the late sixteenth century, Hindle (2004: 43–8) notes, illicit fuel-gathering had become a national concern: a 1601 statute placed the ‘breaking of hedges, pales or other fences’ by ‘lewd and idle’ persons under the summary jurisdiction of magistrates (see also Hindle, 1999). By 1600, hedge breakers at Ingatestone, Essex, were to be whipped until they ‘bleed well’, while receivers of stolen wood were confined to the stocks all Sunday (Rackham, 1986: 190). The enduring concern on the part of the propertied at hedge breaking is reflected in the ballad, ‘The Countrey mans chat’ (Anon., 1632), that imagines a conversation between several farmers. After worrying about the price of wheat and the weather, they move on to bemoan the predations of the poor:

Wee are confused, and infused,
and our hedges broken.
I faith, quoth Bars, I tell you sirs,
my fields they lyce all open,
Faith, quoth old Neale, the poore will steale,
before they’l fall to working.
I and whoore for all they’re poore,
they care not for a Ierking [beating].

These hedgebreakers I thinke it fit,
that at next l´eete [court hearing] wee paine [fine] them,
And these inmates [poor subtenant], quoth Peter Gates,
how should a man restraine them.

There are many savage ironies here. The hedge, used as an instrument of dispossession, now becomes a vital resource for many of the dispossessed. Used to defend property, the hedge itself became property. Yet the hedge could equally be seen as common property. Hedgebote, the right to gather from hedges, was one of many commons of estover. In a telling reflection upon the fluid and still uncertain nature of property, Hindle (2004) notes the challenges the authorities faced in distinguishing between theft and hedgebote. At the same time as the authorities intensified their policing of hedge-breaking, some defenders of enclosure claimed that hedging and ditching could provide food and fuel for the poor (Standish, 1611). Moore (1653: 30) even suggested that the poor, many of them now separated from their lands, could be usefully employed in diking, hedging and fencing the new enclosures, and so redirected from ‘Begging, Filching, Robbing, Roguing, [and/] Murthing and whatsoever ever Villainies their unexercised brains and hands undertake’. The poor, in other words, dispossessed through enclosure, could be enrolled in further hedging themselves out.

But since the poor proved remarkably obstructive to the new order, focusing much of their anger upon the hedge itself, so the husbandry manuals described how to create hedges that were harder to ‘break’. The hedge should be ‘good and substancial’, averred Markham (1620: 143), ‘that is to say, five foot high, wel bound, thicke stackt and closse layd’. Herebesch (1586: 50–51) goes so far as to recommend eight or nine feet as sufficient. While many enclosure hedges are examples of the bank and ditch type, with a hedge laid on an earth bank, thrown up by digging a ditch, another strategy (cf. Pollard et al. 1974:
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39) was the planting of ‘double hedges’ (figure 2). Blith (1652) recommends that one first dig a ditch, about two and a half to three feet wide, and then plant two rows of quick sets on the earth that has been thrown up, then dig another ditch, and then plant two more rows of quick on the other side and if you have room, throw in another row or two: ‘and so thou must goe on . . . a Dike [ditch] and a Land or Banke, and againe another Dike and a Land, and so throughout’ (156). The resultant hedges must have been, to say the least, redoubtable. Pollard et al (1974) note a Devon account of 1800, probably referring to a hedge created in this period, in which two rows of hedges were created on a base seven feet wide and six feet high, with a ditch of three feet on each side.

While the traditional hedge was managed by coppicing,\(^8\) the husbandman was now advised to lay, or plash, them, so as to create ever more impenetrable barriers. Heresbach (1586: 50–1) explains how to weave the quick hedge thicker and higher every year, filling any holes with new sets, ‘so that not so much as a small bird is able to passe thorowre it, nor any man to looke through it . . . This Hedge can neuer be destroyed . . .’ (51). Markham (1614) argues that, without plashing, the hedge ‘will decay and grow so thinne at the bottome, that not only beasts but men may runneth through it’. Plashing will make ‘a fence as strong as a wall’ (80–81). The fact that hedges were usually made of hawthorn, a form of organic barbed wire, takes on an added significance here.

