

RESEARCH ARTICLE

# Impediments to expropriation. Peasant property rights in medieval England and Marcher Wales

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## Abstract

In this paper, an attempt will be made to discuss the likely context for pre-plague indications of expropriation and its limits. There is plentiful evidence of an active land market in medieval villages by the end of the thirteenth century, and most likely for some time earlier. Fluctuation in the rate of buying and selling coincided with difficult harvest years and suggests a link between impecunious peasant sellers and wealthier peasant buyers. There is also some association between the selling of land and pre-existing indebtedness. In a period of partial commercial and market development, the extent to which exchange of land or of moveables proceeded to a significant structural redistribution of land and resources was constrained, and even in those parts of the country where an early peasant land market was well-established, significant adjustment is not evident. Instead, impediments to expropriation, such as seigneurial control of peasant land and limited capacity for extensive capital accumulation, acted as constraints on significant accumulation and redistribution. That said, there is limited suggestion in our sources of a redistribution of property rights associable with inequality of dealing and the advantage of wealthier landholders and creditors. In exploring this last point, particular use is made of the court records for the Welsh marcher lordship of Dyffryn Clwyd.

Most historical discussion of expropriation in medieval England has its focus upon the later middle ages, and especially the decades after 1400. Marx and later generations of Marxist historians saw in the late middle ages a first-rate instance of expropriation. In *Capital* Marx describes the process of expropriation in late medieval and early modern England as a creation of ‘the great feudal lords’ who forcibly drove the peasantry from the land, a policy driven by the rising price of wool and a burgeoning cloth trade.<sup>1</sup> Robert Brenner also discussed how the failure of peasant tenants to secure their tenurial hold over land facilitated their expropriation by lords who were then able to lease land to capitalist entrepreneurs, a process that, in turn, encouraged innovation and economic growth.<sup>2</sup> Both describe a process by which major landholders, though not necessarily groups or individuals identifiable directly with the state, took the land of peasant land-users, appropriating it for their own use and removing the peasantry from direct use, possession and/or ownership of the land. As presented by historians such as Brenner, this process had relatively little to do with relations founded upon the relative wealth of constituent elements

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of the peasantry and their dealings but, classically, resided in the insecurity of smaller peasant proprietors vis-à-vis the political capacity of landlords and the great landholders to appropriate property for their own agrarian and non-agrarian/proto-industrial schemes and to divest a tenantry ill-supported by weak tenures (a situation Brenner contrasts with France where a secure and complacent peasant tenantry was left in a relatively conservative occupation of its land). In later medieval England, in particular, there is also an assumed relationship between a dramatic change in land use from arable to pasture, the growth of a new and lucrative industry in cloth, and expropriation. The perceived benefit for landowners of new land use, and the reduced requirement for agrarian labour, occasioned a forced retreat in the overall number of landholders, the accumulation of tenant land, a polarization of landed wealth, and the consequent rise of a landless proletariat.<sup>3</sup>

Within a decade of Brenner's seminal contributions, historians of the late medieval land market had identified inter-tenant buying and selling, with a consequent process of engrossment on the part of some tenants and an associated diminution of the landholding of others, as a more significant factor in the redistribution of landholding than is acknowledged in Brenner's initial contribution. In such a process, as Richard Smith's leading contribution to this shift in explanation of the later medieval land market makes clear, engrossment could also be relatively short-lived even if the market itself was vibrant and a fundamentally important feature of the rural economy, in some parts of England, by at least the end of thirteenth century.<sup>4</sup>

An awareness of engrossment by wealthier tenants in the later middle ages was not in and of itself new, even in the 1980s. Rodney Hilton, most especially, had recognised in one of his earliest contributions in this area, published in 1947, that tenants on the estates of Leicester Abbey were engaged in such activity and he explained a process of proletarianization in terms of the accumulation of the available customary land of tenants and of portions of the demesne by wealthier peasants, with a consequent effective eviction of those who were forced out of landholding in such a market. In this process Hilton detects evidence of an increased polarization of wealth as richer peasants constructed substantial new units of landholding and the poorer villagers 'would lose what land they had and tend to become labourers'.<sup>5</sup> Numerous subsequent studies have detailed the ways in which processes of engrossment by the wealthiest peasants in the later middle ages also prompted an inevitable and linked pauperization and proletarianization of large sections of rural dwellers. On the estates of Westminster Abbey, for instance, tenanted customary land, by the end of the fifteenth century, was finally released from the kinds of tenurial constraints upon which the monks of Westminster had insisted for centuries and something akin to a market in these holdings was allowed to develop; here also engrossment followed as did, no doubt, associated proletarianization. Engrossment of customary land involved numerous types of buyers but included purchases by exceptionally wealthy buyers who saw new opportunities and new uses for land, especially in a shift to pastoral husbandry, in accumulation of these holdings.<sup>6</sup> The involvement of lords in such developments was chiefly as facilitators of such changes, releasing land and removing former tenurial impediments in order to permit would-be buyers to acquire such holdings. It was often not until the later fourteenth and fifteenth centuries, in the case of larger, unfree, holdings to which labour services were attached, that lords abandoned their attempts to retain such holdings

and their obligations as units central to the functioning of a demesne economy. On the Westminster Abbey manor of Birdbrook (Essex), a changing pattern of land transfer for standard customary holdings shows a diminution in *post-mortem* transfers and grants from the lord and an increase, accelerating by the later fifteenth century, in *inter-vivos* transfers.<sup>7</sup> By the last decades of the fifteenth century, lords, such as those at Westminster Abbey, previously deeply resistant to the alienation of larger, labour-service owing units of land had reluctantly come to the conclusion that there was no return to the old forms of management.<sup>8</sup> Furthermore, and importantly, the customary holdings were losing their taint of villeinage and would soon gain a greater degree of security as copyholds, a development that helped make them more attractive for entrepreneurs and, by extension, expropriators.<sup>9</sup>

Jane Whittle, in her study of later medieval Norfolk, which she frames in terms of and in challenge to elements of the Brenner Debate, argues that it was the peasant land market rather than seigneurial action that encouraged engrossment and proletarianization.<sup>10</sup> As noted in the introduction to this edition, Brenner has also subsequently acknowledged the importance of accumulation of land on the part of wealthy peasant proprietors as a potentially important part of a redistribution of landholding and the creation of a landless proletariat. Importantly, though, Brenner sees this process as a post-transition symptom of market-dependency and not a mechanism by which transition from feudalism to capitalism might be achieved.<sup>11</sup> While acknowledging that a pre-transition engagement with the market might well exist for some members of the peasantry, Brenner characterises such engagement as limited and piecemeal rather than central to the functioning of the feudal economy. In this respect, Brenner's views coincide with both the shared views of Marxist historians of the medieval peasant economy, such as Rodney Hilton and E.A. Kosminsky, and Malthusians, such as M.M. Postan. Writing in the 1930s in Russia, Kosminsky held closely to the general view of expropriation as propounded by Marx. In following Marx, Kosminsky also recognised disparities in the distribution of land amongst the medieval English peasantry, while at the same time noting that peasants also were still sufficiently homogenised as to serve as a collective entity in terms of the feudal mode of production.<sup>12</sup> In a telling passage, however, Kosminsky rejects the notion of a process of expropriation which occurred in a manner other than that proposed by Marx or one that diminished the role of landlords in such a process or 'lifted [the guilt of expropriation] from the consciences' of landlords.<sup>13</sup> In short, expropriation, for Kosminsky, has to be seen in terms of a forced redistribution of tenures; he acknowledges the very real likelihood of redistribution of holdings or parts of holdings between richer and poorer peasants, a process which, for him, took place under the indifferent gaze of lords, especially on estates where money rent had come to replace labour rent, but considers this largely irrelevant to a later process of expropriation. The latter, as Marx predicted, is distinguished by the transfer of tenure from peasant tenants to lords and capitalist farmers. Instead, an earlier process of redistribution of parcels of land led to polarisation of landholding but not a wholesale eviction of a small-holder class.<sup>14</sup> Postan, from a perspective that owed far more to Malthus than to Marx, had also proposed that any *inter-vivos* exchange of peasant land was chiefly a result of a natural respiration of the peasant family, small plots beyond the core of family holdings changing hands according to fluctuations in size and

need of the peasant family. In such a context, for Postan and a number of historians of the peasant 'land market' who followed his lead, demography rather than commercialization was the driving force for inter-peasant exchange of land.<sup>15</sup> In that respect also, Postan, of a necessity imposed by his own conception of the peasant economy in the high and later middle ages, was obliged to argue that any redistribution of land tended to be piecemeal and did not lead to significant and permanent engrossment.<sup>16</sup>

