The enclosure of the commons and wastes in Nantconwy, North Wales, 1540 to 1900

by Frances Richardson

Abstract

The enclosure of lands from the waste was virtually continuous in the former Principality of Wales over the period 1540 to 1900, but two key periods were the later sixteenth century and the years 1790–1830. This article explores the processes involved and the reasons why the ownership and use of the waste was often contested, based on a case study of the hundred of Nantconwy in south-east Caernarfonshire. Patterns of land ownership dating from the thirteenth-century English conquest are found to have had a significant influence. The Acts of Union between England and Wales of 1536 and 1542, which replaced the Welsh 'tribal system' of land tenure and inheritance with English common law, left the status of large areas of waste ill-defined. Subsequent attempts by the Crown to assert its rights as manorial lord were strongly resisted, and most enclosure took place without legal sanction, while the absence of manor courts or other means of regulating ownership and use of the wastes led to frequent disputes. This study sheds new light on the regulation and use of the Welsh commons and wastes, when and where encroachment occurred, changing attitudes towards enclosure, and how various actors – the Crown, landowners, farmers, and the poor – fared in the contest for their ownership and use.

In 1540, the majority of land in the former Principality of North Wales was unenclosed share-land attached to the landholdings of local 'clans' or kindred according to Welsh land law.[1] The introduction of English land law as a result of the 1542 Act of Union left the legal status of these commons and wastes ill-defined, and emerging gentry landowners, freeholders and beneficial leaseholders all refused to accept the assertion of new manorial rights by the Crown. As a result, the majority of enclosure in the sixteenth and seventeenth centuries took place without legal sanction and was often contested.[2] Even during the eighteenth- and nineteenth-century era of parliamentary enclosure, Welsh landowners employed a variety of tactics to gain legal title to disputed wastes and to extinguish common rights.

Conversion to private ownership had a significant impact in some upland areas, where small farms relied on the commons for summer grazing, but little is yet known about the methods employed and the consequences.[3] This article investigates the processes and impact

[1] B. M. Evans, 'Settlement and agriculture in north Wales, 1536–1670' (unpublished PhD thesis, University of Cambridge, 1966), p. 142.

[2] F. Emery, 'The farming regions of Wales' in J. Thirsk (ed.), *The agrarian history of England and Wales,* IV, *1500–1640* (1967), p. 150.

[3] For sixteenth-century encroachments in Merioneth, see Evans, 'Settlement and agriculture';

of enclosure of the commons and waste in the former Principality over the period 1540–1900 through a case study of Nantconwy, a hundred in the south-east of Caernarfonshire. It uses a range of sources including Crown inquisitions, surveys and legal papers, estate and tithe commutation surveys, the records of Crown and rival estate manor courts introduced in the nineteenth century, and the writings of local antiquarians, to show how the absence of any effective means of regulating ownership and use of the wastes throughout most of the period led to frequent disputes. It also sheds new light on the regulation of the Welsh commons in the absence of a manorial system, and how various actors – the Crown, landowners, farmers, and the poor – fared in the contest for their ownership and use.

Enclosure involves extinguishing common rights over land thus putting an end to all common grazing. To effect this, it was usual for the encloser to hedge or fence the land. The gradual enclosure of waste lands in England involved an evolution of ownership rights, from the appropriation of empty no-man's-land into manors in the middle ages, and ultimately their apportionment to individual owners as a result of eighteenth- and nineteenth-century enclosures. The 1285 Statute of Merton formalized the concept of the manorial waste, confirming the rights of the lord of the manor in the soil of the manor's wastes, over which tenants could exercise common rights. In the ideal type manor, common pastures were a vital resource for feeding animals, which were needed to graze and manure the arable fields after harvest, but had to be kept away from growing crops and hay. Rights of common for grazing were most typically appurtenant to a tenement in the manor, though local custom might extend further, for example allowing the poor to gather or cut fuel, building materials, and other resources such as rushes.[4]

By around 1400, most English manor courts, including those in upland areas with large tracts of waste such as the Lake District and Pennines, were carefully regulating the use of the waste, and the degree of regulation increased during the sixteenth and early seventeenth centuries. A widespread means of preventing over-grazing was the rule of levancy and couchancy. This forbade rights holders from sending more animals to the manorial commons or waste in summer than they could feed within the manor over winter. As pressure on the carrying capacity of commons grew, due to the shrinkage in the area of common or an increase in animal numbers, manor courts might decide to restrict animal numbers by awarding stints to each tenement. An alternative solution prevalent in upland areas was the allocation of

Note 3 *continued*
C. Thomas, 'Enclosure and the rural landscape of Merioneth in the sixteenth century', *J. Merioneth Historical and Record Society* 15 (2007), pp. 129–41. A number of historical geography studies have looked at the conversion of summer pastures into permanent holdings: for a Caernarfonshire example see C. W. J. Withers, 'Conceptions of cultural landscape change in upland north Wales: a case study of Llanbedry-Cennin and Caerhun parishes, *c*.1560–*c*.1891', *Landscape Hist.* 17 (1995), pp. 35–49. Nineteenth-century parliamentary enclosures are described in G. Plume, 'The enclosure movement in Caernarvonshire' (unpublished MA thesis, UCNW Bangor, 1935).

[4] J. Thirsk, 'Enclosing and engrossing', in Thirsk (ed.), *Agrarian history,* IV, p. 200; A. J. L. Winchester, *The harvest of the hills: rural life in northern England and the Scottish borders, 1400–1700* (2000), p. 27; E. F. Cousins and R. Honey, *Gadsden on commons and greens* (sec. edn, 2012), pp. 19, 69; A. J. L. Winchester, ''By ancient right or custom': the local history of common land in European context', *Local Historian* 45 (2015), p. 271.

defined sections of the common to particular farms. Both methods could act as a stepping-stone to private ownership. Stints could be used to pasture animals from outside the manor, and leased or sold to those with no connection to the manor, while exclusive use of certain parts of the common could lead to the achievement of outright ownership.[5]

In theory, the main methods by which common rights could be extinguished were by agreement between the landowners and rights holders concerned, or by the operation of law. The Statute of Merton also allowed the lord to enclose part of his wastes providing sufficient remained for tenants' needs, a process known as 'approvement'; intakes by tenants under the lord's licence being a special form of approvement. Encroachment involved illicit enclosure, which might be regularized later. So long as land remained plentiful and sufficient common grazing remained, enclosure was usually uncontroversial. By the sixteenth century however, enclosure was becoming increasingly contested in more densely populated parts of England, especially when it involved the permanent conversion of arable land to pasture and resulted in the loss of employment and depopulation. Both enclosure and restrictive stinting could result in poorer people being squeezed out of access to pasturage, fuel, and other resources, though there was considerable local and regional variation in chronology. To achieve a fuller national picture, there has therefore been a call for more regional studies, preferably stretching over long periods of time.[6]

In the former Principality of Wales – the northern counties of Anglesey, Caernarfonshire and Merioneth (Gwynedd) and the southern counties of Cardiganshire and Carmarthenshire – the nature of sixteenth-century enclosure was altogether different from that taking place in England. Here, the lack of an accepted legal framework for regulating commons and wastes meant that enclosure often resembled a land grab in which emerging local landowners were the major beneficiaries.

Before the Acts of Union, landholding in the Principality was still governed by Welsh law based on the pre-conquest 'tribal system', though this was to some extent breaking down.[7] Commotes, equivalent to English hundreds, were divided into townships, plus demesne land for the lord's court and summer pasture (*hafod*). A *gwely* (literally meaning bed or resting place, plural *gwelyau*) was the landholding of a free clan or kindred held directly from the Crown. In return for relatively light rents and services, members of the kindred exercised conditional rights of proprietorship over small areas of arable land, which entitled them to grazing rights over extensive common pastures. Bond townships were divided into *gafaelion* (singular *gafael*) occupied by bondmen tied to the soil, often by a form of kinship landholding similar to the *gwelyau*, though a stricter form of serfdom applied on demesne land. While land surrounding individual farmsteads was held in severalty, much of each *gwely* or *gafael's*

[5] Winchester, *Harvest of the hills*, pp. 148–51; A. J. L. Winchester and E. A. Straughton, 'Stints and sustainability: managing stock levels on common land in England, *c.*1600–2006', *AgHR* 58 (2010), pp. 33, 45; Winchester, 'By ancient right', p. 274; Cousins and Honey, *Gadsden on commons*, p. 95.

[6] Cousins and Honey, *Gadsden on commons*, pp. 211–2; Bill Shannon, 'Approvement and improvement in the lowland wastes of early modern Lancashire', in R. W. Hoyle (ed.), *Custom, improvement and the landscape in early modern Britain* (2011), pp. 188–92; Thirsk, 'Enclosing and engrossing', pp. 201–3, 207–9; A. Wood, *The memory of the people: custom and popular senses of the past in early modern England* (2013), p. 166.

