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To cite this article: Nancy Lee Peluso (2017) Whigs and hunters: the origins of the Black Act, by E.P. Thompson, The Journal of Peasant Studies, 44:1, 309-321, DOI: [10.1080/03066150.2016.1264581](https://doi.org/10.1080/03066150.2016.1264581)

To link to this article: <http://dx.doi.org/10.1080/03066150.2016.1264581>



Published online: 19 Jan 2017.



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## AGRARIAN CLASSICS REVIEW SERIES

### Whigs and hunters: the origins of the Black Act, by E.P. Thompson

Nancy Lee Peluso

Claim and counterclaim had been the condition of forest life for centuries.

Thompson (1975, 31)

Poaching has always been endemic in any forest area, and has no doubt been coeval with the forest's existence.

Thompson (1975, 57)

What was often at issue was not property, supported by law, against no-property; it was alternative definitions of property-rights: for the landowner, enclosure; for the cottager, common rights; for the forest officialdom, 'preserved grounds' for the deer; for the foresters, the right to take turfs . . . . When it ceased to be possible to continue the fight at law, men still felt a sense of legal wrong: the propertied had obtained their power by illegitimate means.

Thompson (1975, 261)

And if the actuality of the Law's operation in class-divided societies has, again and again, fallen short of its own rhetoric of equity, yet the notion of the rule of law is itself an unqualified good.

Thompson (1975, 267)

Edward P. Thompson was a British cultural historian, scholar of agrarian change and documenter of the complex, transformative class struggles of eighteenth-century England. His second major book, *Whigs and hunters: the origins of the Black Act*, was published in 1975, more than a decade after the huge success of his first book, *The making of the English working class* (Thompson 1963). In *Whigs and hunters*, Thompson demonstrates the myriad ways that the forests and 'chases' (hunting grounds) of southeastern England became key sites of massive legal, environmental, and social transformation and contention at this early moment in the nation's history of capitalist social relations. In the 41 years since its publication, the book has attracted a veritable 'cult' of scholarly admirers among political ecologists and other researchers of agrarian-environmental change,<sup>1</sup> drawn to it in part by the perpetuation of similar conflicts over land and resource control in our own times – with all the world as their stage.

At the heart of Thompson's argumentation was a view of the law, in its many and diverse forms, as both a medium of expressing social and political struggle and as inseparable from those struggles. 'For law was often a definition of actual agrarian *practice*, as it had been pursued "time out of mind"' (Thompson 1975, 261, emphasis in original), he said,

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<sup>1</sup>For a few examples, see Peluso (1992); Neumann (1999); and Kosek (2006).

This review forms part of JPS's 'Agrarian Classics' review series, in which leading scholars revisit classic works in agrarian studies to examine their legacy and contemporary relevance. These reviews bring older works – both well-known and underappreciated – into dialogue with current theoretical debates, political struggles, transformations in global capitalism, and trajectories of agrarian change.

summarizing in a concluding section of the book what he had demonstrated in many compelling and dramatic examples throughout. While the book is renowned in agrarian studies for its vivid illustrations of the struggles over common, customary, private and royally conferred property rights – and the diverse norms, customs, practices and laws comprising, shaping and challenging them – it was the 11 pages on the rule of law at the end of the book that generated an immediate and vigorous debate. That debate continues to have relevance in part because of the book's nuanced and rigorous examination of the events in eighteenth-century England's woodland areas and rural commons constituting what Marx called 'original' or 'primitive accumulation' (Marx [1867] 1976, 784–87), and in part because of how these events foreshadowed contemporary expropriations more frequently conceived of today as accumulation by dispossession (Harvey 2003).

The short essay proclaiming the 'Rule of Law' as an 'unqualified human good' (267) came in the wake of Thompson's 300-page analysis of extant archival material pertaining to claims and conflicts over specific forests and chases in England's Windsor, Hampshire, Berkshire, Richmond and Enfield. Changes in forest practices, laws and enforcement included new ways to privatize commons and customarily held resources, and the rendering of some customs as transgressions against private property (in most instances only recently formalized) as *capital* crimes. The Black Act,<sup>2</sup> passed in 1723, made the shooting of red and fallow deer, and the exercise of many long-standing common and customary rights in and around the forest, punishable by death, without the benefit of clergy (270–77).