Historians have come to attest, as Kosminsky had already recognised in his very early contribution, to a competitive market in peasant-held land as a viable prospect in parts of medieval England from at least the thirteenth century. Extensive research from the 1970s onwards has explored both the evidence for and constraints upon such a market; Paul Hyams offered an early and important corrective to the demographically-charged view of the medieval peasantry promoted by Postan and other subsequent studies have also identified evidence for a competitive market in peasant land in parts of England from the 1250s and, where records permit any level of scrutiny, from earlier.<sup>17</sup> In addition, evidence of a market economy that created degrees of social and economic stratification amongst the peasantry is also revealed in other forms of economic dealing, not least the extension of credit and the recovery of debt.<sup>18</sup> Given these features of precocious economic dealing should we not expect to find early evidence of expropriation at least in some parts of medieval England? Furthermore, if we assume Brenner's association of expropriation with post-transition capitalism, we should be encouraged to explore the possibility that, at least for parts of medieval England and marcher Wales, a transition from feudalism to capitalism may have occurred earlier than has always assumed to have been the case. Alternatively, should we simply see, in this nascent activity, no more than the early stirrings of commercial exchange of land and associated activity, presided over by an indifferent lordship, again as Kosminsky identified?<sup>19</sup>

It is certainly the case that elements that could stimulate expropriation pertained in the thirteenth and early fourteenth centuries, not least a market in agrarian produce that generally favoured producers over consumers. In the later thirteenth and early fourteenth centuries, with population at its medieval maximum and with demands upon resources at their greatest, the staple of the English population's diet, grain, fluctuated dramatically in price according to annual adjustments in harvest yield. Indexed grain prices for the early fourteenth century indicate significant and unique price hikes, especially during the Great Famine of the second decade of the fourteenth century, while real wages also reached their absolute nadir in the same years.<sup>20</sup> In such circumstances, grain production over and above the producer's own consumption requirements was likely to be highly profitable if hardly consistent. Furthermore, during this period more and more land was brought into cultivation in order to meet demand, including the inevitable inclusion of land capable of producing only low grain yields. This 'retreat to the margin' was undertaken by both lords and tenants and included land reclamation projects, including drainage, but also extension of the cultivated area into higher reaches, moorland and into woodland. In such circumstances, we might suppose that lords, for instance, or the wealthiest peasant landholders, or creditors including grain factors, might opt to maximise the benefits of a grain market favourable to

capital-rich producers by restoring tenant land to their direct management. As we shall see in what follows, there is in fact little evidence that those with relatively greater economic and political power engaged in the direct expropriation of land from tenants, either free or unfree, in this period. There are a number of reasons why this did not take place. In the following discussion, these explanations will be reviewed and indications for some limited redistribution of property rights also considered. In order to explore these themes at some depth, a more general review of relevant literature is set within the context of primary research on the records of the estates of the marcher lordship of Dyffryn Clwyd, using both the ESRC-funded database and the relevant muniments.<sup>21</sup>

### 1. Conservatism of landlords and the nature of the manorial economy

The pre-plague medieval manorial economy is generally perceived to be innately conservative and inclined to the consumption needs of landlords rather than any investment and growth opportunities potentially arising from exploitation of the demesnes.<sup>22</sup> Bruce Campbell, in a recent publication, has noted that, faced with morcellation and the impoverishment of their tenantry, medieval landlords in the decades either side of 1300 were not inclined to ‘improve’ their estates through eviction.<sup>23</sup> In fact, pre-plague landlords in medieval England were generally protective of the status quo and either fought hard to preserve the integrity of units of tenanted land, and in particular in this instance customary or unfree land, by restricting rights of alienation and sub-division or, where land had succumbed to a market in land, to control alienation through their own private jurisdictions (manorial courts) and enjoy the benefits of entry fines exacted there.<sup>24</sup> It is in those regions, as in parts of eastern England, where a land market in customary as well as free land had begun to develop by the thirteenth century, that we might seek signs of expropriation in the pre-plague period, and we will return to this in a later section of this paper.

For now, we can also note that landlords, as part of their insistence on retention of a status quo ante, tended to respond to disruption and crisis by retreating to their long-held positions; where innovation did occur, it was often entered into reluctantly and in the expectation that such changes were a stop-gap. Take, for instance, the expectation of the monks of Westminster Abbey in the decades after the Black Death that should a new tenant appear who wished to hold in villeinage, rather than the recently introduced leaseholds for terms of years, that tenant should be admitted in favour of the current leaseholder.<sup>25</sup> Half a century or more earlier, the same lordship was also chary of recovering tenant land. On the Westminster Abbey manor of Birdbrook (Essex), a brief reduction in the number of tenants of customary, labour-service owing holdings this does not make sense was speedily remedied by the recruitment of new tenants and a restoration of the full complement of labour services by the following year rather than, for instance, the absorption of the tenanted land into the demesne.<sup>26</sup> Elsewhere, as on the Glastonbury Abbey estates in the same period, lords faced with unsatisfactory tenants opted to recruit new tenants rather than take over direct management of the holdings.<sup>27</sup> On the Ramsey Abbey estates, as Raftis has argued, lords worked hard not only to retain their tenantry but also to ensure that their tenants were protected in terms of

capital and their capacity to function as tenants of large, labour-owing units of land.<sup>28</sup>

From time to time we encounter examples that run wholly in the face of seigniorial expropriation of tenant land in this period and argue strongly for the protected status, even of under-capitalised and otherwise insecure tenants. In the marcher lordship of Dyffryn Clwyd, a number of entries from the 1340s and early 1350s record the departure of tenants, often on account of their poverty or incapacity; in most instances, the lord sought and found a replacement tenant to hold on similar terms. As interestingly, it was clearly anticipated that should the original tenant return, he or she was to be admitted to tenure of their original holding, subject to the returning tenant suitably compensating the interim tenant.<sup>29</sup> In such instances, the rights of the original tenant or the direct heir were protected, with clauses inserted in the grant to the effect that the incumbent should step aside, subject to suitable compensation, should the original tenant return or the heir of the same seek possession of the tenancy.<sup>30</sup> On occasion, such a development actually took place, lords welcoming back tenants who had previously given up their land on account of poverty.<sup>31</sup> So, for example, on the commote of Aberchwiler in January 1352, Ieuan ap Madog Veyhat, who had 'held customary land...[and]...left it because of poverty several years ago...came and received it, to hold by services and customs'.<sup>32</sup> We can return to such cases in a later section, in so far as they may also speak to arrangements between tenants as much as between lord and tenant.

## 2. The nature of the peasant land market

While landlords may have been able, should they have wished so to do which often they did not, to recover their tenanted lands as part of their demesnes, customary land was still a less viable and attractive prospect for other potential expropriators in the thirteenth and early fourteenth century. As we will discuss in the next section, there was a weak to non-existent relationship between credit arrangements and customary land which also may have served to inhibit expropriation in the same period. Wealthier freemen and non-resident entrepreneurs, such as grain factors from local towns, might be perceived as aggressive accumulators of land at a time when land was highly prized and, as we have seen, its potential profits could be great. This is what occurred at the end of the fifteenth century when a confluence of factors, including new and expanding commercial opportunities in wool and cloth, the development of alienable and more secure rights in customary land associated with the emergence of copyhold and a retreat from arable in favour of pasture, encouraged expropriation. The combination of these factors presented extra-manorial purchase of significant swathes of land previously held as units of tenanted land and, *de facto*, drove tenants from the land in favour of non-resident purchasers, especially those inclined to turn over the land to sheep.<sup>33</sup> As already noted, many of the factors that might encourage a similar response – such as commercial opportunities, land hunger, an uneven distribution of wealth and power – are at least indicated two centuries earlier, by the end of the thirteenth century, but there are also many inconsistent factors that help explain why such a situation did not develop. We have already seen how lordship was ill-disposed to innovation and

entrepreneurial responses to such situations despite occasional evidence to the contrary.<sup>34</sup> Why then did wealthy individuals other than lords of customary tenants not seek to buy out poorer landholders?

In the first instance, customary or unfree land was an unattractive target for potential expropriators in the decades either side of 1300. Customary land, its transfer and obligations, were marks of servility and the purchase of villein land by freemen held risks of villeinage by association for the purchaser.<sup>35</sup> On rare occasions we do find free tenants prepared to trade their free land for the tenure of customary land and the adoption of villeinage, as instances from the marcher lordship of Dyffryn Clwyd show. In November 1351, a free tenant, Ieuan Vaghan ap Ieuan Sew, took on the holding formerly held by Angharad wife of Dafydd Deek in the commote of Clocaenog and Trefor acknowledging he was now the lord's bondman.<sup>36</sup> Similarly, in the commote of Dogfeiling in September 1350, Iorwerth ap Heilyn entered the land previously held by Cadwgan ap Ithel, a bondman who had died without heirs. As a freeman, Iorwerth sought to take the land and to be a bondman and to hold by customary tenure; making his fealty in court, Iorwerth acknowledged himself to be a humble bondman of the lord and justiciable in body and chattels.<sup>37</sup> From the lord's perspective, purchase of villein land by the free also ran the contrary risk that the tenement would be identified as free and the tenant be able to secure his or her tenure under common law. For both reasons, lords and prospective free tenants were resistant to the notion of the acquisition of unfree tenure by non-resident freemen.<sup>38</sup> Such considerations do not, however, rule out the possibility that wealthy unfree tenants might effectively expropriate land from their less less-advantaged neighbours. We can certainly find plentiful evidence that local peasant purchasers on some manors, especially in eastern England, where piecemeal alienation was apparently more common and accepted, were active and acquisitive buyers of their neighbours' land. At Hinderclay (Suffolk), for instance, one or two individuals stand out as especially active buyers with a very small number of purchasers appearing frequently.<sup>39</sup> When set against other recorded activity and evidence of socio-economic standing, including taxation data, these individuals can be identified as typically wealthier and economically more active in their village communities.<sup>40</sup>