[7] J. B. Smith (ed.), *Medieval Welsh society: selected essays by T. Jones Pierce* (1972), p. 226.

land was unappropriated share-land (*cytir*) used as rough grazing (*ffridd*). As the kindred expanded, land could be enclosed from the share-lands for new homesteads.[8]

Bond townships and their *gafaelion* became part of the Crown estate at the English conquest of north-west Wales in 1282 and were subsequently leased to Crown farmers. Leases often included a requirement to respect the rights of the bond tenants or, after the freeing of the bondmen under a charter of Henry VII in 1507, their heirs and assigns known as 'ancient native tenants'. There was no manorial system except for monastic and ecclesiastical lands, and the lowest level of administration was the commote or hundred court, which dealt with minor issues of law and order, fines on inheritance or marriage, civil suits and communal regulation.[9]

In the Principality and areas of the Marches where Welsh law still applied, the Acts of Union abolished the medieval 'tribal system' of land tenure and introduced English common law. This allowed land to be bought and sold, and gavelkind – sharing land between all sons – was ended in favour of inheritance by primogeniture. Although the 1542 Act confirmed the landholding rights of those who had been in undisputed possession of lands and tenements for five years, it was silent on the ownership or control of the significant areas of unappropriated share-lands or waste. This left something of a legal vacuum: the Crown assumed that it was the manorial lord of both the Crown bond lands and the free townships, but its equation of Welsh share-lands with English common land where the manorial lord had rights over encroachments met with fierce resistance from the Welsh gentry and freeholders alike. Freeholders' defence of their customary rights was summed up in a 1561 Montgomeryshire inquisition, where jurors maintained that the hundred was 'divided into *gavell*, as well the waste as the land now severed'. Their chief rents were for the whole *gafael* lands and they had never previously nor needed in future to procure any licence for the improvement of the wastes. It was further argued that 'much land though not enclosed had its own bounds and belonged to certain messuages'. This was similar to the system operating in parts of the Lake District.[10]

The breakdown of the tribal system and rapid rise of Welsh gentry landowners after the Acts of Union led to significant encroachment of the wastes, whether share-lands or concealed escheat and former monastic land. After a number of commissions failed to identify concealed lands, the Crown in 1574 awarded the Earl of Leicester a grant of all concealed and encroached lands in Anglesey, Caernarfonshire and Merioneth that might be revealed within the next ten years by survey, inquisition or other information. In the former Marcher Lordship of Denbigh, Leicester's officers had already made substantial endeavours to control the enclosure of the commons and wastes, leading in 1564 to a composition with tenants which established the boundaries of the commons and secured the tenants' rights of common.[11] By contrast, attempts

[8] Ibid., p. 23; G. R. J. Jones, 'The tribal system in Wales: a reassessment in the light of settlement studies', *Welsh History Rev.* 1 (1961), pp. 114–19.

[9] C. Thomas, 'Encroachment onto the common lands of Merioneth in the sixteenth century', *Northern Universities' Geographical J.* (1964), p. 33; T. Jones Pierce, 'Agrarian aspects of the tribal system in medieval Wales', in Smith (ed.), *Medieval Welsh society*, pp. 335–6.

[10] I. Bowen, *The statutes of Wales* (1908), pp. lxx, 122–5; T. Jones Pierce, 'Landlords in Wales', in Thirsk (ed.), *Agrarian history*, IV, p. 372; National Library of Wales (hereafter NLW), Powys Castle 17091, quoted in Evans, 'Settlement and agriculture', p. 291; E. Evans, 'Arwstli and Cyfeiliog in the sixteenth century: an Elizabethan inquisition', *Montgomeryshire Collections* 51 (1949–50), p. 26.

[11] S. L. Adams, 'The composition of 1564 and the Earl of Leicester's tenurial reformation in the Lordship of Denbigh', *Bull. Board of Celtic Studies* 26 (1974–6), p. 504.

by Leicester and his heirs to assert Crown manorial rights in north-west Wales proved largely unsuccessful.[12] Over the period 1540–1600, it is estimated that the proportion of appropriated land in North Wales doubled, mainly involving *ffridd*.[13]

Encroachments were used to extend existing holdings, to convert summer pastures into permanent holdings, or to demarcate areas of rough grazing in severalty, more often by placing boundary stones than by physical enclosure. Enclosure of the wastes continued in the seventeenth century, but as more land was gathered into estates, landowners increasingly became the major beneficiaries, leading to a reduction of common grazing for small freeholders and beneficial tenants, and more frequent local disputes. Detailed analyses of sixteenth-century enclosures have been undertaken for Merioneth, where the existence of Crown rentals of a date close to a 1579 survey of encroachments by Earl of Leicester's agents enabled the distribution of encroachments and encroachers to be identified. But although sixteenth-century enclosures in Caernarfonshire were on a much larger scale – 18,025 acres according to the Earl of Leicester's survey, compared to 12,769 in Merioneth and 791 in Anglesey – their distribution and impact remain largely obscure.[14] Shedding light on this phase of enclosure in the county is vital to understanding the subsequent development of the late eighteenth- and nineteenth-century enclosures.

The parliamentary enclosures of the eighteenth and nineteenth centuries aroused considerable interest both amongst commentators at the time and later historians, who have debated their impact on agricultural improvement and output, the social consequences for small landowners and the poor, and the extent to which enclosure was contested. Enclosure of the upland wastes typically took place later than in lowland areas, and its rationale differed significantly from that advanced for enclosing open fields. While contemporaries believed that great tracts of moorland were a wasted resource that could be used to increase food production and provide employment, or for forestry, landowners might also be interested developing the upland as sporting estates.[15]

[12] E. G. Jones, 'The Caernarvonshire squires, 1558–1625' (unpublished MA thesis, University of Wales, Bangor, 1936), pp. 239–54; C. A. Gresham, 'The Forest of Snowdon, in its relationship to Eifionydd', *Trans. Caernarfonshire Hist. Soc.* 21 (1960), p. 53.

[13] Evans, 'Settlement and agriculture', p. 332.

[14] Ibid.; BL, Lansdowne 45, fos. 190–2; C. Thomas, 'The evolution of rural settlement and land tenure in Merioneth' (unpublished PhD thesis, University of Wales, Aberystwyth, 1965); BL Lansdowne 27 no. 88.

[15] A. Young, *General report on enclosures* (1808); A. Young, 'An inquiry into the propriety of applying wastes to the better maintenance and support of the poor', *Annals of Agriculture* 36 (1801), pp. 497–658; G. E. Mingay, *Parliamentary enclosure in England. An introduction to its causes, incidence and impact, 1750–1850* (1997); R. C. Allen, *Enclosure and the yeoman: the agricultural development of the south Midlands, 1450–1850* (1992); M. Overton, *Agricultural revolution in England; the transformation of the agrarian economy, 1500–1850* (1996); G. E. Mingay, *Enclosure and the small farmer in the age of the Industrial Revolution* (1968); J. V. Beckett, 'The decline of the small landowner in England and Wales, 1660–1900', in F. M. L. Thompson (ed.), *Landowners, capitalists, and entrepreneurs* (1994), pp. 89–112; id., 'The disappearance of the cottager and squatter from the English countryside: the Hammonds revisited', in B. A. Holderness and M. Turner (eds), *Land, labour and agriculture, 1700–1920* (1991), pp. 49–67; J. M. Martin, 'Village traders and the emergence of a proletariat in south Warwickshire, 1750–1851', *AgHR* 32 (1984), pp. 179–88; L. Shaw-Taylor, 'Parliamentary enclosure and the emergence of an English agricultural proletariat', *JEcH* 61 (2001), pp. 640–62; J. Humphries, 'Enclosures, common rights and women: the proletarianization of families in the late eighteenth and early nineteenth centuries', *JEcH* (1990), pp. 17–42; J. M. Neeson, *Commoners: common right, enclosure and*

In Wales, an estimated 84 per cent of land enclosed by act was in the uplands, and consisted almost entirely of common and waste.[16] There were 13 parliamentary enclosure acts in Caernarfonshire covering an estimated 55,880 acres, all common and waste, three-quarters of which was Crown land.[17] Plume's 1935 narrative account of the majority of parliamentary enclosures in the county gives a clear indication of the long and often highly contested processes involved, due in particular to the adverse impact on the large number of smallholders who had encroached on Crown land.[18] There was considerable scepticism about Welsh landowners' motives for enclosure, the majority being less concerned with agricultural improvement and more with settling or redistributing ownership, especially in areas where slate quarrying was becoming big business.[19] Indeed the 1896 Royal Commission on Land in Wales concluded that:

> It would be idle to suppose that the main motive of the Welsh landowners who eagerly used the facilities given by Parliament was to extend the margin of cultivation. They saw clearly enough that the movement gave them the opportunity of acquiring the sheep-walks and pasture lands till then unenclosed as their own in severalty.[20]

Nevertheless, as we shall see later, a large amount of eighteenth- and nineteenth-century enclosure in North Wales took place *without* parliamentary authority, continuing the earlier tendency for encroachment.

I

Land holdings around the time of the English conquest of Gwynedd were detailed in the 1352 *Record of Caernarvon*.[21] The commote or hundred of Nantconwy, encompassed over 50,000 acres, stretching from the Conwy valley to the heights of the Snowdonia mountains, centred on one of the former Welsh Prince's residences at Trefriw in the Conwy valley. The hundred comprised five townships, demesne and escheat land, plus part of the monastic lands of the Knights of St John at Ysbytty Ifan (Table 1 and Figure 2).

A perennial problem for the Crown in North Wales was uncertainty about the precise boundaries of its lands. This was particularly difficult where freehold and Crown lands were intermixed, as in Penmachno township. The first recorded encroachments in Nantconwy took place around 1545, when according to local tradition, two small farms, Tyddyn Meistr (Master's Farm) and Erw'r Clochydd (Bellringer's Acre), were enclosed from the former monastic lands of Ysbytty Ifan to provide a holding for the new Penmachno clergyman. Further enclosure by Bettws and Penmachno freeholders soon followed. The Crown's first attempt to reassert its rights came in 1577, when a commission led by the Bishop of Bangor was established to divide

Note 15 *continued*
social change in England, 1700–1820 (1993); J. Chapman, 'Parliamentary enclosure in the uplands', in I. D. Whyte and A. J. L. Winchester (eds), *Society, landscape and environment in upland Britain* (2004), p. 80.