That the husbandry manuals did not often dwell on the hedge’s physical effects speaks, perhaps, to their obviousness. However, others were more frank. For theologians, as well as other commentators, the hedge was a common metaphor for impenetrability, and the prevention of misrule.\(^9\) Fuller (1645) urges that the divine hedge be built in ways that an encloser of the day, like Tusser, would have found reassuring:

Thou hast promised, I will hedge up thy way. Lord be pleased to make the hedge high enough, and thick enough, that if I be so mad, as to adventure to climbe over it, I may not onely soundly rake my cloaths, but rend my Flesh: yea, let me rather be caught, and stick in the Hedge, then breaking in thorow it, fall on the other side into the deep Ditch of eternall Damnation. (235–6)
Hedging out the poor

While the effects of enclosure on the rural poor were not uniformly negative, it is clear that it could be devastating. For two hundred inhabitants of Oakley, Brill and Boarstall, in Buckinghamshire, for example, the enclosure of their common in 1611 caused them, in their words, to ‘be utterly undone and have small or no means to relieve themselves’ (Everitt, 1967: 406–7). Yet it is hard to disentangle the specific effects of enclosure hedges upon the destruction of the commons. Both ‘horne’ (i.e. sheep farming) and ‘thorne’ made ‘England forlorne’, ran the bitter lament of the Tudor era (Beddall, 1950: 26). As a physical check to movement, hedges must have played a critical role in the making of the new order. Enclosure, notes Neeson (1993: 5), ‘meant the closing of the countryside’. Most immediately, traditional lines of access and movement became closed (Beddall, 1950: 29). Commoners noted that the new hedges meant that ‘waies were stopped up’. The hedge compromised the exercise of traditional use-rights, like gleaning, for example.

But hedges may have had more subtle, yet no less important effects (cf. Pred, 1985). Manning (1988) notes that the lord’s new hedges must have made it increasingly difficult for tenants to drive their animals to commonable pastures. These disruptions, in time, perhaps undercut the daily practices that sustained the manorial system itself, thus making it easier to persuade the tenants to accept the total enclosure of the whole manor (cf. Winchester, 2000). But hedges also wrought a visual transformation of the landscape, particularly when we consider the open vistas that characterised pre-enclosure England. For Neeson (1984: 139), ‘enclosure had a terrible but instructive visibility. It was seen in the societies and economies as well as in the landscape of … villages’. With this in mind, the visible remaking of local landscapes through the creation of hedges and ditches must have been striking for local residents, particularly when the size and scope of some hedges was noted. Walter (1985) argues that it was not the extent of enclosure that was significant as much as the contemporary perceptions of the process on the part of the poor: ‘It is the poor’s mental map of enclosure that the historian… should be concerned to discover’ (109, original emphasis), he notes.

The new hedges, then, constituted an unprecedented assault upon the commons. Enclosure, for Thompson (1993), made the poor ‘strangers in their own land’ (184). Given its profound importance to moral and economic life, it is not surprising that this prompted ‘popular determination to defend use-rights against the incursion of the modern doctrine of absolute and exclusive rights of private property’ (Manning, 1988: 4). There is little evidence that protestors targeted either surveyors or maps, although the defensive tone of the surveyor’s manuals suggest that the rural poor did not welcome them. However, time and again, commoners turned their anger upon the hedge and the ditch. Indeed, hedge-levelling, as it was known, became ‘something of a national pastime’ (Manning, 1988: 316). In 1596, protestors in Oxfordshire called for a rising of the people ‘to pulle downe the enclosures, whereby waies were stopped up, and arable lands inclosed, and to laie the same open againe’ (Walter, 1985: 100). There are suggestions that for every one organised protest there were a dozen cases of people ‘throwing a gate off its hinges [or] uprooting some quicksets’ (Thompson, 1993: 115).