On the estates of Dyffryn Clwyd there is also evidence that poorer tenants were quite regularly involved in the surrender of holdings in the first decades of the fourteenth century. This is, for instance, especially notable during the famine years of the second decade of that century where seven such entries are recorded between 1316 and 1318, three of these recorded in April 1316 at the height of the Great Famine.<sup>41</sup> The outgoing tenants in such instances are on occasion identified as selling on account of their poverty, with a notable clustering of such sales 'on account of poverty' in the famine and immediate post-famine years. In all, for the commote of Llanerch, the court rolls record 16 entries in the thirty years between 1322 and 1352 in which one individual gave up their tenement on account of poverty and another tenant came forward to take it. The Dyffryn Clwyd rolls are relatively unusual in this frequent reference to the poverty of outgoing tenants and the inclusion of the incidental reference to the motive of both parties. For instance, it was noted in the commote of Llanerch, in April 1332, that two of the lord's bondman, customary tenants, Madog ap Philip and Iorwerth ap Philip, quite possibly brothers

though this is not stated here, had both surrendered their holdings; in the case of Iorwerth this was 'because of poverty' and the same was true of Madog but with the additional explanation that he had surrendered his land 'because of poverty [in order] to go to England to beg'; the same land was then granted to Ieuan Vaghan ap Ieuan Goh 'to hold by bond tenure (native) from the lord by rent and services due'.<sup>42</sup> In four or five of the Llanerch transfers explained in terms of the poverty of the outgoing tenant, the incoming tenant was identifiably a member of the same family, typically the son of the poor and/or infirm father.<sup>43</sup> There is though no obvious trend in these surrenders and no evidence that any individual or individuals engrossed the land of their poorer neighbours; nor is there any sense that the lord sought to recover holdings or to draw them back into the demesne. In the record of John de Pickestok's entry into the land previously held by William Medek in May 1326 it was noted, for instance, that the land had been in the lord's hands for four years previously for want of tenants.<sup>44</sup> In other instances, there is some indication that the departing tenant had tried to lease out the land because of his or her poverty; in such cases, the incoming tenant may have been the lessee or the lord may have insisted on a new tenant to hold on customary terms.<sup>45</sup>

In only a very few instances does incidental evidence relating to the incoming tenants suggest the kind of individual described by Tawney as 'a bugbear in the medieval village'.<sup>46</sup> For instance, Roger Cragh, who took on a holding vacated by his brother on account of poverty, clearly met some of our expectations for such a role, judging only by the entries recorded from the Great Court at Ruthin. As well as serving as pledge on more than occasion, he was also involved in more nefarious activity, including more than one instance of physical assault upon his fellow villagers,<sup>47</sup> stealing a seedling tree and putting it in his garden,<sup>48</sup> the theft of sheaves in autumn, the burning of hedges, and reaping the meadows of his neighbours by night,<sup>49</sup> false claims in litigation,<sup>50</sup> usury,<sup>51</sup> and alleged theft of meat.<sup>52</sup> Ithel ap Einion, a frequent pledge and juror in the Great Court at Ruthin also suggests, in his activity, both a degree of aggressive acquisitiveness in the buying of land as well as a commitment to litigation. At the commote of Llanerch, in October 1331, Ithel ap Einion brought an eventually successful plea of unjust detention for the recovery of '1 book of Welsh history' but also showed some entrepreneurial intent in securing rights to land. In December 1331, Ithel ap Einion was admitted to a tenement at Llanerch which Bleddyn ap Iorwerth de Lyslanner had surrendered to the lord on account of his poverty; when, in February 1334, Bleddyn, described as the lord's bondsman and a former tenant of a certain bond tenement which he had relinquished 'a long time ago [because of] poverty', requested admission to the same holding and offered to pay an effective heriot (*ebediw*) of 7s. 6d.<sup>53</sup> Ithel appears to have resisted the (re-)admittance of Bleddyn, requesting that the tenement be delivered instead to him for rent due as well as offering to pay 20s. to enter (or perhaps actually retain) the property.<sup>54</sup> Later in the same year, in September 1334, in a highly unusual entry, Ithel ap Einion received 'from grant of the lord certain bond land which is usually bond...[to hold] by charter for ever by rent and services', paying the lord 26s. 8d. for entry.<sup>55</sup> Such activity, including the capacity to persuade the lord to adjust the tenure of land to freehold, suggests that Ithel was a tenant the lord was keen to preserve



and that Ithel had the capacity to oust another tenant. Such activity at Dyffryn Clwyd was though, judging by the surviving record, quite unusual.

In fact, there is greater evidence for some at least of the new tenants being obliged to take on the holdings because they were the lord's bondsmen; such was the case at the commote of Trefor and Clocaenog, within the lordship of Dyffryn Clwyd, where in November 1340 a presentment from the vill of Trefor noted that the vill was 'so burdened by customary and labour services that a large part of the vill is in eschaet'; as a result, those able-bodied but landless bondsmen of the lord, nine of whom were identified, should 'be compelled to accept land there'.<sup>56</sup> In later entries in the same court, we find members of these previously landless bondsmen apparently forced into tenancies. So, in January 1341, Ieuan ap Iorwerth ap Rhys and Bleddyn ap Iorwerth ap Madog took half of the 16 acres previously held by Ieuan's brother, Bleddyn, paying nothing for entry fine 'because they are compelled to receive it'.<sup>57</sup> A similar occurrence is recorded in the commote of Dogfeiling from a few years later; in January 1346, as Ieuan ap Dafydd was unable to hold his tenement, Madog the son of John came and took 2.5 acres to hold for ever for services to the lord, again paying no entry fine because he was compelled to take on the land; in the same court, two other new tenants, Dafydd ap Ieuan and Heilyn ap Madog Loyd, each received 2.5 acres from the same holding and on the same terms.<sup>58</sup> In short, it is not at all evident that most of the incoming tenants were distinctive or especially more able or better placed to acquire the land, even allowing for the occasional but often inconclusive indication that the incoming tenant was operating from a position of relative advantage.<sup>59</sup> Such activity by a scattering of potentially wealthier, or in some instances slightly less poor but compelled, peasant purchasers clearly did not amount to large-scale expropriation and, as follows, for a number of fairly evident reasons.

In the first instance, and in contrast to developments in the fifteenth century, it seems highly likely that most of the wealthier potential purchasers/expropriators amongst the peasantry were insufficiently capitalised, as the example of Roger Cragh of Dyffryn Clwyd may suggest, to drive through wholesale redistributions of property. Even in areas of England and Wales where there is early evidence for an especially active peasant land market and indication of a degree of aggressive acquisitiveness, any evidence of expropriation through the buying up of neighbours' lands is reasonably limited. In his study of the land market on the Suffolk manor of Redgrave, Richard Smith has illustrated the ways in which individuals might accumulate reasonably large holdings and for the ratio of sellers to buyers to be typically positive. However, such accumulation was seldom significant in terms of polarizing landholding or establishing long-lasting larger peasant estates; most of these peasant portfolios were constructed from the purchase of very small units of land, those units representing either small, inter-changeable units typically moving back and forth between families according to need or desperation sales by the near-landless. In fact, Smith found that such piecemeal accumulations amounting to a few acres often lasted no more than a single generation and were soon dispersed.<sup>60</sup> Bruce Campbell has also described the morcellation of landholding at Coltishall (Norfolk) in the pre-plague period, with impecunious sellers obliged to sell land in order to afford food; importantly here Campbell also suggests that peasant

buyers were also insufficiently wealthy to establish larger portfolios of landholding.<sup>61</sup> J.A. Raftis and others have though described the relative wealth and capacity of larger villein tenants, rich in both capital and family size; we might then expect to discover examples of relatively secure and capital-rich peasants able to employ their advantage by buying out their poorer neighbours, such as cottagers.<sup>62</sup> Certainly, when we turn to the tenurial structures as evidenced in the surveys and custumals of the twelfth and thirteenth centuries we can see plentiful indication of variety in the extent of peasant landholding, sufficient to suggest a co-existence of substantial and less substantial peasant landholders within close proximity.<sup>63</sup> That said, we find relatively little indication that wealthier customary tenants in champion England engaged purposefully in a market in smaller plots of land or at least in significant attempts to accumulate and engross such units. M.M. Postan, as is well-known, in fact suggested that a reciprocal exchange of small plots, operating beyond the core units of peasant landholdings, allowed a process of natural selling and buying, with peasant engagement in an *inter-vivos* transfer of land encouraged as much and more by changing family size as by any economic or maximising imperative.<sup>64</sup> While such a view has tended to over-emphasise demographic factors at the expense of the economic and commercial factors that could drive exchange and reallocation in small plots, the contention that larger customary landholders in the period before the Black Death did not tend to engross the land of smallholders has been generally accepted by proponents of both demographic and commercial explanations of exchange.<sup>65</sup>