[16] Ibid., p. 82.

[17] J. Chapman, *A guide to parliamentary enclosures in Wales* (1992), p. 23.

[18] Plume, 'Enclosure movement'.

[19] A. H. Dodd, 'The enclosure movement in north Wales', *Bull. Board of Celtic Studies* (1926–7), pp. 210–21.

[20] BPP 1896, XXXIV (C.8221), Report of the Royal Commission on land in Wales and Monmouthshire, second report, p. 214.

[21] H. Ellis (ed.), *Registrum Vulgariter Nuncupatum* (The Record of Caernarvon) (1837).

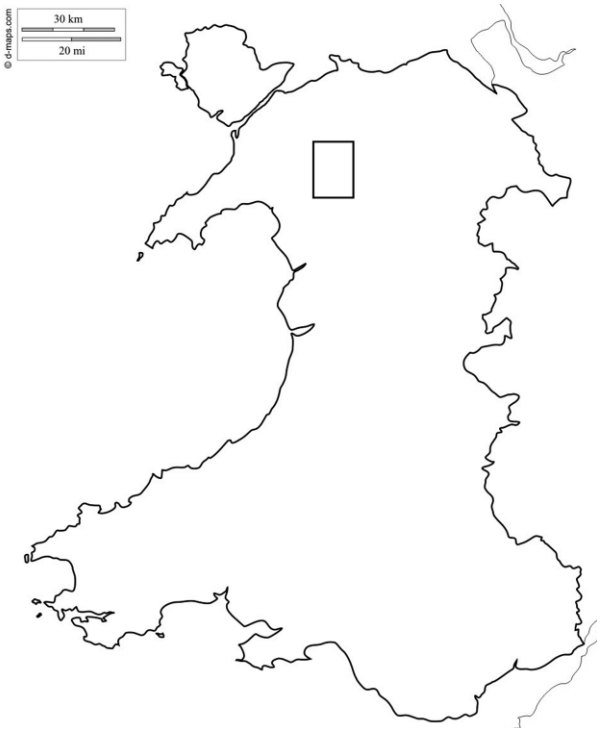

FIGURE 1: Location of Nantconwy

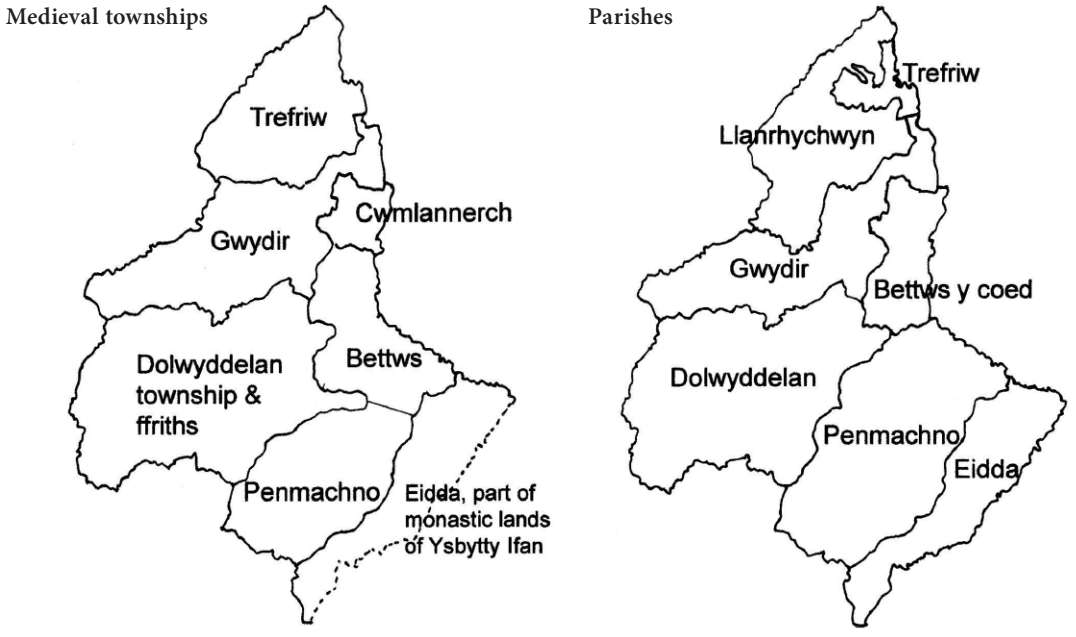

FIGURE 2: Nantconwy townships and parishes

TABLE 1: Nantconwy landholding in 1352

Township	*Status*	*Landholdings*	*Annual rent and dues*
Trefriw	bond	Gavel Neuyd	40*s.*
		Gavel Coyd Wedir	43*s.*
		Gavel Gurgen	37*s.*
		Gavel Gaderod	41*s.*
		Half of Gavel Ruwon ap Meiller	22*s.*
		Demesne, market tolls, mill and fishery of River Conwy	£8
Bettws	free	Gwely John ap Ithon	10*s.*
		Gwely Griffith ap Ithon	10*s.*
		Gwley Ken' ap Ithon,	10*s.*
		including 1 bovate escheat land	3*s.* 8*d.*
Comlannerch (Cwmlannerch)	free	Family of Griffith ap David Goch, and Gruffuth ap Hoell	No rent: held by knight service
Doloythelan (Dolwyddelan)	bond	Gavel Elidir	55*s.*
		Gavel Emanagh	55*s.*
Ffriths of Doloythelan	Crown demesne		£6 6*s.* 8d. incl. Penmachno demesne
Penanmagno (Penmachno)	mixed	Half demesne land	
		Half Gavel Goyhor ap Itgwyn (bond)	43*s.*
		5 areas of free land (6 acres and 9 bovates) mainly held by Bettws tenants	3*s.*
Wedir (Gwydir)	mixed	Gwely Yarthur ap Ruwon (free)	6*s.* 4*d.*
		Gwely Yorwerth ap Ruwon (free)	9*s.*
		Gwely Keferth ap Ruwon (free),	8*s.* 10*d.*
		including 1 bovate escheat land	1*s.*
		Gavel Pengylyet (bond, but vacant due to lack of tenants)	
		Gavel Willym ap Ruathlan (bond),	48*s.*
		including escheat lands	48*s.*
		Hafod of Bentyrgh (Bryntyrch – demesne)	12*s.*
		Hafod of Comcolreyt (Cwmclorad – demesne)	6*s.* 8*d.*

Source: Record of Caernarvon, pp. 9–12.

and separate Crown lands in Penmachno from the lands and tenements of free tenants. A jury of 12 local freeholders was prepared to describe the outer bounds of the township, but when it came to the division between freehold and Crown land, they claimed to be altogether ignorant of how much the free land contained. And when the commissioners travelled to Penmachno to ensure that the boundaries were marked out, the jury clearly wanted to hide the degree of encroachment that had taken place, claiming that they 'could make no perfect division thereof otherwise than by the words of the Record of Caernarvon for that there hath been no particular survey thereof since Edward the third his time'.[22] As we shall see, this failure to clarify the boundaries was to cause endless trouble for the next three and a half centuries.

[22] O. G. Jones, *Gweithiau Gethin* (Gethin's works) (1884), p. 19; Bangor University Archives (hereafter BUA), Penrhyn Add. 2482.

FIGURE 3: Seventeenth-century enclosures in Cwm Penmachno. Fields in the valley bottom were freehold land, while those on the hillside were enclosed from the Crown waste in the seventeenth century. The moorland above was disputed between the Crown and local landowners in the nineteenth century.

However the encroachments in Penmachno were on a small-scale compared to those taking place elsewhere in the hundred. The Earl of Leicester's survey of 1579 brought to light an estimated 2742 acres of encroached land in Nantconwy, and the 32 people named as responsible included a broad cross-section of local landowners, freeholders and ancient native tenants (Tables 2 and 3).[23] Over 80 per cent of the land concerned was Crown land, most significantly in the township of Dolwyddelan, where two brothers, Morris and Robert Wynn of Gwydir who were the Crown lessees, had added 868 acres to ten farms acquired from ancient native tenants. Seven of the remaining ancient native tenants had encroached a further 581 acres, sometimes in partnership with other people. The size of encroachments throughout the hundred ranged from two to 160 acres, but the median size of 40 acres and the low annual value (averaging ¼*d*. an acre) suggests that most must have involved rough pasture. Only in Penmachno, where the unappropriated Crown land extended to the valley floor, is there evidence of new farms being created from the waste.

[23] BL Lansdowne 27 no. 88. As large areas were often given as round figures such as 100 acres, the calculation of encroachments appears very approximate.

TABLE 2: Nantconwy encroachments in the Earl of Leicester's survey of 1579

Township	*Size of encroachments (acres)*	*Annual value*	*No. of encroachers*
Bettws	68	1*s.* 5*d.*	5
Cwmlannerch	130	5*s.* 2*d.*	3
Dolwyddelan	1449	£1 10*s.* 2*d.*	9
Gwydir	496	10*s.* 4*d.*	4
Penmachno	203	4*s.* 2*d.*	4
Trefriw	396	8*s.* 2*d.*	13
Total Nantconwy	2742	£2 19*s.* 5*d.*	32
Median	40		

Source: BL Lansdowne 27, no. 88.