The numerous episodes of 'claim and counterclaim' detailed through accounts of rural people's changing lives and means of livelihood before and after the notorious Act's passing clearly demonstrated that the law favored the forest bureaucracy and the Royal Family, as well as the *nouveau riche* who were buying their way into the forest. This was not a simple 'before and after' or 'impact' study: rather, one of Thompson's great accomplishments is how effectively he builds a compelling narrative from numerous acts of claiming and reclaiming forest resources across several periods of political-economic change, including the making and breaking down of physical enclosures, passing new laws or enforcing old ones, killing deer, setting up informants and spies, posting notices, organizing, making appeals, donning of costumes, and, of course, 'blacking' – the application of black paste or paint to the face as a form of disguise. Thompson, in fact, showed time and again that the law's enforcement and expansion placed lesser burdens on gentry than on common forest dwellers. Given such findings, many structural Marxist scholars were confused and angered at Thompson's concluding reflections on the radical possibilities residing in the 'rule of law'. He had shown throughout the book – convincingly and repeatedly – that the law was being used to the benefit of 'the ruling class', even as the composition of that class was changing (260). Why, then, did he turn around at the end of the book and call the rule of law 'an unqualified human good' (263)? This question persisted even though Thompson laid out his argument clearly in the book's concluding remarks, stressing his belief that the universality of the rule of law – if it could be realized – offered the only possibility of justice for the less powerful in an inequitable society.

Thompson went further by demonstrating throughout his text that "'law" was deeply imbricated within the very basis of productive relations which should have been inoperable without this law' (261). For him, law and agrarian practice could not be separated. 'How can we distinguish between the activity of farming or of quarrying and the rights to this strip of land or

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<sup>2</sup>The Act is reprinted in the first appendix to the book (Thompson 1975, 270–77). It details very clearly the specific acts that are considered crimes after 1 June 1723.

to that quarry?’ (261). The devil (of the law) was to be found in the very details, complexities and conflicts of everyday life, the panoply of norms-in-practice, and the variety of values and ideologies that lay beneath the customary uses and the common rights (often granted through laws) that had been fought for and practiced in agrarian contexts for hundreds of years – many in conflict with one another, as indicated in the epigraphs at the outset of this review.

Thompson’s intervention was explicitly aimed at his more ‘structuralist’ colleagues who regarded the law as part of the ‘superstructure’ of social forces, seeing it as separate from the more fundamental productive forces and relations through which lives and livelihood-seeking were played out (266–67). On the contrary, Thompson insisted, the law and productive practice were tightly imbricated in ways that seemed to go unacknowledged by members of this structuralist camp. Three years later, he would expand this claim into a much longer book: *The poverty of theory* (1978). Yet, lest his message be misunderstood, in the conclusion of *Whigs and hunters* he asserted that he saw a tremendous ‘difference between ... [the exercise of] ... arbitrary power and the rule of law’ (266). Thompson extended his claims beyond the specific places and times in English history that he had addressed in this book by pointing to other historical actors in diverse times and places – including those subjected to British imperial rule and violence – seeking radical change through the vehicle of the law: ‘If the rhetoric was a mask, it was a mask which Gandhi and Nehru were to borrow, at the head of a million masked supporters’ (266).

The gauntlet E.P. Thompson threw down, and the challenges countered, continue to resonate with contemporary debates about forest politics, conservation and development policy, green grabs and land grabs, property and access, and legal pluralism in environmental politics, political ecology, agrarian-environmental studies and associated disciplines. However, across the many years that I have taught this book in graduate seminars on political ecology and agrarian change, students’ hearts and minds have been captured by much more than the last few pages of the book, and it is on these contributions that I will concentrate in the remainder of this review.<sup>3</sup>