Though it is less easy in this context to identify significant processes of fragmentation and accumulation, transfers in free land also indicate, as Margaret Yates has shown, that, especially in the early fourteenth century, relatively poor free tenants were extensively involved in the sale of small plots.<sup>66</sup> This is especially evident on the estates of Peterborough Abbey where villein 'kulaks' appear to have purchased small plots of free land often with the intention of providing their offspring with these same units.<sup>67</sup> While, in some respects, this is potential evidence for engrossment by wealthier peasants, those with landholdings that were relatively larger and more secure than those of their neighbours, it does appear to have been partial and, given there has been relatively little study to date of the peasant market in free land in this period, the overall impact upon the free tenantry has been hardly considered by historians.<sup>68</sup> The piecemeal accumulation of odd acres and smaller fractions, as evidenced in the *Carte Nativorum* of Peterborough Abbey, does not, as also above in the case of smaller units of unfree land, suggest the large-scale engrossment and redistribution of land suggested by the more typical interpretation of expropriation. While it does remain possible that in some parts of the country, especially those parts in which free land was extensive, sales of small plots of free land by an immiserated free peasantry came close to a process of expropriation occasioned by significant economic differences between purchaser and seller, such a process of engrossment, either by fellow wealthier peasants or other, non-peasant, freemen, was not wholesale or close to complete in this period, as is reflected in the persistence of very small plots of free land held by peasant proprietors.<sup>69</sup>

Allied to the lack of available capital sufficient to promote polarization we might also note regional distinctions that served to discourage expropriation in the earlier period. So, for instance, while a relatively precocious market in unfree land existed

in parts of eastern England by the thirteenth century, facilitating a potential redistribution and polarization of landholding, landholding was also greatly fragmented by this period with a heavy preponderance of small units of land; in effect, there was little opportunity to accumulate large holdings easily and efficiently and with a minimum of transaction costs. In fact, in these areas a general process of immiseration allied to morcellation of peasant holdings held sway. The heightened population density of parts of East Anglia by the early fourteenth century reflects the likely in-migration of a relatively poor small-holding population which survived through a combination of landholding and by-employment. By contrast, in parts of the country, such as the central champion belt, where lords had jealously guarded their tenanted holdings and insisted on their retention as viable units (*terra unius familie*) in order to support demesne operations, the opportunities to accumulate large estates, viable in terms of size of landholding, were greatly limited by institutional constraints, as already noted in section 1. To this we might also add the possibility of an innate conservatism on the part of peasant families, eager not to allow holdings to move from beyond the family or the kin group; the preponderance of transfers that were *post-mortem* rather than *inter-vivos*, as evidenced on some manors throughout the later middle ages, may speak to a shared desire, of lords and their tenants, to retain holdings within particular peasant family lineages. As Jane Whittle has effectively discussed, medieval historians should not be too reliant on such potential determinants of landholding and transfer as emotional attachment; she notes that rather than seek to identify a dilution of peasant emotional attachment to holdings we should instead recognise that medieval peasants tended to respond to changed circumstances. Notably, as opportunities to alienate land increased, especially through a declining seigneurial authority over customary land and its transferability, so peasants were more able to engage in an increasingly fluid land market. It was not, as we have also seen, until such constraints were eroded that the opportunities for accumulation and expropriation followed and, as Whittle has cogently proposed, markets in land became less 'peasant-like', which is to say quite inconstant in its velocity and typically involving small landholders and, likewise, small units of land.<sup>70</sup> T. Jones Pierce has described a similar development for high and later medieval Wales, whereby communal attachment to the notion (which was also buttressed by Welsh law) of the inalienability of the familial holding, *gwely*, was gradually eroded in the face of new pressures and demands.<sup>71</sup>

### 3. Debt and trespass as potential indices of reduced property rights

Given the kinds of tenurial and other institutional constraints that may have served to limit the likelihood of peasant expropriation of peasant land in the period, we might usefully look elsewhere for such evidence. A further line of investigation in relation to possible avenues to the expropriation or reduction of property rights in pre-Black Death medieval England and Wales relates to evidence of the willful invasion of property rights in a context where it is at least possible to identify one party as seeking to force the other from the enjoyment of the benefit of their property. Aside from the contractual relationships, including those founded on credit agreements to be discussed later in this section, non-contractual, tortious,

interactions such as trespass provide some inroad into this contestation over property rights and an initial glimpse into unequal power relationships that might lead to an effective reduction or annihilation of an individual's property rights. In this respect, we can consider evidence for trespass litigation in manorial courts associated with cases of depasturing or the invasion, often with livestock, of another's pasture or crops. We might here at least anticipate that, in a context where the limiting consequences of tenure or contractual relations that failed to involve land no longer applied, we will find evidence of an unequal distribution of power and the restriction of property rights through coercion. In fact, we tend to find that a good deal of such trespass, which was frequently recorded in manorial courts from this period, suggests retaliatory acts consistent with ongoing disputes between neighbours, and that these do not speak to significantly uneven power relations. Kilby notes, in her investigation of trespass on the manor of Walsham-le-Willows (Suffolk) that seemingly petty acts of trespass were carried out by both parties as elements of ongoing disputes.<sup>72</sup> On the Warwickshire manor of Halesowen, to give a further instance, we can detect similar evidence of reciprocal trespass events, with both parties accusing the other of trespass in their pasture with livestock and evidence of some families or individuals appearing quite frequently both as perpetrators but also as victims of trespass.<sup>73</sup> Also, at Littleport (Cams.) in a court held on 13 August 1316, a pig of John de Elm damaged the house of William Hamle and also 'depastured' his grain while John himself, a frequent Littleport litigant in trespass and in debt, kicked in the walls of William's house to William's damage; earlier in the same court it was recorded that William was in John's debt for a loan of 4d.<sup>74</sup> Cases such as this, even where they reflect disputes over fairly small sums, might indicate some level of challenge to peaceful possession of property but they hardly identify a process whereby poor tenants were consistently forced from enjoyment of their land by more powerful peasants or other landholders. In such cases there is, as yet, little evidence that trespass, involving acts of 'depasturing', reflected uneven power structures and a redistribution of resources consequent upon pre-existing relations between the parties. Indeed, not all such invasions of property and acts of willful destruction were conducted by the powerful against those who were necessarily weaker; on occasion, acts of destruction in crops involved those who were challenging the power and authority of social and economic superiors, as in May 1326 in Dyffryn Clwyd where a gang of named men who were deliberately trampling the crops of lord Robert de Asphale, turned on his servant, Ralph de Whitchurch, who had challenged them on account of the trespass and beat him to death.<sup>75</sup> Instead, in the frequent accounts of damage and destruction of the property and crop of other tenants we tend to find evidence of the limited and transient inequalities of the medieval village in the period before the Black Death where unevenness of power existed but was typically insufficiently developed or secure to associate such acts with uniquely powerful perpetrators.

In this respect, a further important element that can be considered in examining potential causes of expropriation, either of land or of other peasant property rights, in the decades either side of 1300 is indebtedness. Credit arrangements involving peasant proprietors were extensive by the end of the thirteenth century, by which point we are reasonably well placed to see them in our sources, especially in the records of local manorial courts.<sup>76</sup> Credit was also supported by various

forms of security. Only occasionally however were sealed documents used in securing peasant debt and land, it appears, was used hardly at all.<sup>77</sup> It seems likely that an important reason why uneven credit agreements were ill-supported by immovable security, i.e. land, is that neither business efficacy nor the expectations of the creditor required it. This may have been especially the case in terms of wealthier, external creditors, operating from neighbouring villages or, more likely, local or regional towns. To give one example, a series of pleas in debt and detinue by a non-resident creditor, possibly a grain factor, Stephen de Haukedon, against three villagers at Great Barton (Suffolk) indicates the size of debts that might be supported by oral and basic written securities rather than sealed bonds.<sup>78</sup> Furthermore, it is also more than probable that external creditors, such as de Haukedon, had no need of such an arrangement. In the first instance, they were able to trust to practice and the processes that facilitated recovery as well as their own capacity as local factors or merchants in managing such agreements to their own advantage; as importantly, customary land held by their debtors, associated with villeinage and its restrictions, as we have already discussed, offered little enticement as security. As such, credit arrangements of this kind, while they might be immiserating and significantly damaging to the capital flow within local communities – with consequences for the ability of peasant landholders to retain their land in the longer term for the reasons outlined in section 2 – did not typically and directly lead to confiscation and de facto expropriation of holdings by such creditors.<sup>79</sup> One potential consequence, as Briggs notes in a discussion of peasant mortgages in medieval England, is that the lack of credit arrangements secured by land meant that credit agreements, even when quite large as in the example offered above, were still perhaps smaller in scale than comparable arrangements in those parts of medieval Europe where credit secured on land was common. Briggs' discussion of credit extended on manors with some atypical evidence of mortgage arrangements suggests that there is no firm indication that land-secured credit was likely to be greater in its extent than credit offered against other forms of security.<sup>80</sup>