TABLE 3: Major encroachers in the Earl of Leicester's 1579 survey

Major encroachers	*Status*	*Acres*	*%*
Morris Wynn of Gwydir	Landowner of Gwydir estate, joint Crown lessee of Dolwyddelan, parts of Trefriw and Gwydir township	854	31
Robert Wynn of Gwydir	Brother of Morris, joint Crown lessee of Dolwyddelan	412	15
Hoell ap Dafydd ap Hoell et al.	Dolwyddelan	300	11
Retherge ap Richard ap Robert	Ancient native tenant of Dolwyddelan	100	4
John Wyn ap Hugh	Major freeholder in Bettws and Gwydir, lands in Penmachno	100	4
Jevan ap Morgan	Ancient native tenant and Dolwyddelan steward of Gwydir estate	100	4
Hugh ap Harrie	Cwmlannerch freeholder	90	3
Jevan ap Meredith	Ancient native tenant of Trefriw	84	3
Gruffith Wynn	Brother of Morris and Robert Wynn, Crown lessee of Penmachno	80	3
Jevan ap Ieuan	Penmachno tenant	72	3
22 others with up to 50 acres each		550	20
Total		2742	

Source: BL Lansdowne 27 no. 88 with details of status taken from NLW MS 9054E/513; TNA, E 126/1; Flintshire Archives, Soughton Hall 12; NLW, Llanstephan 179; Jones, *Exchequer proceeding,* pp. 77–8; TNA, SP 46/40, fo. 74.

Morris Wynn, the head of the Gwydir estate and a Justice of the Peace, was also responsible for nearly three-quarters of land encroached in Gwydir township, where he was Crown lessee of the two former bond *gafaelion* and escheat lands.[24] With a third brother, Gruffith Wynn, who held the Crown lease of Penmachno, the Gwydir family was responsible altogether for nearly half (49 per cent) the land encroached in Nantconwy.[25] In Trefriw too, one of the encroachers was the Crown farmer of Gavel Gaderod. This mirrored the position elsewhere in North Wales, where it was the landed gentry who benefited most from the encroachment of the wastes during the sixteenth century. The failure of the Earl of Leicester and his successors to extract Crown dues or control encroachment in Caernarfonshire and Merioneth left the way open for the gentry to enhance and consolidate their estates and social pre-eminence, thereby widening the gulf between the estate-builders and the diminishing number of small freeholders and customary tenants.[26]

A number of factors seem to have spurred this spate of enclosure in Nantconwy. Rising population and the growth of the store cattle trade with England placed the rough pastures under pressure but the demise of the tribal system and lack of manor courts meant that there was no effective way of enforcing any regulation of the share-lands. In 1551, an attempt by three yeoman to enclose part of the common on mountain land in Gwydir township and drive away the cattle of other tenants had to be resolved at the Caernarfonshire Quarter Sessions. The following year, a bid by three local yeomen to take in a hundred cattle of strangers to graze on the commons of Moel Siabod in Gwydir and Dolwyddelan also required the intervention of Quarter Sessions.[27] Disputes of this type would have increased the attractiveness of demarcating part of the waste in severalty.

The system of landholding on Crown land also created an incentive for both local landowners and tenants to enclose the waste. Crown land was leased to local landowners on 21-year leases, though, increasingly during Elizabeth's reign, the Crown granted the reversion of leases before they had expired as a way of rewarding courtiers, royal servants, or creditors. If the sitting landowner did not secure the reversion of the lease, he was obliged to compound with the holder of the reversion in order to retain his landholding, often at a vastly enhanced rent.[28] There was a real danger that the local landowner might not retain the Crown lease: in the generation after Leicester's survey, Sir John Wynn of Gwydir was forced to bring an Exchequer court case to retain possession of the Dolwyddelan ffriths and township, and Gruffith Wynn lost control of Penmachno. The ancient native tenants meanwhile held their land from the Crown farmer at customary rents; their right to leasehold of inheritance with an entry fine of four years' rent were confirmed in a 1590 legal case.[29] It was therefore in the landowners' interests to buy out the ancient native tenants' leaseholds, both so that they could

[24] E. A. Lewis and J. C. Davies (eds), *Records of the Court of Augmentations relating to Wales and Monmouthshire* (1954), p. 292.

[25] E. G. Jones, *Exchequer proceedings (Equity) concerning Wales: Henry VIII–Elizabeth* (1939), p. 77.

[26] Thomas, 'Common lands of Merioneth', p. 36.

[27] W. Ogwen Williams, *Calendar of the Caernarvonshire Quarter Session Records, 1541–1558* (1956), pp. 82, 97.

[28] D. Thomas, 'Leases of Crown lands in the reign of Elizabeth I', in R. W. Hoyle (ed.), *The estates of the English Crown, 1558–1640* (1992), pp. 184–7.

[29] T. I. Jeffreys Jones, *Exchequer proceedings concerning Wales in tempore James I* (1955), p. 46; NLW, Elwes 479; TNA, E 178/3383.

retain occupation of the farms at customary rents in the event of losing the Crown lease of the township or *gafael*, but also to enable them to charge market rents to their sub-tenants. This gave the local landowners and the remaining ancient native tenants a shared interest in increasing the size of their farms by encroachment from the waste, which partially explains why there was relatively little opposition to enclosure in Crown townships.

Furthermore, in Nantconwy, where most farms were on the lower slopes of long valleys, demarcating the rough pastures above the appropriated farmland to individual holdings may have amounted to little more than formalizing existing customary use of the share-lands. Taking in rough pasture also allowed the land to be improved, at least by clearing it of stones, and afforded the opportunity of subdividing holdings to provide farms for the growing population. Despite the size of the encroachments, land had not yet become a scarce resource: there was still plenty of unenclosed land left.

By the end of the sixteenth century, most rough pastures in the bond townships controlled by the Wynns of Gwydir had been appropriated, though large areas of mountain waste remained unenclosed. In 1614, Sir John Wynn considerably strengthened the position of the Gwydir estate by buying from the Crown the ffriths and township of Dolwyddelan, plus most of the Trefriw *gafaelion*.[30] As tenants' common rights had never been defined, Gwydir estate owners tended to regard the remaining unenclosed lands as private, and free to be disposed of as they saw fit.

The focus of enclosure in seventeenth-century Nantconwy now shifted to the Crown township of Penmachno, where large amounts of rough pasture and mountain remained unappropriated. The intermixture of freehold and Crown land and the failure of the 1577 survey to identify boundaries afforded ample opportunity for further encroachment. The early seventeenth-century Crown farmer, Edward Wynn of Ystrad in Denbighshire, fought a losing battle through the courts of Exchequer and Star Chamber to identify and obtain rent for Crown land annexed by local tenants and freeholders (Figure 2).[31]

The township was among the Crown lands granted in fee farm to the City of London by Charles I in 1628, to be sold in order to pay off the accumulated sovereign debt. The City apparently failed to find a buyer for Penmachno, so Edward Wynn continued to lease the township at the customary rent of £6 10*s*. a year, devising most of the land to the Lloyds of Dulassau, a local gentry family which had built up the largest estate in the area. A second attempt to establish the extent of Crown lands in Nantconwy was made in 1649, when Parliament ordered a survey of all royal property in England and Wales. The resulting 6000-plus surveys were in general of a high standard, but when it came to Nantconwy, the Commonwealth commissioners reported that Sir Richard Lloyd of Dulassau held the Crown lease of Penmachno, but was now in exile and his mother was managing the estate. They excused the lack of any further detail because 'to go upon the premises to survey or find out anything we durst not being so devilishly threatened by the malignants'. This was the last attempt to regularize the enclosure of Crown land in Nantconwy till the 1820s. When Sir Richard returned after the Restoration, his relatives revealed the extent of further enclosure of Crown waste that had taken place. Altogether,

[30] NLW, MS 9055E/663.

[31] Jeffreys Jones, *Exchequer Proceedings,* pp. 59–60, 81–82.