The Midlands revolt of 1607, consisting of a series of insurrections in Northamptonshire, Warwickshire and Leicestershire, was one of the most significant...
of such uprisings. Prompted by economic dislocation, depopulation, and enclosure, the hedge was a central target. In Northamptonshire, where the uprising began in mid-May, up to one thousand people, including women and children, engaged in a remarkably disciplined and careful destruction of hedges (Manning, 1988: 230). Following the enclosures of John Quarles, a London merchant, five thousand people assembled to cast down hedges in Cotesbach, Leicestershire (Thirsk, 1967a: 234). This rising sees the early use of the terms leveler and digger, later deployed in the revolutionary risings of the mid seventeenth century. To level a hedge signified the leveling of social distinction. In a remarkable document entitled ‘The Diggers of Warwickshire to all other Diggers’, a group of ‘poor delvers and day labourers’ issued a call to others to join the rising, in a condemnation of the ‘devouring encroachers’: ‘We as members of the whole do feel the smart of these encroaching tyrants [i.e. enclosers], which would grind our flesh upon the whetstone of poverty . . . so that they may dwell by themselves in the midst of their herds of fat wethers [sheep]’ (Bending and McRae, 2003: 147). The jab at the enclosers, who ‘dwell by themselves’ foreshadows the lines of the nineteenth-century peasant poet, John Clare who in ‘The Mores’ describes the ‘owners little bounds . . . In little parcels little minds to please/ With men and flocks imprisoned ill at ease’.

It is not surprising, given the class divide that the hedge sustained, that the struggle to pull down enclosures and ‘laie the same open againe’, was often turbulent. Tawney (1912/1961: 237) characterises this period as one of ‘agrarian warfare’. Thus, for example, in 1569, Godfrey Bradshaw began to hedge and ditch pastureland near Chinley, in Derbyshire. Villagers, denied their rights of pasture, removed the ditch, and tore down the hedge made up of ‘XLIII hundredth quicksets willowe and willowe stackes . . . and did utterlye destroy and cutt the sayd stacks and quick setts in pieces’ (Tawney, 1912/1961: 328). In 1607, the gentry of Northamptonshire suppressed a crowd in Newton, who had cast down the hedges of Thomas Tresham, a particularly aggressive encloser: up to fifty of the protestors were killed. Yet while such uprisings were often characterised as riotous, Wrightson (1982) also argue for the ‘order in this disorder’ (175), noting that opponents of enclosure acted in defense of traditional rights, and often resorted to legalistic rituals (such as a pledge of loyalty to the crown) while demonstrating an ability to ‘exploit its ambiguities’. Protests were sometimes ritualistic, with hedges ploughed up and even buried. Enclosure riots frequently combined controlled violence, ritual, and sophisticated legal manoeuvres in common-law and equity courts.

For the hedge was also a sign in law. As noted, deep-seated customary principles dictated that a hedge signaled privacy. A piece of land, however, need not be surrounded by a physical obstacle for it to be enclosed. A ‘close’ represented the spatial extent of property; a trespass (literally a transgression) could be perpetrated by animals straying across an imaginary line and entering the close. However, when an actual hedge was broken and trespass occurred, the law assumed that force was required (the act was said to have been done vi et armis, with force and arms). By the early seventeenth century, if three or more people, having made menacing gestures or speeches, destroyed an enclosure, the trespass was deemed a riot: more than forty, and it was treason (Manning, 1988). So one did not have to break a hedge to commit a trespass, but if one did the legal stakes became considerably higher.
Yet precisely because of the importance that law attached to the proper arrangement of material objects, the breaking of an enclosure, for the dispossessed, ‘carried a symbolism of its own’ (Manning, 1988: 26). For the yeoman, a hedge was a protective barrier: for the commoner it was an illegitimate divider. For the former, the hedge materialised the private property owner’s right to exclude: for the latter, it was an affront to the commoner’s right not to be excluded. As a marker of ownership, it signaled an illegitimate encroachment upon common right. ‘Reduced to its elements their complaint is a very simple one, very ancient and yet very modern. It is that what in effect, whatever lawyers may say, has been their property, is being taken from them... To take into your hand what is other men’s land, that is the grievance. To restore common to common again, that is the obvious remedy’ (Tawney 1912: 333, 334).