Somewhat unexpectedly, the book has helped me to demonstrate a historian’s means of writing ethnographically, even though the data come from ‘field sites’ unfamiliar to ‘field’ ethnographers – the archives of parishes, private individuals and government libraries. My students are more likely to conduct field research among marginalized, dispossessed and disenfranchised people using and claiming contemporary forests, fields, hunting grounds and conservation zones, or marine and fresh water fisheries. Nevertheless, the book presents the kind of evidence that contemporary ethnographers seek through interviews and observation, as Thompson collected and followed all manner of complex and juicy stories through devoted sessions at long wooden tables in quiet halls. His references to his isolation during his study and his narrow theoretical ledge also evoke feelings of solidarity among his readers. Thompson seems to have thought himself an ethnographer as well, describing in his preface his own venturing into the early eighteenth century’s legal and agrarian politics: ‘I was like a parachutist coming down in unknown territory: at first knowing only a few yards of land around me, and gradually extending my explorations in each direction’ (16).

Much of the book is spent documenting the lives and travails of forest dwellers during the decades straddling the turn of the eighteenth century. This period was perhaps the height of the enclosure movement in England, during which the wealthy and politically connected enthusiastically ‘enclosed’, ‘hedged’ or privatized for their own individual use and access the common fields, pastures, peat turfs, woodlands, rivers and ponds to which the bulk of rural people had always enjoyed customary, common and use rights, if not actually ‘from

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<sup>3</sup>For more on the rule of law and Thompson’s stance on it, see Cole (2001).

time immemorial' then at least for centuries. Moreover, these were 'legal rights', often taking written form and recognized widely in practice – their recognition was not in question. The first few hundred years of enclosures were achieved through the building of hedges or fences to bound or consolidate previously common property under individual private claims. These frankly audacious claims could be made by royals, their courtiers or others in royal favor; gentry who expanded their holdings, literally gentrifying the forests; or wealthy newcomers who had benefited from the South Sea Bubble (not the last 'bubble' the capitalist world would see!). The assertion of these claims was replete with just a few winners and many losers.

Enclosures at once reduced the extent of commonly held lands and resources and the number of claimants to them, marginalizing previous users and occupants. The legal mechanisms for enclosure also changed over the centuries, until Parliament passed the Enclosure Acts in 1831. In assessing the effects of all this privatizing and en-titling, the biographer of capitalism before it became an 'ism', Karl Marx, had no qualms (and plenty of evidence) asserting that the beneficiaries (owners) of those enclosures had stolen those resources from commoners, cottagers, tenant farmers, foresters (the word Thompson uses for 'forest villagers'), and other rural residents (*Capital*, Vol. 1, chapters 46–47). Thompson's narrative gives his readers a visceral experience of those times: it is through individual and collective lives that he recounts the social and legal episodes and events transforming the eighteenth century forests.

The themes and findings of *Whigs and hunters* link the violent realization of private property in eighteenth-century rural England with distressingly similar experiences in sites across the globe in the twenty-first century. The Black Act as a legal or policy instrument of the eighteenth century resonates easily with the politics and political economies scholars encounter in diverse sites of engagement, and Thompson's account offers an important lesson about how 'the abstract' rises out of the concrete lived experiences of everyday life. In the contemporary world, think about the death penalties imposed by 'shoot on sight' edicts issued by state actors and institutions and their conservation allies, the incarcerating power of the word 'terrorist' in national politics around the world, and the ongoing evictions and dispossessions of resource-dependent people who are counted in a new-yet-old global category of 'the poor'. Is there a forest in the world that does *not* have a history of violence in its understory? Specters of failed and trampled common property, disputed customary claims, and both emergent capitalist and non-capitalist production relations populate the pages of *Whigs and hunters* as frequently as they haunt or define the field sites of today's agrarian researchers.