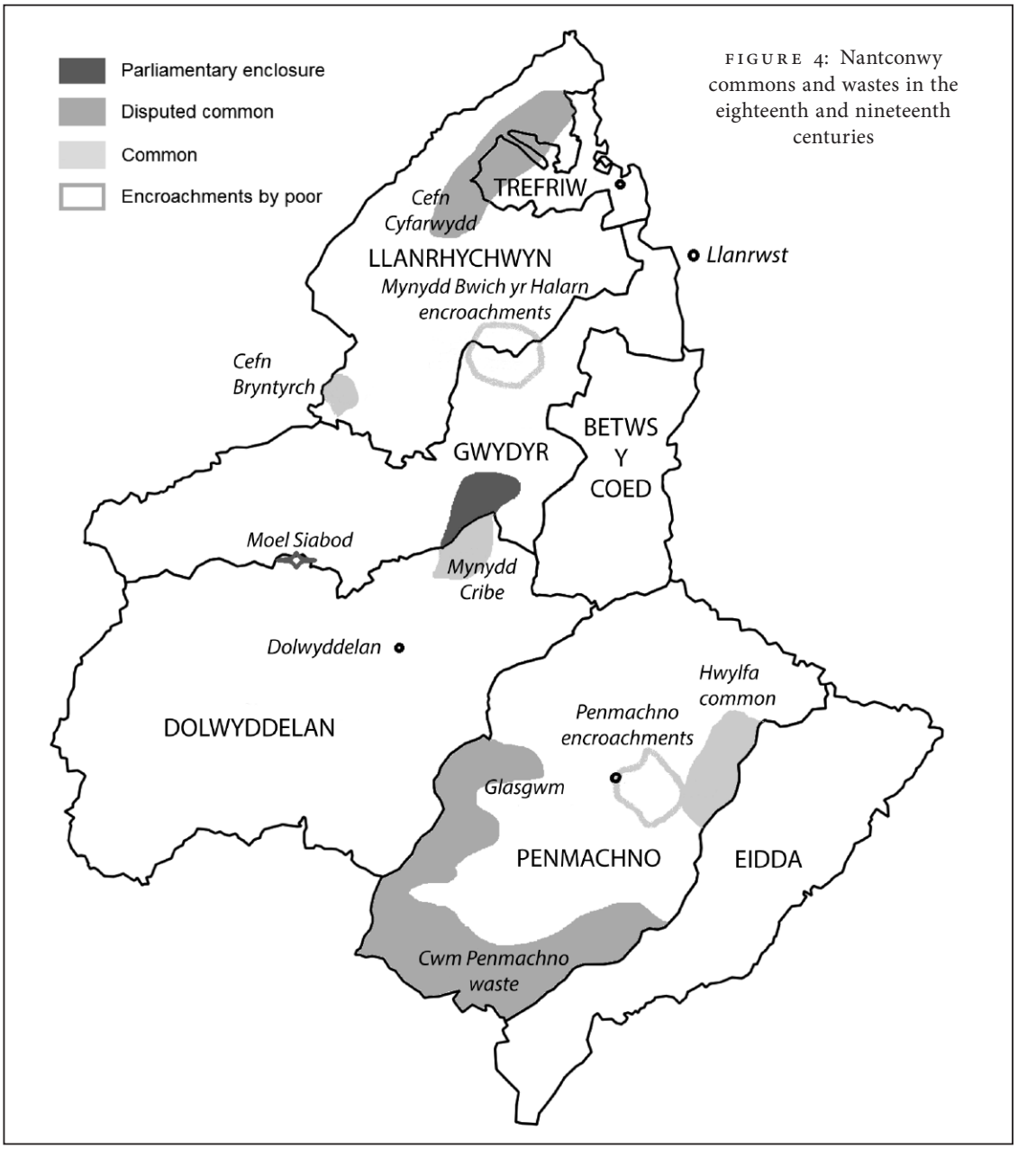

FIGURE 4: Nantconwy commons and wastes in the eighteenth and nineteenth centuries

£28 of Lloyds' annual rental in Penmachno was in respect of freehold lands and £102 was for King's lands, which Sir Richard promptly added to his estate.[32] By 1680, the rough pastures of Penmachno had been largely enclosed by Lloyd and the local freeholders, though still leaving the mountain wastes unappropriated.

[32] London Metropolitan Archives, CLA/044/05/025; BUA, Penrhyn Add. 2503; NLW, Elwes 1229.

II

By the 1760s, most of Nantconwy was in the hands of absentee landowners. The Dukes of Ancaster who had acquired the Gwydir estate through marriage owned 51 per cent of the land, with a further 39 per cent held by 13 large and medium estates based mainly in other North Wales counties and 3 per cent by small absentee owners. Only 7 per cent of land was owned by small estates with local owners or by owner-occupiers.[33] Competition for tenancies increased as the population grew and agricultural prices rose. Nearly all the Nantconwy estates were surveyed over the next two decades to see whether they were capable of 'improvement', at least by way of fetching higher rents, sale or mortgage values. Interest grew in the still substantial areas of unenclosed mountain or moorland waste. Knowledge of the old township and *gwely* or *gafael* boundaries had faded with the growth of parishes as the unit of local government, whose boundaries did not align with the old township structure (Figure 1). Any distinction between freehold and Crown land had become blurred, and the collection of Crown rents was not enforced; the ancient native tenants had acquired the de facto status of freeholders. The Crown made no further attempt to assert its claim as lord of the manor in the former free townships or the bond lands which had been sold to the Gwydir estate. Indeed it appears to have lost sight of its lands in Gwydir township after a 99-year demise to the Duchy of Lancaster expired in 1716, leaving Penmachno as the principle area where the Crown waste remained a source of dispute.[34] Thereafter the Crown's claim to unenclosed waste was severely circumscribed by legislation of 1769–70 preventing the Crown from resuscitating rights that had lain dormant for 60 years. The Gwydir estate, for example, was able to deflect a Crown challenge concerning its title to extensive areas of hill land between Trefriw and Capel Curig when they were put up for sale in the 1890s, by pointing to a terrier of 1784–6 which showed the areas of unenclosed land concerned as part of the estate.[35]

Eighteenth-century surveyors were apparently oblivious to the legal status of the Nantconwy wastes, but their surveys reveal several degrees of shared land usage. Where a single estate owned all the enclosed land on lower hillsides, surveyors typically designated the unenclosed waste as sheepwalks belonging to adjacent farms, sometimes shared between a number of holdings.

Land described in the surveys as common was most likely to remain where farms belonging to different landowners shared unenclosed summer pastures or sheepwalk, for example Hwylfa common between the former free township of Bettws and the former monastic lands in Eidda, where boundary stones marked out each parish's area. However Moel Pen y Bryn to the south of Glasgwm in Penmachno was enclosed by agreement between the adjacent freeholders before 1787 without apparent regard for the Crown's interest.[36] In other cases – like Yr Allt between Penmachno and Dolwyddelan – undivided sheepwalk was shared in a customary ratio between tenants of the Gwydir and Grosvenor estates, and one of the few remaining 'natives of

[33] Based on 1792 Land Tax adjusted for intervening sales: F. A. Richardson, 'Rural Change in north Wales during the period of the Industrial Revolution: Livelihoods, Poverty and Welfare in Nantconwy, 1750–1860' (unpublished DPhil thesis, University of Oxford, 2016), p. 77.

[34] NLW, Peniarth DC114.

[35] Gwynedd Archives (hereafter GA), XD/131/1495, 1497 and 131/278/2.

[36] BUA Bangor Mostyn 6059 (*c*.1787)

Dolwyddelan' with tenant right to inherited leasehold at customary rents. The extensive Crown wastes around the head of Cwm Penmachno were grazed by designated farms, but used by other local inhabitants for cutting peat and rushes and for digging slates.[37]

In 1760, George III surrendered the revenue from Crown lands in return for a guaranteed civil list income and, henceforth, income from Crown lands came to be regarded as part of state revenues. In North Wales, this seems to have prompted landowners to cease paying their quit and fee farm rents to the Crown. By the 1820s, arrears of over £50,000 were uncovered for North Wales on an annual Crown rental of £3000. A drive by the Office of Woods and Forests to reinstitute Crown rents and collect arrears in 1821 was received with indignation by the North Wales landowners. They combined together to argue that the Crown could not compel the payment of 'seigneurial' and chief rents unless the particular parcels of land and their boundaries could be precisely identified, and that the Crown had abandoned its rights by not collecting rent for a long period.[38] The Crown clearly could not accept these arguments, especially as the boundaries of Crown land had never been surveyed in many areas.

Most landowners eventually reached a compromise with the Crown collectors to limit arrears and resume payment of Crown rents, but those in Nantconwy continued their opposition, especially Lord Mostyn and the Wynns of Peniarth, the two major landowners in Penmachno. These gentry were partly motivated by a strong belief in private property rights, but there was also considerably more at stake than the payment of small customary rents for sheepwalks, because the moors of Penmachno abounded in grouse and the mountain lakes in trout. Mineral rights were also becoming increasingly important with the growth of the slate industry, especially important in Cwm Penmachno which was a continuation of the rich Blaenau Ffestiniog slate district.

By the early nineteenth century, the Crown became increasingly concerned at the extent of unregulated encroachment from the waste by farmers and landowners in North Wales, and by the number of smallholders who had thrown up a *tyunnos* (one-night house) in the popular belief that they could lay claim to ownership of a house constructed in a single night and the surrounding land within axe-throwing distance. Indeed the Receiver of Crown rents warned in 1834 that if things went on as they were, the Crown would soon not have one single acre of common land left, due to 'the practice of the landed proprietors to turn the waste into what they call private sheep-walks; that is, each man directing his farmer to graze his sheep upon so much of the waste lands as are contiguous to the respective farms'.[39]

Despite this concerted effort by landowners to claim the waste as their own private property, most owners now acknowledged the Crown as lord of the manor. The Commissioners of Woods and Forests therefore hit on the idea of re-establishing manorial courts in North Wales as a means of regulating encroachment. In Nantconwy, where the hundred court had ceased to operate by the eighteenth century, the Crown's intervention was not welcomed by either

[37] TNA, CRES 49/643.

[38] R. B. Pugh, *The Crown estates* (London, 1960), pp. 16–23; BPP 1834, XV (579), *Select Committee on land revenues of the Crown*, p. vii; BUA, Porth yr Aur 14,040.