Such conceptions of law and property were rooted in local forms of practice, of which the most significant was the beating of bounds of the parish at Rogationtide, serving as ‘both a statement of the past rights of a village and the means by which these rights should be preserved in the future’ (Beresford, 1998: 30). Under the tradition of ‘possessioning’, commoners sometimes claimed the right to tear down ‘encroachments’ on commons or wastes during parish perambulations, carrying mattocks and axes for that purpose. While the proper remedy for an encroachment was an action of disseisin, ‘the right of commoners to take direction action in support of right rested upon ancient law and precedents too strong to over-rule’ (Thompson, 1993: 118). Thus, those tearing down hedges often did so in the name of property, rather than as an affront to it. For example, in the early seventeenth century, Thomas Box, who held the manor of Nettlebed in Oxfordshire, made an intake of four acres from the waste for a new orchard to replace the one cut down when he rebuilt his house. He also enclosed a pond, to which every commoner required access, and overcharged the commons with cattle, sheep and swine (the last of which were not usually commonable beasts). Richard Butler and several other artisans and labourers decided ‘to try by the course of common law there right to the saide common of pasture’ by making a breach in Box’s hedges (Manning, 1988: 89), meaning that, by their actions, they sought to end up in court, and thus have Box’s enclosure legally appraised. This, presumably, was easier than bringing an action against Box.

Commoners appealed to local custom, understood not as a ‘vague body of tradition, but a rigorous, detailed, and precise corpus of local law’ (Everitt, 1967: 459). Yet for the industrious and active landowner, custom was treated as an obstacle: the jurist Edward Coke characterised agrarian law as so many ‘snares that might have lien heavy upon the subject’ (quoted in McRae, 1996: 163). Legal modernisers, such as Coke, were insistent on treating custom as subservient, and prior, to judge-made law (Blomley, 1994). Yet custom remained powerful. The result was often official uncertainty. Was the hedge a legitimate marker of private property or was it an encroachment upon the rights of others? Was its destruction an assault upon property, or a legitimate defence of property? That the authorities, at least in the earlier seventeenth century, often treated hedge leveling as a misdemeanour, particularly if it was deemed a local dispute over property, rather than an expression of sedition and widespread dissent, suggests some ambiguity (Manning, 1988). Thus, while the hedge was an instrument of dispossession, it could also be used as a
rallying cry for resistance amongst commoners and, on occasion, as a basis for supplicatory appeals to the powerful.

Beyond the law, the meaning of the hedge was also contested and deployed for different ends. The hedge was an affront to freedom, and a means of imposing order. By the mid seventeenth century, opponents of enclosure frequently used the hedge as a metaphor for the injustices of social division. Winstanley’s manifesto laments that ‘[t]he earth (which was made to be a common treasury of relief for all, both beasts and men) was hedged in to enclosures by the teachers and rulers, and the others were made servants and slaves’ (quoted in Bending and McRae, 2003: 150). The enclosure of land ‘hedges in some to be heires of Life, and hedges out others’ (in Manning, 1988: 30).

Conclusions
In itself, the story of the hedge is worth telling, shedding new light on processes of enclosure. While the planting and leveling of the hedge is often noted by historians of Tudor enclosure, it seems, curiously, to be treated more as an outcome of the remaking of property than as importantly implicated in that process. I have suggested here that the hedge did significant and often contradictory work in the remaking of property and social relations in early modern rural England. Scholars of enclosure may profit from more careful attention to the work of the lowly hedge.