Might we though expect some degree of expropriation linked to peasant indebtedness where both parties were customary tenants within the same manorial community but where one of the two parties, the creditor, was wealthier? This question returns us to the discussion of the nature of the peasant land market, already considered in an earlier section (2) of this article. There seems to be little doubt that one facet of unequal relationships in the medieval village was indebtedness. Interaction between wealthy peasant creditors and their poorer, debtor, neighbours can be identified in manorial court rolls from the thirteenth and fourteenth centuries and there is some, limited, indication that these relationships, founded on indebtedness, led to a redistribution of land. So, for instance, at Hinderclay (Suffolk), at the close of the thirteenth century, we find that of 35 debt cases recorded between 1292 and 1297, nine involved creditors who were buyers of land and 12 involved debtors who were also sellers; no debtor purchased land in this period and the majority of creditors did not sell land.<sup>81</sup>

Whether, though, such exchanges were closely and directly associated with credit arrangements remains uncertain and may in fact be open to doubt. At Dyffryn Clwyd, in the Great Court of Ruthin in the first third of the fourteenth century, a number of individuals were amerced for engaging in usury and, while some

individuals were quite clearly regular creditors lending at interest, there is little direct evidence that they secured their loans with land or sought to recover land as a result of the indebtedness of their clients.<sup>82</sup> In the two instances where loans were evidently secured at all, one involved a loan from Hywel Saer to Emma de Grang' in October 1322 of 4s. for a month with interest of 12d., supported by a gage of 5s., while a two-week loan of 2s. 6d. undertaken by Margery Molydaunce in May 1335 with interest of 4d. was secured by a gage of one surcoat lined with fur.<sup>83</sup> In fact, the majority of usurious contracts tended to be unsupported by security of any kind; further, the contracts were typically at short term and at varying but often high rates of interest. Of the fifteen amercements for usury recorded in the Great Court in which the term of the contract was given, ten were for terms of one month or less, including four terms of a single week.<sup>84</sup> The longest recorded term within these cases was a 3-year term for a loan of 20 hopae of wheat, the interest, deemed to be usurious, being possession of a house for the length of the term.<sup>85</sup> This is, in fact, the only reference to immoveable property within the 27 usurious credit contracts recorded in the Dyffryn Clwyd Great Court for the first three and more decades of the fourteenth century; as importantly, there is little or no cross-over between the individuals named as usurers and the identifiable purchasers of land in this same period. In short, the individuals who were able to purchase land because of the poverty of the outgoing tenant were not, typically, money-lenders and, as Matthew Stevens has described, the credit market at Dyffryn Clwyd in this period was as under-capitalised as was the market in land.<sup>86</sup>

Despite this evidence to the contrary, we should certainly not entirely dismiss the notion that credit mechanisms of a limited kind influenced the tenure and transfer of peasant-held land in this period or that the existence of credit mechanisms could lead to an adjustment in property rights. In the first instance, if the evidence of usurious contracts at Dyffryn Clwyd offers little to associate credit agreements and land, the presence of usurious contracts does, in and of itself, speak to the pressures that encouraged those lacking the necessary resources to jeopardise their own security in order to improve their general position. A developing recognition in the community that credit relations of this kind were necessary to the function of local economies is suggested in the occasional amercement by the lordship of local communities for the concealment of usurious contracts. So, for instance, in April 1316 the vills of Lanueyr and Lanbenegh were amerced half a mark between them for failing to report the usurious activity of Dafydd Mon de Lanueyr.<sup>87</sup> Furthermore, we are also aware of the development, in the later thirteenth and early fourteenth centuries, of increasingly formal mechanisms, especially the short-term leasing of land in the form of a *tir prid* arrangement, intended to allow individuals to by-pass established norms and to facilitate exchange in this period of developing but limited market structures where the balance between seigneurial, communal and familial structures on the one hand, and a market economy on the other, had yet to shift very far in favour of the market. Some at least of the surrenders of bond land at Dyffryn Clwyd, as described above, which granted the incoming tenant a right to hold but also allowed for the reversion of the holding to the departing tenant, hint at the kind of beneficial leasing arrangements familiar in Welsh law in the form of *tir prid*.<sup>88</sup> *Tir prid* was an oft-used device in post-Conquest medieval Wales, a beneficial lease or gage,

intended to grant the lessee a term, which was often quite short, typically four years, but could be significantly longer, up to 100 years. The purpose of *tir prid* was to facilitate alienation of land in a context where lordship or communal convention, or, as Llinos Smith makes clear, statute law,<sup>89</sup> were wholly resistant to the notion of permanent alienation of land associated with the kindred.<sup>90</sup> For the lessor/gagor, the use of *tir prid* was both a way of freeing their capital and generating income and there are plentiful references to the preparedness of tenants at Dyffryn Clwyd to do just that: the court record for the commote of Llanerch records on three occasions in the early-to-mid 1320s that tenants had sought to lease their land 'because of their poverty'.<sup>91</sup> Such action was not without risk to their rights in the property; while in all instances, the lessor/gagor retained a perpetual right of reversion in the property granted at *tir prid*, the likelihood of reversion could, in certain instances, serve as a convenient legal fiction, especially when terms could be extended over many years. Lessor/gagors might enter into agreements with lessee/gagees by which they would cede possession only to re-lease the holding from the lessee/gagee, presumably at interest.<sup>92</sup> Smith notes however that such arrangements seem to have been rare and the rights of the lessor remained relatively secure in most instances, even in exceptional circumstances.<sup>93</sup> So, for instance, the record of the flight of a felon and fugitive, Ieuan ap Philip, who appears to have killed Hywel ap Iorwerth at some point in 1322/1323, revealed that he left behind him a range of moveable goods in his haste to escape justice. As well as the livestock, tunic, wool, hives of bees and a fiddle, he abandoned the land which he held on gage from Hywel ap Dafydd. Hywel ap Dafydd was able to recover the land which he previously had gaged to Ieuan for the considerable sum of £4 6s. 8d. and which was to repaid in three equal portions.<sup>94</sup> On the commote of Llanerch, in the early fourteenth century, occasional references to grants of land through *tir prid* do indicate both the force of such rights held by the lessor/gagor but also evidence the competing claims of lessees/gagees, the latter of a kind that might hint at dilution of the property rights of the lessor/gagor. By the courts of the 1330s it is evident that lessees/gagees enjoyed certain competing rights vis-à-vis the lessor/gagor through the terms of the *tir prid* contract. For instance, in September 1334 at Llanerch the son and heir of Rhirid ap Heilyn de Carhkanan, sought to enter a free tenement in Carhkanan even though the holding was presently held by a third party, the prior of Ruthin in this instance, as *tir prid*; the land was granted to him in so far as he could meet the obligation of the lessee/gagee.<sup>95</sup> Earlier in the same year, in February 1334, an attempt by the grantor, Morgan ap Carwed, to recover land in *tir prid* originally granted to Bleddyn Goh ap Bleddyn was rejected and the grantee, ap Bleddyn, was permitted 'to have the land in peace in accordance with the covenant made between them'.<sup>96</sup> For the early fourteenth century, at Dyffryn Clwyd, such occasional entries speak to the vulnerability of landholding and offer an indication that land might indeed be used in some limited form as security in credit arrangements; however, it seems as likely that the kinds of economic stratification and inequality, which the existence of usurers and beneficial leasing arrangements indicate, propelled a few individuals into loss of their land as that particular credit and leasing arrangements directly effected a more general loss of landholding or that we witness in such cases strong and consistent evidence for the retained possession but diluted

property rights described elsewhere in this collection of essays. The competing claims associated with mechanisms such as *tir prid* were, as R.R. Davies makes clear, extended in the later middle ages as the seigneurial and communal conditions over alienation gave way to the expectations of parties involved in an increasingly active land market but such developments were no more than piecemeal and incipient in the decades before the Black Death.<sup>97</sup>

#### 4. Conclusion

In the later thirteenth and early fourteenth centuries, in England and in Marcher Wales, potential expropriators, be they local lords, entrepreneurs or even wealthy neighbouring peasants, appear not to have had the impetus or, in some cases, the capacity to drive through expropriation of a kind witnessed and often described in later centuries. It is though worth reflecting, in conclusion, that this is not to say that some element of challenge to pre-existing property rights did not take place. A striking observation in Amos Nadan's paper in this edition is that a slow erosion of poorer peasants' tenure of land, occasioned by default on debts secured through landholding, promoted a long-term expropriation of the poorer Palestinian landholders. It is certainly reasonable to assume in the case of later thirteenth and early fourteenth century England that some poorer tenants, both free and unfree, were eased from their lands and into landlessness in this period of high prices, land hunger and sustainability crises. During famine years in particular there is also plentiful indication of poorer tenants deserting their holdings and leaving estates in order to seek better opportunities elsewhere. As we have already seen, we should not dismiss the possibility that land held by some of the poorest subgroups of the peasantry was effectively reallocated in this period, though any such process would be partial and, as we have seen, smaller in scale than processes of expropriation identified for later centuries.