[39] G. R. J. Jones, 'Field systems in North Wales', in A. R. H. Baker and R. A. Butlin (eds), *Studies of field systems in the British Isles* (1973), p. 478. *BPP* 1834, XV (579), p. 24.

landowners or tenants, who frustrated the Crown Receiver's initial attempt to convene the court in 1830. He described ruefully to a Select Committee how:

> In attempting to hold a court for the hundred of Nantconway, at a place called Bettws y coed, the public house was taken possession of by the agents and tenants of the present Lord Willoughby de Eresby (Lord Lieutenant of the County) and of Lord Mostyn; I had no place but the kitchen to make the proclamation in, which was also filled with persons opposed to the court being held. Only three persons summoned on the jury answered to their names, though the whole were, I understand, present, and I was obliged to retire without accomplishing my object.[40]

The Crown saved face by its discovery that the court had formerly covered the three hundreds of Nantconwy, Arllechwedd Isaf and Creuddyn as well as the borough of Conway, where it was reconvened the following year. The Nantconwy manor court continued to meet annually into the twentieth century, but it was boycotted throughout by the tenants of the hundred of Nanconwy itself. The court's proceedings nevertheless shed interesting light on the Crown's preferred method of dealing with encroachments. Enclosure of common land for a cottage and garden resulted in fines of between 6*d*. and 2*s*. 6*d*. The highest fine was £1, paid in 1846 by the parishioners of Caerhun in the lower Conwy valley for enclosing about 30 acres for the use of the parish poor. These fines might appear derisory, but in fact the policy of the Office of Woods and Forests until the 1860s was to facilitate enclosure of waste lands; encroachers were required to acknowledge the rights of the Crown by the payment of a nominal rent or by purchasing, which gave them security against their enclosure being demolished. Crown rents were initially charged at about a quarter of the value of the house and land, in recognition of the tenant's investment in enclosing the land and erecting buildings, but rents were increased to a more realistic level after 30 or 40 years.[41]

As a way of deterring his tenants from attending the Crown manor court and acknowledging any Crown rights over his lands, Lord Willoughby de Eresby established a rival manor court for his Gwydir estate. The court met annually from 1833 to 1871 and dealt with the typical range of issues concerning a rural community: the state of the roads and bridges, nuisances, straying animals, boundary disputes, trespass and damage to crops, poaching, and the regulation of the commons. Lord Mostyn also re-established a manor court in Eidda.[42]

In Penmachno, by contrast, the refusal of the major landowners to acknowledge Crown rights over the unenclosed sheepwalks led to a long series of legal disputes. It was important for Crown officials to keep up a claim to the wastes to avoid the Crown losing its rights under the 60-year rule. But they were reluctant to take costly legal action, especially where evidence of Crown right was less than watertight. Instead, the Office of Woods and Forests developed a process of undertaking 'acts of ownership' which challenged the landowner to bring an action for trespass against the Crown, and put the burden of proof of ownership on the landowner.

These acts of ownership were of three main types: use of the soil for pasturage, digging peat and cutting rushes; game rights; and mineral rights. The question of whether pasturage over

[40] Ibid.

[41] TNA, CRES 5/235; *BPP* 1894, XXXVII (C.7439), *RC Land, Minutes of Evidence*, II, p. 478, minutes 27,517–24.

[42] GA, XD/38/1; BUA Bangor Mostyn 6246.

unenclosed land was exercised on an exclusive basis by a single farm or was shared between different farms was therefore crucial. During the eighteenth century, local slaters had used the Penmachno wastes for small-scale quarrying, but when in 1810, a new landlord refused to pay Crown mineral royalties for a larger quarry on Tyddyn Bach farm, the Crown collector forcibly entered the quarry, took over the tools and persuaded the workmen to work for him instead. The landowner maintained that this was private land because the former tenants of Tyddyn Bach had exercised exclusive rights of sheepwalk over this unenclosed area of the mountain and 'drove away the cattle and sheep of all other persons'. The Crown however found a Ffestiniog shepherd who contradicted this story, giving evidence that sheep and cattle from the neighbouring farms intermingled with those from Tyddyn Bach on the mountain and that he had never seen them disturbed or gathered from amongst the others.[43]

In the 1820s, the major Penmachno owner, Lord Mostyn, applied for a Crown lease of mineral and sporting rights, but having beaten off all other bidders, he left the quarries idle, being more interested in preventing development so that he could enjoy undisturbed grouse shooting over the wastes.[44] With further applications being made to the Crown for mineral licences at various places on the Penmachno wastes, the Office of Woods and Forests decided in 1831 that a proper survey was needed. But when the Crown surveyor James Spooner approached the commons, he found his route barred by Lord Mostyn's gamekeeper, David Pierce, and over two hundred local people, including farmers who had been led to believe that the Crown wanted to take away their right of pasture on the wastes. The protestors formed a human wall to block the surveyors' route, and eventually one of the mob pushed Mr Spooner so that he fell. The upshot was that Pierce the gamekeeper and his associates were found guilty of assault at the Caernarvon Assizes, but got off extremely lightly by merely being bound over to keep the peace. Some years earlier, two women ringleaders of a mob which had impeded the enclosure survey of the commons of Pistill and Nevin had been imprisoned for six months, and the leaders of Caernarfonshire anti-enclosure riots at Llanalhaiarn had been sentenced to death (commuted to penal servitude).[45]

The Crown decided to press its advantage. Notice was sent to Sir Edward's steward that the Crown agents intended to enter on the disputed land and commence a trial for minerals. On the appointed day, Mr Spooner the surveyor accompanied by the Crown lawyer and several men armed with spades toiled up the 500m pass of Bwlch Carreg y Fran from the Ffestiniog side, to be met by the Mostyn agent and lawyer coming up from Penmachno. Having identified which patch of moorland was claimed by Lord Mostyn, the Crown party started digging a level and were duly charged with trespass. This had the desired effect for the Crown: Lord Mostyn was clearly insufficiently sure of his ground to pursue the action and gave up his claim to mineral rights, though maintaining his claim to the game. The Crown now lost no time in letting the mineral rights around Cwm Penmachno.[46]

But in 1851, Lord Mostyn was declared bankrupt, and Colonel Pennant (later Lord Penrhyn), bought the Mostyn lands in Penmachno and Eidda as a sporting estate. The Penrhyn estate

[43] BUA, Porth yr Aur 29,904.

[44] TNA, CRES 49/879.

[45] Ibid.; A. H. Dodd, *The Industrial Revolution in North Wales* (1951), p. 78; Plume, 'Enclosure movement', p. 136.

[46] TNA, CRES 49/1632, 643.

owners had been amongst the most steadfast opponents of Crown rights, and dispute over the Penmachno wastes flared up once more. Armed with evidence from the Public Record Office of past failures to define the boundaries of the Crown township, Pennant again claimed ownership of the sheepwalks used by his tenants, as well as buying up other farms in the parish, often at a high price, to ensure his undisputed control of the wastes.[47]

In turn the Crown gathered evidence from 18 long-standing residents, which showed that Pennant had tried to eliminate any taint of common use rights by insisting on the division of shared sheepwalks and the construction of new boundary walls and ditches. The poor who had customarily cut peat and rushes on the sheepwalks were now prevented from doing so. Pennant's tenant farmers all swore that they had long exercised exclusive rights and that no-one was allowed to cut peat without payment, though a tenant of another estate countered that 'he was not aware that Penrhyn tenants had any better claim to the mountain than he had and that several of the poor had always cut turf without payment'. A frustrated Crown lawyer remarked that he had been met by all the parishioners with a determination not to disclose anything tending to throw light upon the claims. The fact that some of the tenant farmers had enclosed further portions of the waste, and that numerous small encroachments had been made by the poor, may have had some influence on the witnesses' reticence.[48]

Privately, both the Crown and Pennant's lawyers were aware of the 1628 grant of Penmachno township to the City of London, and believed that the City was still the rightful owner. This uncertainty blocked development in the parish: the Crown repeatedly refused to grant land for further enclosure around existing encroachments, or mineral leases in areas where quarrying had not yet developed, such as around Llynnau Gamallt where Pennant had a shooting box. The long stand-off between the Crown and North Wales landowners was partially resolved by an 1860s Exchequer court case which gave judgement in favour of the Crown on a similar dispute concerning the mountain of Moelwyn Mawr in the neighbouring county of Merioneth. After this, the Crown was prepared to grant exclusive sheepwalk rights on waste land in Wales, subject to landowners acknowledging the Crown's mineral and sporting rights. In Penmachno however, additional factors made the question of rights over the wastes more difficult to resolve. The failure of sixteenth- and seventeenth-century attempts to survey the township meant that the Crown was uncertain which commons lay within its boundaries. They thought (wrongly) that the medieval township covered the same area as the parish, but had no proof of this. Furthermore, another local landowner, M. Lloyd Williams of Hafodwryd, refused in 1870 to compromise with the Crown concerning sporting rights over 635 acres of commons above his estate, citing the 60-year rule with evidence that his forebears had shot uninterrupted over the area since before 1810. A compromise was eventually reached over part of the Penmachno wastes in 1908, when the Hafodyryd owner sold his sporting rights at a discount to the Crown, who let them to Lord Penrhyn but acquiesced in his sporting rights over part of the waste, while maintaining its title to mineral rights.[49]

The development of lead mining on Mynydd Bwlch yr Haiarn in the nineteenth century also made it important to clarify ownership of the moorland between Trefriw and Capel Curig.

[47] BUA, Penrhyn Add. 2482, 2385, Penrhyn 274.
[48] TNA, CRES 49/643.
[49] TNA CRES 49/1632.

The boundary between the Trefriw *gafael* lands bought by Sir John Wynn of Gwydir and the township of Gwydir remained undefined until a private court case between the Gwydir and Pencraig estates over mine drainage in 1819. Parish boundaries meanwhile were not clarified until the tithe commutation surveys of the 1840s.[50]

The only case of parliamentary enclosure in Nantconwy involved Mynydd Cribe, 221 acres of boggy moorland on the slopes of Moel Siabod in Gwydir township, which was part of Llanrwst parish. Mynedd Cribe was a relic of the share-lands belonging to one of the free Gwydir township *gwelyau* which had remained common land because in addition to the Gwydir estate, two small landowners still had an interest in the surrounding farms. Its enclosure arose as a by-product of an 1812 act to enclose 5000 acres of moorland in the Denbighshire townships of Llanrwst. Because common rights had never been defined, the Gwydir estate was obliged to ask its tenants which farms customarily used the mountainside for rough grazing.