The hedge also reminds us of the more general importance of material things to property. For all sorts of reasons, property (both in law, and scholarship) has tended to eschew the material and the embodied. Property is about relations and representations, it is argued. But property is also productive of, and reliant upon, things. Thus, privatisation in this era entailed turning property itself into a thing or a territory, an ideological move of profound significance. In that remaking, other things had to be enrolled, including the hedge. In making and remaking property more generally, material things are put to work, such as barbed wire, paper, bodies, Geographic Information Systems, or hawthorn hedges. Things do material work, recording, marking and blocking. Things also signify, and often in ambiguous ways. Yet things complicate property. Fences fall down, paper records rot, rivers and coastlines move. Thus, the hedge can be a defensive barrier or an encroachment. It can materialise private property’s right to exclude, and thus conflict with common property’s right not to be excluded (Macpherson, 1975: 106–10). The hedge can be an edge to property, or can itself become property. Both the encloser and the commoner, however, may have property interests in the hedge. If broken, the hedge can signal violence and riot, or the legitimate assertion of common right. The hedge served as an often formidable material barrier, yet this very materiality made it vulnerable to ‘breaking’ and ‘leveling’.

It is easy to find contemporary echoes, for we too live in an era of sharpening social division and the remaking of property relations. Enclosure, it has been argued, continues to unfold. Harvey’s (2003) argument for ‘accumulation by dispossession’ suggests the continued presence of ‘primitive accumulation’, premised on enclosure and privatisation. The paranoia of the seventeenth-century yeoman, behind the double hedge, compares to the anxieties of the modern property owner, secure (yet always and ever insecure) behind razor wire, alarms and armed response signs. Tusser’s imagined divide between
the propertied and those who ‘robbeth by night and prowleth and filcheth all day’ is still with us. Interestingly, those who contest contemporary social hierarchies often make reference to the resistance of this era. Invoking a language of commoner’s rights and the rich metaphors of the Diggers, the hedges of the powerful continue to be challenged.

The making of property, both then and now, entails forms of directive power. The hedge is useful in reminding us of this, alerting to the corporeality and violence (implied, or realised) that is always at the core of property (Blomley, 2003). Property entails an economy of violence, threatened or implied. This violence can easily be airbrushed out. Locke’s (1690/1980) influential account of enclosure presumes mutual consent, rationality and social peace. Enclosure occurs without exclusion, but rather through productive forms of labour. Violence appears to be the antithesis of law and private property. Yet the hedge reminds us that property is never just about signs and stories: it can also, as noted here, concern bodies, thorns and social force.

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Notes
1. Clearly, map-making is also a very practical activity. On this point, and its broader ramifications, see Mitchell (2002).
2. Pollard et al. (1974: 23) trace the origins of hedge to the Anglo-Saxon word gahaeg, which also has given rise to 'haw'. Tom Williamson (personal communication) notes that most hedges before the end of the seventeenth century were probably planted with a range of species. If only one were used, it was likely to be blackthorn.

3. Forward-looking landowners were encouraged to embrace new methods of cultivation, notably ‘convertible’ husbandry: permanent cultivation based on use of manures and nitrogen fixing leys, such as clover. Following the crises of the 1590s, the pace of change seems to have quickened. Convertible husbandry became more widespread in mixed-farming communities, with the adoption of more intensive land use. Many landlords extracted higher rents, and increasingly exploited fuel, mineral, timber and water resources (Manning, 1988).

4. Pollard et al. (1974: 211) note that in an era when timber was scarce and labour cheap, planting hedges, as opposed to building fences, must have been much more practicable.