We might also suppose, in a period that is now characterised, more than once it was, in terms of commercial opportunity and the influence of the market, that some reassessment of a nineteenth-century chronology of expropriation would be ripe for challenge. Instead, for the earlier period at least, the modern historical investigation of peasant land markets, inter-peasant litigation, and commercial exchange within the medieval countryside and amongst the peasantry, has tended to add nuance and detail to a characterisation of the medieval village dependent upon an earlier historiography and conception of the nature of exchange and economic interaction. As such, we might take inspiration from the analyses of other historical developments in this respect, as also set out in other studies in this collection of papers, that led not to expropriation but to some more limited but highly significant reallocation of property rights; in such instances, processes akin to expropriation were not necessarily confined to the reallocation of land from peasant to their socio-economic superiors but instead could accommodate continued possession of land alongside a reduction in property rights, a reduction measured in terms of the quality of tenure or the loss of control over assets and moveables. In the context of an early shift towards commercialisation, as has been evidenced for the medieval countryside from at least the thirteenth century, we might then anticipate oblique indications of expropriation or the developing opportunity to adjust property rights



consistent with both the retention of land by sections of the peasantry, both free and unfree, and the growing presence of factors, such as *tir prid* or developing markets in land and credit, that would, over time, lead to an increasingly uneven distribution in security and in goods.<sup>98</sup>

## Notes

- 1 Karl Marx and Friedrich Engels, *Capital: A Critique of Political Economy* (New York, 1967).
- 2 R. Brenner, 'Agrarian Class Structure and Economic Development in Pre-Industrial Europe', *Past and Present* 70 (1976), 30–75, reprinted in Trevor H. Aston and C. H. E. Philpin (eds.), *The Brenner Debate: Agrarian Class Structure and Economic Development in Pre-Industrial Europe* (Cambridge, 1985), 10–63.
- 3 Brenner, 'Agrarian Class Structure and Economic Development'.
- 4 R. M. Smith, 'Some Thoughts on 'Hereditary' and 'Proprietary' rights in land under customary Law in Thirteenth and Early Fourteenth-century England', *Law and History Review* 1 (1983), 95–128; Richard M. Smith (ed.), *idem*, 'Some Issues Concerning Families and their Property in Rural England 1250–1800', in *Land, Kinship and Life-Cycle* (Cambridge, 1984), 1–86.
- 5 R. H. Hilton, *The economic development of some Leicestershire estates in the fourteenth and fifteenth centuries* (Oxford, 1947), 100.
- 6 B. F. Harvey, *Westminster Abbey and its estates in the middle ages* (Oxford, 1977).
- 7 P. R. Schofield, 'Extranei and the tenure of customary land on a Westminster Abbey manor in the fifteenth century', *Agricultural History Review* 49 (2001), Table 1, p. 5.
- 8 Harvey, *Westminster Abbey and its estates*.
- 9 J. Whittle, *The development of agrarian capitalism. Land and labour in Norfolk, 1440–1580* (Oxford, 2000), 200–1; Schofield, 'Extranei'.
- 10 Whittle, *Development of agrarian capitalism*, 308–9.
- 11 R. Brenner, 'Property and progress: where Adam Smith went wrong', in C. Wickham ed., *Marxist history writing for the twenty-first century* (Oxford, 2007), 87–9, and 'Introduction'.
- 12 E. A. Kosminsky, *Studies in the agrarian history of England in the thirteenth century* (Oxford, 1956), 197–8.
- 13 Kosminsky, *Studies in the agrarian history of England*, 210.
- 14 Kosminsky, *Studies in the agrarian history of England*, 197–8.
- 15 M. M. Postan, 'The Charters of the Villeins', in C. N. L. Brooke and M. M. Postan (eds.), *Carte Nativorum* (Northants., 1960), xxviii–lx; reprinted in M. M. Postan, *Essays in Medieval Agriculture and General Problems of the Medieval Economy* (Cambridge, 1973), (all subsequent references are taken from the *Carte Nativorum* edition). For a discussion of the same and how discussion of the peasant land market reflected Postan's broader view of the economy, see P. R. Schofield, 'M. M. Postan and the medieval peasant economy', in J. Drendel ed., *Crisis in the later middle ages. Beyond the Postan-Duby paradigm* (Turnhout, 2015), 73–93.
- 16 Postan, 'Charters of the villeins', xxxv; the consonance with a Marxist interpretation of 'risk averse' and largely static peasant landholders is striking in this respect; Brenner, 'Property and progress', 86–8; Schofield, 'Postan and the medieval peasant economy', 81–2.
- 17 P. R. Hyams, 'The origins of a peasant land market in England', *Economic History Review* 23 (1970), 18–31; for later studies, see, for example, B. M. S. Campbell, 'Population pressure, inheritance and the land market in a fourteenth-century peasant community', in Smith ed., *Land, Kinship and Life-cycle*, 87–134; Smith, 'Families and their land'; P. R. Schofield, 'Dearth, debt and the local land market in a late thirteenth-century Suffolk community', *Agricultural History Review* 45 (1997), 1–17. For a much earlier identification of an acquisitive market in customary land in eastern England, see W. Hudson, 'The Prior of Norwich's manor of Hindolveston: its early organization and rights of the customary tenants to alienate their strips of land', *Norfolk Archaeology* 20 (1921), 179–214.
- 18 C. D. Briggs, *Credit and village society in fourteenth-century England* (Oxford, 2009); P. R. Schofield, 'L'endettement et le crédit dans la campagne anglaise au Moyen Âge', in Maurice Berthe ed., *Endettement paysan et crédit rural dans l'Europe médiévale et moderne. Actes des XVIIes journées internationales d'histoire de l'Abbaye de Flaran*, Septembre 1995 (Toulouse, 1998), 69–97.

- 19 Kosminsky, *Studies in the agrarian history of England*, 206-8; in fact, the possibility that feudal lords might see pecuniary advantage in a limited and controllable market in customary land has been observed and quantified by Smith, 'Some thoughts on 'Hereditary' and 'Proprietary' rights in Land', 116-17, who notes that on the states of the abbey of Bury St Edmunds (Suffolk) revenue from entry fines exceeded receipts from *post-mortem* transfers.
- 20 G. Clark, 'The long march of history: farm wages, population, and economic growth, England 1209-1869', *Economic History Review* 60 (2007), 97-135.
- 21 Dyffryn Clwyd Court Roll Database, 1294-1422', award numbers: R000232548; R000234070 [hereafter DCCRD followed by the relevant file name and item number]. The database arising from these projects is available for download through the UK data archive at <http://www.data-archive.ac.uk/>. For further information on the database and its source base, see A. D. M. Barrell, *The Dyffryn Clwyd Court Roll Database. A manual for users* (Aberystwyth, undated), available at [ujc61f4.PDF](http://ukdataservice.ac.uk) (ukdataservice.ac.uk). The original records are located in TNA SC2 215/64-218/1.
- 22 R. H. Britnell, *The commercialisation of English society, 1000-1500* (Cambridge, 1993; republished by Manchester University Press, 1996).
- 23 B. M. S. Campbell, 'Land markets and the morcellation of holdings in pre-plague England and pre-famine Ireland', in Gérard Beaur, P. R. Schofield, Jean-Michel Chevet and María Teresa Pérez Picazo† eds., *Property rights, land markets and economic growth in the European countryside (thirteenth-twentieth centuries)* (Turnhout, 2013), 209.
- 24 Harvey, *Westminster Abbey and its estates*; P. D. A. Harvey ed., *The peasant land market in medieval England* (Oxford, 1984), and above, n. 19.
- 25 Harvey, *Westminster Abbey and its estates*.
- 26 Westminster Abbey Muniments 25423, 25424.
- 27 P. Franklin, 'Peasant Widows' 'Liberation' and Remarriage before the Black Death', *Economic History Review* 39 (1986), 186-204.
- 28 J.A. Raftis, *Peasant Economic Development within the English Manorial System* (Montreal, 1996).
- 29 DCCRD, 'Forties'.
- 30 See, for example, DCCRD, 'Roll1', n. 926: Llannerch, 22 Mar 1341, Madog ap Cyn held from the lord 12 acres of bond land in Arthergfa but left the lordship because of poverty. Madog ap Dafydd takes the land to hold by service. It is noted that if Madog ap Cyn should return to the lordship and satisfy Madog ap Dafydd for the expenses incurred, he should recover his land.
- 31 DCCRD, 'Forties'.
- 32 DCCRD, 'Forties', n. 806.
- 33 See, for example, P. Glennie, 'In search of agrarian capitalism: manorial land markets and the acquisition of land in the Lea valley, c. 1450-c. 1560', *Continuity and Change* 3 (1988), 20-30; E.M. Carus-Wilson, 'Evidences of industrial growth on some fifteenth-century manors', *Economic History Review* 12 (1959), 204; J. Hatcher, *English tin production and trade* (Oxford, 1973), 57, 80; *idem*, *Rural economy and society in the Duchy of Cornwall, 1300-1500* (Cambridge, 1970), 238-40, 243-5; I. Blanchard, 'The miner and the agricultural community in late medieval England', *Agricultural History Review* 20 (1972), 96-8; *idem*, 'Industrial employment and the rural land market', 241-54; J. N. Hare, 'Growth and recession in the fifteenth-century economy: the Wiltshire textile industry and the countryside', *Economic History Review* 52 (1999), 10, 20-1; Whittle, *Development of agrarian capitalism*, 200-1; Schofield, 'Extranei'.
- 34 D. Stone, *Decision-making in medieval agriculture* (Oxford, 2005).
- 35 P. R. Hyams, *Kings, lords and peasants in medieval England. The common law of villeinage in the twelfth and thirteenth centuries* (Oxford, 1980), 53-60.
- 36 DCCRD 'forties', n. 273.
- 37 DCCRD 'forties', n. 967. This was clearly not a consistent position at Dyffryn Clwyd; in other instances from the same period we find examples of freemen denying the lord's claim that they were his villeins (DCCRD, 'forties', n. 693) and also freemen taking on bondland but without the evident need to accept bond status, DCCRD, 'forties', nn. 582, 728, 818, 1503.
- 38 See, for instance, Postan, 'Charters of the Villeins', xliiii-xliv; E. King, *Peterborough Abbey, 1086-1310. A study in the land market* (Cambridge, 1973).
- 39 P. R. Schofield, 'The social economy of the medieval village', *Economic History Review* 61, S1 (2008), 38-63.
- 40 P. R. Schofield, 'Peasants and the manor court: gossip and litigation in a Suffolk village at the close of the thirteenth century', *Past and Present* 159 (1998), 3-42.