The enclosure award made in 1830 divided Mynydd Cribe between the three landowners, with a 20 per cent share going to the Crown as lord of the manor. It included conditions that the allotments should be fenced and a track crossing the common to Dolwyddelan made into an 18-foot wide carriage road.[51] None of these conditions were fulfilled: the land remained a sterile wasteland, with no walls between the different landowners' allotments or even dividing the 'enclosed' land from the remaining area of waste in Dolwyddelan parish. This was typical of much parliamentary enclosure of the Welsh uplands. The impact of enclosure was that three of the larger farms which had previously used the common continued to do so, but five smaller farms apparently lost their use of Mynydd Cribe, while part of the Gwydir estate's allotment was leased to a non-adjacent farm.[52]

The Mynydd Cribe example highlights why Nantconwy landowners did not make more use of parliamentary enclosure to secure undisputed ownership of the remaining wastes. Even at the height of the Caernarfonshire enclosure movement during the Napoleonic Wars, upland enclosure was only profitable if mineral rights were at stake, and considerable land sales were often needed to cover the legal and other expenses. Landlords had more pressing improvements to invest in, such as farm buildings, mountain walls, drainage and roads. A suggestion made by a small estate owner in the early nineteenth century to seek an enclosure act to control growing encroachment on the Penmachno commons was not supported by the major landowners, who preferred merely to assert their claims to private ownership.[53]

Elsewhere in Nantconwy, landowners largely resolved issues about ownership of the wastes by buying out other interests, including most of the remaining owner-occupiers. In 1805 the future Lord Mostyn gained control of Glasgwm in the parish of Penmachno, formerly part of Dolwyddelan township, after buying out the last remaining ancient native tenant. This enabled him to rationalize intermixed holdings, divide sheepwalks in severalty and shoot uninterrupted over all his farms' sheepwalks. The Gwydir estate similarly consolidated its position on the commons above Trefriw by buying the Gymannog estate comprising the half of Gafael

[50] Lincolnshire Archives (hereafter LA), 3ANC 7/23/2/46; TNA, IR 18/14,158.

[51] Denbighshire Archives, PD/69/1/226.

[52] GA, XD 38/362; Denbighshire Archives, PD 69/1/224 and 226; NLW, Gwydir BRA 79; BUA, David Griffith MS, p. 5; TNA, IR 30/48/25.

[53] Plume, 'Enclosure movement'; BUA, Bangor 102,606.

Gaderod purchased by the ancient native tenants in 1616. Following an exchange of lands with the Mostyn estate in Gwydir township, it was also able to create detached sheepwalks on Moel Siabod which could be rented to the highest bidder.[54]

III

The records of the Gwydir estate's manor court and various legal disputes are also revealing about the use and regulation of the North Wales commons. Although crops of oats, barley, potatoes and some wheat could be grown in the Nantconwy valleys, the natural economy of the hill farms was one of transhumance. The ffriths of Dolwyddelan had been used as summer pasture for the Welsh prince's cattle, and parts were still used as demesne lands by the Wynns of Gwydir into the seventeenth century. The custom of levancy and couchancy was clearly in use in the sixteenth century, being reinforced by the 1552 Quarter Sessions case concerning grazing on the Moel Siabod commons.

There is no direct evidence of how the remaining commons and waste were regulated during the seventeenth century. With the enclosure of many of the *ffriddoedd* (rough pastures) in the sixteenth century, it is likely that pressure on mountain wastes, suitable only for sheep and goats, had not yet arisen. Caernarfonshire farming was still dominated by cattle; the median sheep flock numbered only 15 and was mainly pastured on the enclosed *ffriddoedd*.[55]

As commons shrank and sheep numbers rose in the nineteenth century, the use of stinting in Nantconwy increased. It was normal for tenants to meet annually and determine the number of cattle and sheep that could be sent to the unenclosed pastures and sheepwalks according to the size of each farm.[56] The shortage of winter feed and shelter was partially resolved by a process of reverse transhumance, with mountain farms paying valley farms to graze their yearling lambs over winter.[57] The Gwydir estate manor court dealt with periodic disputes over the regulation of the commons, including, rather predictably, one between the tenants of the privatized but unfenced half of Mynydd Cribe in Gwydir township and the tenants of the remaining area of common land in Dolwyddelan. Communal regulation of farming was at its most sophisticated in the uplands above Trefriw. Here some 14 farms belonging to the Gwydir estate and four other owners ringed a common on the mountain ridge of Cefn Cyfarwydd. Three farms had already enclosed their share of the common, so complaints arose when their sheep and cattle were turned onto the unenclosed remainder. In fact, several cases came before the manor court about tenants over-stocking this common, disputes which were resolved by the introduction of stinting.[58]

Communal regulation was also influenced by the athleticism of Welsh mountain sheep. Mountain walls designed to keep sheep on the mountains and out of the enclosed lands during summer were traditionally 5 ft 9 in. high. As late as the 1860s in Eidda, all sheep had to be

[54] BUA, Bangor Mostyn 8480; LA, 2ANC 7/1/35; NLW, Gwydir 70.

[55] G. H. Williams, 'A Study of Caernarfonshire probate records, 1630–1690' (unpublished MA thesis, UCNW Bangor, 1972), pp. 247, 254.

[56] J. Evans, *Letters written during a tour through north Wales* (1804), p. 378.

[57] GA, XD 38/362.

[58] GA, XD 38/1.

taken to the mountain commons in summer and they were brought down to graze the stubble in autumn. Although the lower fields were enclosed, few farmers could afford the investment to make stock-proof fences, which precluded growing winter crops. When some farmers wished to grow turnips, estates resolved the issue by making wire available to their tenants. In Trefriw too, there was a well-understood usage that no-one was allowed to keep sheep in the vale or meadows, and to prevent sheep coming down from the uplands, custom required the hill farm tenants to make up their section of the mountain wall before 5 April.[59]

The contested ownership of the wastes made the collection of estrays a political issue. The Gwydir estate refused to allow the Crown bailiff to act on its lands. On one occasion when the Crown bailiff collected stray sheep on Moel Siabod in Dolwyddelan and drove them to a cowhouse on another landowner's property, the Gwydir steward gave orders for their release. In Penmachno and on independent farms in Gwydir township, Trefriw and Llanrhychwyn which shared a number of commons with Gwydir estate tenants, the Crown bailiff did collect estrays. A compromise solution was found in the late eighteenth century by both parties appointing the same consortium of local farmers to collect estrays on behalf of the Crown and the Gwydir estate.[60]

Encroachments on the commons and wastes by the poor became more frequent during the Napoleonic Wars. This was a period of rapid population growth, and though agriculture was booming, other employment was scarce, with the demand for slate nearly drying up during wartime. Many *tai un nos* (one-night houses) were built on the commons across Caernarfonshire, including near the village of Penmachno. This was an area of Crown land situated between various areas of freehold land and used as common by the local inhabitants, where several small farms had been enclosed in the previous three centuries. Encroachers who gave evidence in the Penmachno legal disputes afford a rare insight into their world: most of the enclosures had been made in the nineteenth century. The Penmachno encroachments varied in size from less than an acre up to seven acres; they usually contained a house, yard and garden or arable fields where potatoes were grown and a pig was kept. The typical *tyunnos* was built by a man in his mid-20s, but at least one unmarried woman had also cleared land and built a house. In middle age the encroachers might build one or more further houses on their enclosure and some became mini-entrepreneurs. The new ground was broken up for cultivation by manual labour, using pickaxe, mattock and breast plough. The Penmachno tithe schedule reveals 27 small owner occupiers and smallholdings rented from local owners in the same area as the attested encroachments, and these were probably also enclosed from the common.[61]

Only 12 long-standing farms had the right to depasture stock on the Hwylfa common which had been part of the share-lands of the free township of Bettws. None of the Penmachno encroachment witnesses in 1858 mentioned grazing their own stock there, though it had been the custom to cut peat and gather rushes on the Penmachno Crown wastes where there was no regulation of common rights. A great many people also turned their ponies onto the mountain, but once the Penrhyn estate gained de facto control of most of the Cwm Penmachno waste,

[59] Ibid.; Anon., 'Ysbytty Ifan, or the Hospitalers in Wales', *Archaeologia Cambrensis,* third ser., 6 (1860), p. 123.

[60] NLW, Gwydir 125.

[61] Jones, Gweithiau Gethin, p. 6.

its tenant farmers asked the estate to drive the mountain periodically and the owners of any ponies not entitled to be there were charged 7*s*. to release them from the pound.[62]

Encroachments were also made in the wastes of Mynydd Bwlchyrhaearn in Gwydir township, mainly in the first decade of the nineteenth century by miners who enclosed a patch of land and built a house near the expanding lead mines. If these were on Gwydir estate land, the cottagers were usually charged a small rent, typically around 15*s*. a year – well below the normal market rent of a cottage with land.[63]

Some of the largest encroachments were carried out by tenant farmers, like the enterprising tenant of Hafodwryd, who in the 1810s enclosed three sides of a ridge called Llechwedd Hafodwryd and kept a shepherd who lived in a hut on the ridge to prevent sheep from straying across the unfenced boundary from the mountain. He caused great offence to neighbouring farmers and the poor alike by charging for summer grazing, taking in cattle and horses from Penmachno residents and outsiders, and by forcibly preventing local residents from gathering rushes in the traditional way.[64]

IV

The picture that emerges is one of landowners, tenant farmers and the poor all regarding the waste as a no man's land that was up for grabs, but where usage was increasingly contested in the period after 1750. We turn now to evaluating how attitudes to the Nantconwy commons and wastes changed over the period to 1900, and how the various groups fared in the contest.