5. Enclosure, Thirsk (1967a) argues, was not simply economic in its effects, but helped sustain a revolutionary shift in conceptions of selfhood: with a shift from a communal culture, premised on a ‘vigorou co-operative spirit’, in which country people worked, lived and governed together (‘they toiled side by side in their fields, and they walked together from field to village, from farm to heath, morning, afternoon, and evening’) to one of privatisation (‘After enclosure, when every man could fence his own piece of territory and warn his neighbours off, the discipline of sharing things fairly with one’s neighbours was relaxed, and every household became an island unto itself’) (Thirsk, 1967a: 255). Johnson (1996) situates agrarian enclosure within a much wider process of material closure, evidenced in cultural practices such as house-design, cartography, and the organisation of documents.

6. For a functionally related, if geographically different, example of the hedge as an instrument of discipline, compare Moxham’s account of the Great Hedge of India (2001).

7. His manual went through twenty three editions in eighty one years, and was reportedly the biggest-selling book of poetry published during the reign of Elizabeth I (Bending and McRae, 2003: 124).

8. I am indebted to Tom Williamson for this point.

9. Thomas Adams (1616: 30) likens the body to an unruly animal that God has ‘hedged’ in with a ‘double fence’ of the lips and the teeth ‘that through those mownds it might not breake’. Flavel’s (1674) Husbandry spiritualized characterises walls and hedges as the ordinances of God, serving to distinguish and defend: ‘When God plucks down this hedge, and breaks down this wall, all mischief break in upon us’ (93).

10. Walter (1985: 100). Compare with John Clare’s poem, ‘Enclosure’: ‘There once was lanes in nature’s freedom dropt/There once was paths that every valley wound;/Enclosure came, and every path was stopt/Each tyrant fixed his signs where paths was found’ (in Hill, 1996: 313).

11. The hedged rural landscape, is, of course, now treated very differently. Public agencies work to preserve the hedge, regulating the farmer who wishes to grub them out. A quintessential statement of privatisation has, in other words, become part of the English commonwealth (Holder, 1999).

12. Although cf. Delle, (1999) on popular resistance to the survey of Ireland, which began in 1584. See also Neeson (1984) for an account of an eighteenth-century surveyor in Northamptonshire who ‘met hostility at every step’ (199). Tenants refused to mark out their lands for survey, and maps and field notes were stolen. There is also evidence of the harassment of a surveyor in Derbyshire in the early seventeenth century (Hindle, personal communication).

13. Anti-enclosure protests are well documented by Manning (1988). Prior to the 1590s, he notes, these tended to be small-scale, usually non-violent and frequently involved feuding among the gentry. Early seventeenth century riots were larger, and even carnivalesque, and became increasingly anti-aristocratic. The majority of enclosure protests concerned claims to the exercise of use-rights on pasture, wastes, commons or woodland. For one conceptually related discussion of materiality and political antagonism, see Featherstone’s (2004) discussion of eighteenth century measurement and labour protest.
14. A Royal edict in 1607 in response to the Northamptonshire revolt condemned those who ‘assemble themselves in riotous and tumultuous manner’ to throw down enclosures, and directed that ‘sharper remedies’ be provided, including suppression by force of arms, if necessary. This is rationalised by the claim that, as the Crown has sought to suppress enclosures, the revolt is ‘presumptuous and undutiful’ (‘By the King: Whereas some of the meaner sort of people did of late assemble themselves in tumultuous manner within our countie of Northampton . . .’ 1607).

15. For example, by deploying women to destroy fences and hedges given the presumption of their innate lawlessness. Compare with Manning (1998: 1–2).

16. Courts distinguished between *fractio sepes*, the breaking of hedges, and the rarer charge of *projectio sepes*, the throwing down, or leveling of hedges (McIntosh, 1998: 84–8).

17. The very distinction between things and representations, which casts long and significant shadows over Western thought and culture, may have been produced, in part, through processes such as enclosure. On this point, see Johnson (1996: 78) and Mitchell (2002).