- 41 DCCRD, 'reliefs', nn. 274, 275, 286, 322, 323, 311, 395. See also P. R. Schofield, 'Wales and the Great Famine of the early fourteenth century', *Welsh History Review* 29, 157 (2018), 166; on poverty as a reason to sell holdings on the Winchester estates, see J. Mullan and R. Britnell, *Land and family. Trends and local variations in the peasant land market on the Winchester bishopric estates, 1263–1415* (Hatfield, 2010).
- 42 DCCRD, 'llan1', n. 2136.
- 43 DCCRD, 'llan1', nn. 1315, 1386, 1435, 2090 (father deceased), 2261 (association by name only).
- 44 DCCRD, 'llan1', n. 1674.
- 45 DCCRD, 'reliefs', nn. 322, 323, 331. All such entries are clustered in 1317. R. R. Davies, *Lordship and society in the March of North Wales 1282–1400* (Oxford, 1978), 143–4.
- 46 R. H. Tawney, *The agrarian problem in the sixteenth century* (London, 1912), 81.
- 47 TNA SC2 215/72, m.1; Great Court of Dyffryn Clwyd, 18th October 1312; 215/73, m.25, Great Court of DC, 24th April 1314; 216/3, m.21, Great Court of DC, 22nd October 1320.
- 48 TNA SC2 215/72, m.14d, Great Court, 2nd May 1313.
- 49 TNA SC2 215/73, m.25, Great Court of DC, 24th April 1314.
- 50 TNA SC2 215/73, m.25, Great Court of DC, 24th April 1314.
- 51 TNA SC2 215/75, m.17d, Great Court of DC, 28th April 1316.
- 52 TNA SC2 215/76, m.16d, Great Court of DC, 20th April 1317. Similar instances from elsewhere are equally ambiguous. On the manor of Wakefield (Yorks.) in the later thirteenth century there are also occasional indications of the possibility that the relatively wealthy might seek to move poorer tenants aside. So, for instance, in 1277, Dyana, the wife of Adam Balle, claimed that Richard de Pynigton had deforced her from a term of three years for land held from him; Richard denied this saying that Dyana had freely surrendered the term and he had forgiven her a fine for deterioration of buildings, on account of her poverty. While this defence was accepted by jurors in a subsequent court, who also pardoned Dyana's false claim because of her poverty, the plea of deforcement in this instance was founded upon the possibility that a poor lessee might be ejected from her term, *Court rolls of the manor of Wakefield, Volume I, 1274–1297*, ed. W.P. Baildon (Yorkshire Archaeological Society, Record Series, XXIX, 1900), 166, 171.
- 53 DCCRD, 'Llan1', n. 2413.
- 54 DCCRD, 'Llan1', nn. 2050, 2413.
- 55 DCCRD, 'Llan1', n. 2537.
- 56 DCCRD, 'forties', n. 504; TNA SC2 217/6, m. 13. Of the 9 tenants listed, 3 were released, one because he was a freeman, and 2 because they were paupers, one of whom was also 'old and weak'.
- 57 DCCRD, 'forties', n. 509.
- 58 DCCRD, 'forties', nn. 1250–1252. Similar examples can be found from the commotes of Trefor and Clocaenog, Dogfeiling, and Llanerch from the 1340s, viz. DCCRD, 'forties', nn. 318, 319, 982, 1042, 1307–10 (the latter entries all in Sep. 1349 and presumably reflecting a concentration of plague deaths).
- 59 DCCRD; 'reliefs'.
- 60 R. M. Smith, 'Families and their land in an area of partible inheritance: Redgrave, Suffolk 1260–1320', in Smith ed., *Land, Kinship and Life-cycle*, 135–95.
- 61 Campbell, 'Population pressure, inheritance and the land market', 107–20.
- 62 Raftis, *Peasant Economic Development*; Z. Razi, *Life, marriage and death in a medieval parish. Economy, society and demography in Halesowen, 1270–1400* (Cambridge, 1980).
- 63 Kosminsky, *Studies in the agrarian history of England*; P. R. Schofield, 'Lordship, land markets and the response to environment' in M. Kowaleski, J. Langdon and P. R. Schofield eds., *Peasants and lords in the medieval English economy. Essays in Honour of Professor Bruce Campbell* (Turnhout, 2015), 201–24.
- 64 Postan, 'Charters of the villeins', xxxiv–xxxv; as is well known, Postan was reflecting, if not engaging directly with, the ideas of Alexander Chayanov; see, for instance, P. R. Schofield, *Peasants and Historians. Debating the medieval English peasantry* (Manchester, 2016), 129–30.
- 65 Instead, we have to wait until the post-plague period for consistent evidence of such behaviour, P. D. A. Harvey, 'Conclusion', in *idem* ed., *The peasant land market in medieval England* (Oxford, 1984), 340–4.
- 66 M. Yates, 'The market in freehold land, 1300–1509: the evidence of feet of fines', *Economic History Review* 66 (2013), 579–600.
- 67 King, *Peterborough Abbey*, 124–5.
- 68 On the market in free land in the middle ages, see P. R. Schofield, 'The market in free land on the estates of Bury St Edmunds: sources and issues', in L. Feller and C. Wickham, eds., *Le marché de la terre au Moyen Âge* (Rome, 2005), 273–95; Schofield, 'Lordship, land markets and the response to environment'.

69 Kosminsky, *Studies in the agrarian history of England*, 227–8; see also B. M. S. Campbell, ‘The agrarian problem in the early fourteenth century’, *Past and Present* 188 (2005), 3–70 and *idem*, ‘Land markets and the morcellation of holdings’.

70 J. Whittle, ‘Individualism and the Family-Land Bond: A reassessment of land transfer patterns among the English peasantry c. 1270–1580’, *Past and Present* 160 (1998), 25–63, and see especially, 59–62.

71 T. Jones Pierce, ‘Social and historical aspects of the Welsh laws’, in J.B. Smith ed., *Medieval Welsh Society. Selected essays by T. Jones Pierce* (Cardiff, 1972), 360–7.

72 S. Kilby, ‘Mapping peasant discontent: trespassing on manorial land in fourteenth-century Walsham-le-Willows’, *Landscape History* 36 (2015), 73.

73 Birmingham City Archives [hereafter BCA] 346280 verso – 346910 verso, courts of 10 December 1337 – 10 December 1345. The relatively frequent appearance of families such as the de Mouhlowes and the Louecoks in depasturing claims and often as perpetrators may hint at a pattern of behaviour but is insufficient to suggest a campaign aimed at reducing the property rights of others.

74 Cambridgeshire Record Office R 93/96, court of 13 August 1316.

75 TNA SC2 216/6, m. 21. The same is evident at Halesowen where the vicar of Halesowen was a victim of depasturing; see, for example, BCA 346290, court of 1 September 1338, where Matthew vicar of Hales sued three different individuals for depasturing.

76 Briggs, *Credit and village society*; Schofield, ‘L’endettement et le crédit dans la campagne anglaise’

77 Briggs, *Credit and village society*, 79–95; Schofield, ‘L’endettement et le crédit dans la campagne anglaise’, 79–85.

78 Separate pleas against Alex Raysun for one quarter of wheat (worth 16s.), one and a half quarters of rye (worth 21s.), and 4 bushels of oats worth 5s.; Richard Lucas for 5 bushels of wheat worth 10s and 2 bushels of rye worth 3s.; William le Forster for a quarter of wheat worth 17s. and a quarter of beans worth 12s. in the same court and from another party, William le Forster. Suffolk Record Office E18/151/1, Great Barton, court of 17 March 1316.