In the second half of the eighteenth century, Nantconwy landowners considering opportunities for improving their estates received plenty of encouragement to enclose the waste from the proponents of agricultural improvement. For the most part however, enclosure of the commons and wastes for agriculture was not economic, and landowners had more pressing investment requirements. Farmhouses and outbuildings required major improvements, including replacing thatched roofs with slate and the provision of stables for the growing number of working horses. Landowners also invested heavily in turnpike roads which helped tenants bring their produce to market more readily. The late eighteenth and early nineteenth centuries were the period when estates built many of Snowdonia's magnificent mountain walls, designed to keep sheep out of the enclosed lands in summer, enabling a significant expansion in sheep numbers. And after the Napoleonic Wars, it was more profitable to concentrate on investments that would improve the rental value of the best valley lands, typically by improving drainage and flood prevention. Some landowners therefore used the tactic of encouraging tenants to enclose land from waste; Penrhyn estate leases granted to Capel Curig tenants in the 1790s explicitly conferred full liberty and power to enclose any part of the commons or waste to which the occupier might be entitled to right of common.[65]

Obtaining clear title to the waste was more important to landowners as a means of improving the value of their lands, especially for mortgage purposes. Unenclosed commons or

[62] TNA, CRES 49/643.

[63] E. Hyde–Hall, *A description of Caernarvonshire (1809–11)* (1952), p. 126; NLW MS 9727D.

[64] TNA, CRES 49/1632.

[65] BUA, Penrhyn 967.

wastes shared by tenants of more than one estate were of dubious status, and it is noticeable that while the surveys of the 1760s frequently mentioned commons, by the late eighteenth century, surveyors preferred the term 'shared sheepwalk'. A 1784 survey of the Gwydir estate showed its own tenants' shares of the unenclosed Cefn Cyfarwydd common as part of each farm, though intervening land belonging to other landowners was termed 'common'. In the tithe commutation surveys there was even more reluctance to describe land as common: the surveyor appointed by the Gwydir estate declared that there was no common in the parishes of Trefriw, Llanrhychwyn and Dolwyddelan, despite the frequent intervention of the manor court to regulate stints and boundaries on the commons of these parishes. Mineral rights became an added incentive for claiming private ownership of the waste, though in the nineteenth century, aristocratic owners like Lord Mostyn and Col. Pennant were prepared to block development of quarrying in order to preserve the game on their grouse moors.[66]

Farmers were principally concerned to safeguard the mountain sheepwalks which were vital to the upland farming economy. Where parliamentary enclosures in Caernarfonshire and mid-Wales resulted in the conversion of traditional grazing areas into new farms, they were often met with significant opposition. We have seen how Lord Mostyn's gamekeeper was able to involve respectable farmers in obstructing the Crown surveyor's attempt to map the Cwm Penmachno waste, under the mistaken fear that this was a prelude to it being enclosed and let out to others. But providing there was no loss of total grazing area, Nantconwy tenant farmers preferred exclusive sheepwalk to an allocation of common, in order to prevent overstocking by their neighbours at a time when sheep numbers were on the increase. Where large mountain farms were shared amongst several tenants, each sought to mark out their own section of mountain sheepwalk, and some asked the Gwydir manor court to arbitrate on a division. Tenants therefore needed little encouragement to enclose 'their' share of common, and generally supported landowners' attempts to claim ownership or establish exclusive sheepwalk rights. Some farmers were also not averse to charging the poor for use rights such as cutting peat or to accepting payment from landowners to preserve the game by excluding the poor from the former commons.[67]

The attitudes of Crown officials underwent the greatest change over the period. The local agents of the Crown in the eighteenth century adopted a laissez-faire attitude towards the administration of the Crown lands, allowing rents to go unpaid and common land to be enclosed without reference to the rights of the Crown. This changed after 1820 with renewed parliamentary oversight and the increasing professionalization of the Civil Service. Against the background of increasing population, food shortages and riots during the Napoleonic wars, the Crown extended its role as a facilitator of enclosure, its aim in Wales being more to regulate rather than to prevent encroachment. Indeed the 1844 Commission on Commons Inclosure found that there was generally no attempt in Wales to evict *tyunnos* squatters and suggested that local residents, even those with common rights, tended to connive at them because they were usually built by friends and relatives. The community supported the expansion of these subsistence smallholdings, which were essential to livelihoods and keeping down the poor rates

[66] Ancaster Estate private papers, William Hall Hawarden Agent, 'Plan of the Gwydir estate' (1784); TNA, IR 18/14,112, 14,158.

[67] GA, XD 38/1; TNA, CRES 49/643.

at least until the mid-nineteenth century. The Crown merely asked that encroachers should acknowledge its rights by paying a small rent or by purchasing before encroachments had existed for 60 years. A further major shift in the Crown's attitude took place after 1860, allied to the growth of the Commons Preservation Society, which campaigned for greater emphasis on the public amenity value of commons. Henceforth the Crown agents for Caernarfonshire adopted a policy of maintaining wastes as wastes, though they were prepared to reach agreements with landowners granting exclusive rights of sheepwalk on unenclosed land.[68]

Amongst the poor of Caernarfonshire, parliamentary enclosure aroused considerable opposition in parishes where they had traditionally pastured their animals or dug for slates on the commons, especially from those who had enclosed and cleared waste land through backbreaking labour and were faced with eviction or paying market rents for their smallholdings. The curtailment of use rights, especially peat cutting, could also add significantly to household costs or deprive them of fuel altogether. Following the Llanrwst enclosures, the poor who were no longer allowed to cut peat from the commons were unable to heat their homes or cook their food owing to coal being too expensive.[69]

In Nantconwy, the poor were spared the hardships of eviction from their smallholdings encroached from the waste, though creeping privatization affected some through the reduction of summer grazing areas on the unenclosed mountain, and the ability to cut peat and rushes. In Capel Curig, Lord Penrhyn excluded Gwydir estate tenants from their traditional turf grounds on a disputed area of waste, though one of the farms sharing the Cefn Bryntyrch common subsequently let rights of cow-keep and turbary to its sub-tenants and other villagers. Elsewhere, the poor retained their use rights of the traditional commons, despite the attitude of landowners. In Dolwyddelan, the mountain of Moel Siabod was by the 1780s designated as separate sheepwalks to the major farms; but it is clear that cottagers were still cutting turf there in the mid-nineteenth century when an estate official tried unsuccessfully to persuade the Gwydir manor court to apportion areas of turbary to tenants according to the size of their tenements, and that all cottagers residing in Dolwyddelan should cut no more turf than sufficient for their own use. Even in Penmachno, the poor could still cut peat on Penrhyn farms provided they paid an acknowledgement. And where customary use of commons was lost, the development of a market in grazing rights during the nineteenth century provided the poor with some substitute, albeit at a cost.[70]

V

The Nantconwy case study demonstrates clearly how the pattern of landholding at the time of the English conquest had a continuing impact on the evolving ownership, regulation and use and of the commons and wastes throughout the period 1540 to 1900. The refusal of landowners, freeholders and ancient native tenants to accept Crown manorial rights in the wastes after the Acts of Union allowed unregulated encroachment across the social spectrum, though increasingly, landowners emerged as the major beneficiaries. Commons were most likely to

[68] *BPP 1896*, XXXIV (C.8221), I, p. 590, II, p. 479.

[69] Plume, 'Enclosure movement'; DA, DD/WY 6840.

[70] W. Williams, *Observations on the Snowdon mountains* (1802), p. 133; NLW MS 16/49; GA, XD 38/1.

survive in the former free townships, or where they were shared by tenants of different estates. The gradual loss of memory concerning the boundaries of the old townships and *gafaelion* enabled landowners and tenants, and later the poor, to encroach significantly on the Crown wastes from the sixteenth to the nineteenth centuries.

Where ownership of the waste was disputed, traditional methods of regulating use rights tended to break down. Landlords and their agents tackled the increasing exploitation of the commons and wastes in different ways. The Gwydir estate's newly invented manor court was successful in regulating communal agricultural affairs including introducing stints, dividing shared sheepwalks between farms, and the maintenance of mountain walls. In Penmachno on the other hand, might tended to prevail over custom and recourse to the law was the only avenue for resolving disputes. At times, uncertainty over ownership could nevertheless act to the advantage of the numerous local inhabitants who carved out subsistence smallholdings from the commons, and were eventually able to claim ownership. Whatever their normal differences, landowners, tenants and the poor made common cause throughout the period against the Crown in defence of their local interests.

In the end, most parties achieved a satisfactory outcome. Having established its general legal right to the wastes of the former Crown townships in Wales through the 1860s Exchequer court case, the Crown was prepared to compromise in Penmachno by granting exclusive rights of sheepwalk, which was the farmers' main concern. Lord Penrhyn eventually reached agreement with the Crown on exclusive sheepwalk rights for his farms and sporting rights over all the Penmachno wastes. The poor were gradually excluded from their customary grazing, turf and rush cutting on many areas which had been regarded as common in the eighteenth century, but were still able to gain access to these resources in some places, or through the development of a market in shares of grazing land, cow-keep and turf grounds. And the unresolved dispute over the Penmachno wastes blocked further development for smallholdings or slate quarrying until the Crown adopted a policy of maintaining commons for their public amenity value, so that today, everyone can enjoy them.