79 P. R. Schofield, ‘The market, economic growth and famine in the medieval English countryside in the early fourteenth century’, *Questiones Medii Aevi Novae* 20 (2015), 269–84; *idem*, ‘Dealing in crisis: external credit and the early fourteenth-century English village’ in M. Allen and M. Davies eds., *Medieval Merchants and Money. Essays in honour of James L. Bolton* (London, 2016), 253–70.

80 C. Briggs, ‘Mortgages and the English peasantry c.1250–c.1350’ in [editors and book title as given minus full stop], 17–45.

81 Schofield, ‘Dearth, debt and the local land market’, 13–14.

82 Usurers amerced in the Great Court of Ruthin, 1306–1326 (DCCRD ‘GC1’ file): 17 October 1306, William molendinarius; 12 October 1311, Mali le Deye (Malin); 1 May 1313, Madog Caghin (Madin); 1 May 1313, William de Beghleg; 9 April 1315, Ieuan ap Meilyr; 28 April 1316, Roger Cragh; 28 April 1316, Ieuan Dew; 28 April 1316, Dafydd Mon de Lanueyr; 19 April 1317, Bleddyn ap Cyn Gogh de Colyan; 19 April 1317, John son of Maud le Deye; 19 April 1317, Maud le Deye; 20 April 1317, Gwenllian daughter of Dafydd Cruthur de Aberquill; 20 April 1317, Iorwerth ap Iorwerth Turnur, father of; 20 April 1317, Bleddyn ap Cyn Gogh; 9 May 1318, Agnes daughter of Adam del Wode; 1 May 1319, Richard Brodeye; 19 May 1321, Tudur ap Morhkat; 20 October 1322, Madog Duy de Maysman; 19 October 1322, Madog ap Dafydd Voyl (twice); 19 October 1322, Adam Len Gynur; 19 October 1322, Hywel Sayr (Saer); 16 October 1324, Cyn ap Madog (Madekin); 2 October 1325, Lleucu daughter of Henry le Ryngeld de Cartcanan; 1 April 1326, Walter Barker; 1 April 1326, Lleucu daughter of Gronw de Lanhanhan; 1 April 1326, Madog Duy de Maism; Michaelmas 1330, Einion Wyth de Clock; Michaelmas 1330, Madog ap Gwion (Wyan); Michaelmas 1330, ...ap Dafydd; Michaelmas 1330, Iorwerth ap Einion; 29 October 1331, Iorwerth ap Dafydd Voyl; Hywel Saer; 30 October 1331, Madog Duy de [Maismanan]; 30 October 1331, Madog Vaghan ap Gronw; 1331/2, payment of fines to lord for usury: Madog Vagh’ ap Madog ap Gronw; Dafydd ap Gwion; Madog Duy de Maismanan, Madog Duy de Aberquill; 28 April 1332, 29 April 1332, Madog Duy de Maismanan; 29 April 1332, Dafydd ap Madog ap Adda (twice); 29 April 1332, Adda ap Madog; Michaelmas 1333, Lleucu daughter of Henry (Hanne); 19 April 1334, Meilyr Loyd; 20 October 1333, Lleucu daughter of Henry; 2 May 1335, Margery Molydaunce; 25 October 1335, Dafydd Duy; 13 October 1339, Einion Duy ap Ithel Loyd; . Accusations and ameracements for usury are not unknown in other seigneurial courts (see, for instance, *Court rolls of the manor of Wakefield, Volume III, 1313 to 1316, and 1286*, ed. J. Lister (Yorkshire Archaeological Society, Record Series, LVII, 1917), 156, 159) but the concentration of ameracements for

usury at Dyffryn Clwyd is atypical and may suggest particular emphases of the jurisdiction rather than a greater than usual propensity to lend with concealed interest.

83 DCCRD, 'gcl' file, nn. 1987, 3555.

84 DCCRD, 'gcl' file, nn. 1740, 1986, 1987, 2092, 2329, 2364, 2414, 2415, 3001, 3033, 3055, 3092, 3169, 3466, 3555.

85 DCCRD, 'gcl' file, n. 3033. A *hopa* is a dry measure of grain; it is used frequently as a measure in the Dyffryn Clwyd records and stands as an equivalent to the bushel more typically used in many contemporary English sources.

86 M. F. Stevens, *Urban assimilation in post-Conquest Wales. Ethnicity, gender and economy in Ruthin, 1282–1348* (Cardiff, 2010), 99–109

87 DCCRD 'GCI', n. 1208.

88 On *tir prid*, see Ll. B. Smith, 'The gage and the land market in late medieval Wales', *Economic History Review* 29 (1976), 548; *eadem*, 'Tir prid: deeds of gage of land in late medieval Wales', *BBCS* 27 (1977), 270–7.

89 Smith, 'Gage and the land market', 540–1.

90 Smith, 'Gage and the land market', 544; R.R. Davies, *Lordship and society in the March of Wales, 1282–1400* (Oxford, 1978), 407–8.

91 DCCRD, 'Llan1', nn. 1244, 1435, 1674,

92 Smith, 'Gage and the land market', 548; Davies, *Lordship and society in the March of Wales*, 409.

93 Smith, 'Gage and the land market', 548.

94 TNA SC2 216/4, m.2; DCCRD, 'gcl' file, n. 1810.

95 DCCRD, 'Llan1', n. 2522.

96 DCCRD, 'Llan1', n. 2409. On the protection afforded those in custody of land held in prid, see Jones Pierce, 'Social and historical aspects of the Welsh laws', 364–5.

97 Davies, *Lordship and society in the March of Wales*, 408–9.

98 On the development of commercialisation in the medieval economy, see, for instance, C. Dyer, *An age of transition? Economy and society in England in the later middle ages* (Oxford, 2005).

### French Abstract

Dans cet article, l'auteur entreprend d'aborder le contexte probable des signes d'expropriation antérieurs à la peste et leurs limites. En effet, un marché foncier actif existait dans les villages médiévaux anglais de la fin du XIII<sup>e</sup> siècle, et cela très probablement depuis un certain temps, comme l'attestent de nombreux indices. Le nombre des achats et des ventes y fluctuent, et leurs taux viennent coïncider avec des années de récoltes difficiles, suggérant un lien entre paysans vendeurs pauvres et paysans acheteurs plus riches. Il existe également une certaine association entre vente de terres et endettement préexistant. Dans cette période de timide développement commercial et marchand, on se demande dans quelle mesure l'échange de terres ou de biens mobiliers aurait pu procéder à quelque redistribution structurelle significative des terres et des ressources, évidemment contenue, même dans les zones du pays où un marché foncier paysan précoce était déjà bien établi. Un ajustement significatif n'y a rien d'évident. Mais les obstacles à l'expropriation, tel le contrôle seigneurial des terres paysannes et la faible capacité d'accumulation extensive de capital, devaient freiner ce processus et empêcher une redistribution importante. Cela dit, on détecte dans nos sources, des traces, certes limitées, suggérant une redistribution des droits de propriété, associée à l'inégalité des transactions et à l'avantage des propriétaires fonciers et des créanciers les plus riches. Pour explorer ce dernier point, une étude de cas est menée sur la seigneurie de Dyffryn Clwyd, en marche galloise, où les archives judiciaires sont examinées en détail.

**German Abstract**

Dieser Aufsatz unternimmt den Versuch, einen Deutungsrahmen für die schon vor der Großen Pest erkennbaren Anzeichen für Enteignung und ihre Grenzen abzustecken. Zahlreiche Belege sprechen dafür, dass in mittelalterlichen Dörfern spätestens gegen Ende des 13. Jahrhunderts, sehr wahrscheinlich aber bereits früher, ein aktiver Grundstücksmarkt existierte. Die Schwankungen der Kauf- und Verkaufsrates fielen mit schwierigen Erntejahren zusammen, was wiederum auf einen Zusammenhang zwischen mittellosen bäuerlichen Verkäufern und wohlhabenderen bäuerlichen Käufern hindeutet. Es gibt ferner einen gewissen Zusammenhang zwischen dem Verkauf von Land und vorangegangener Verschuldung. In einer Zeit, in der Handel und Markt noch schwach entwickelt waren, führte der Austausch von Land oder beweglichen Gütern aber nur in geringem Maße zu einer nennenswerten strukturellen Umverteilung von Land und Ressourcen, und selbst in den Landesteilen, in denen sich bereits früh ein Markt für Bauernland etabliert hatte, gibt es keine Anzeichen für substantielle Marktanpassung. Stattdessen wurden Akkumulation und Umverteilung durch Enteignungshindernisse wie zum Beispiel die herrschaftliche Kontrolle des Bauernlandes und die begrenzten Kapazitäten für extensive Kapitalakkumulation eingeschränkt. Gleichwohl gibt es in unseren Quellen begrenzte Hinweise auf eine Umverteilung von Eigentumsrechten im Zusammenhang mit der Ungleichheit von Handelschancen und den Vorteilen reicherer Landbesitzer und Gläubiger. Um diesen letztgenannten Punkt herauszuarbeiten, wird insbesondere auf die Gerichtsakten der Grundherrschaft Dyffryn Clwyd in der walisischen Grenzmark zurückgegriffen.