These connections led me to re-read *Whigs and hunters* for this review with the specific goal of identifying some of the issues that plagued Thompson's beleaguered characters and resonated with environmental and agrarian conflicts in the present. As I did, I kept asking myself: how is it that the words and experiences of eighteenth-century England's forest denizens can reverberate across centuries, nations, empires and worlds and remain relevant to far-future and far-flung generations of small farmers, indigenous peoples, pastoralists, hunters and fishers, as well as to contemporary students and teachers of agrarian and environmental change? The answer lies in the fact that Thompson's claims may pertain to the productions of new frontiers of private property and capital investment in the eighteenth century, but conflicting land uses, contentious power relations and property rights are the mainstay of agrarian capitalist relations then and now: wringing blood and life-force from whatever social relations exist on the land prior to their arrival. Not without a fight, however.

In discussing the blurred boundaries between legal and illegal acts in moments of either agrarian warfare or superficially peaceful coexistence, Thompson elucidates the salient and manifold forms of dispossession and class formation that took place in English forests. Although, as indicated, enclosure in England had a history that began well before the late seventeenth century when Thompson's tales begin, *Whigs and hunters* nonetheless plays the role of an origin story, detailing the specific ways the 'first' enclosures and their material and theoretical chums, 'privatization', 'criminalization' and the creation of 'surplus' labor come about through specific processes of 'dispossession', a theme taken up by other scholars and extended by them to the analysis of other natures, resources, places and empirical contexts after the turn of the 21st century. The book provides continuing inspiration for understanding the origins of resource conflicts in the inner workings of a particular 'Great Transformation' (Polanyi 1944), specifically, the classic enclosure of 'the social' by a society characterized increasingly by marketized capitalist relations.

Like struggles over land, forests and governance elsewhere in the world today, the struggles over the English forests depicted in this book were place-based, symbolic and material moments of struggle between centralized and localized sites and offices of resource governing and control. Following the practices of the House of Stuart that preceded them in rule after the Restoration (see below), the Hanoverian kings – via key Whigs of the time – reinvigorated the forest bureaucracy as a local institution of forest rules enforcement, despite the contradictions between forest and statute laws and those between longstanding common rights and newly imposed private property claims. 'Blacking arose in response to a reactivation of a relaxed forest authority', Thompson writes (1975, 38), but when the Hanoverian Kings and the Whigs of the times decided to take back the forest, they named their Black Act after the disguises used by the local competition: gentry and their local allies. Forest conflicts here were peppered with the frequent illegal actions of the keepers of the law, including forest officers, judges, lawyers, gamekeepers and sinecurists (e.g. Thompson 1975, 38), and the courts were unable or unwilling to enforce the laws when Royal prerogative was challenged (34–35). Indeed, an entire chapter, 'The politics of the Black Act', is devoted to the ways that certain well-positioned or well-placed actors in and around the national government used the Black Act and its less bloody precedents to acquire properties, to change the law, and to take advantage of the political economic uncertainties of the times by using what was essentially a property law to eliminate (literally) their enemies (190–218). Similar episodes and conspiracies have generated contemporary analyses of 'shadow states' (e.g. Reno 1995; Harriss-White 2003; Cribb 2011), 'the politics of the belly' (Bayart 1989) or even 'dispossession by "extra-economic" means' (Glassman 2006), not to mention the repertoires of violent and illegal repression deployed in resource struggles the world over.<sup>4</sup>

Thompson's empirical examination of struggles over forest-based enclosures focuses on three broad cases. The first case, in Windsor (yes *that* Windsor), has the most extensive forest and the most extant evidence, and echoes loudest in the present. There, one set of contenders was constituted by the Royals and their entourages, allied with the local forest bureaucracies of gamekeepers and wood-wards who managed royal claims to forest timbers for ships and the deer reserved for the pleasure of the king. It is worth noting that ship-worthy timbers were among the 'strategic resources' of the eighteenth

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<sup>4</sup>This list of references on violent resource control and conflict could be a long one, but for a start, see: Hecht and Cockburn (1989); Peluso (1992); Neumann (1999); Peluso and Watts (2001); McElwee (2004); Bobrow-Strain (2007); and LeBillon (2014).

century, just as oil, cobalt, uranium and other substances fueling war, trade and society are today. Hence the claims of the ruling royal house and the ‘need’ for legal ‘protections’ of the material resources parallel similar security claims heard in the halls and chambers where contemporary governments make resource acquisition strategies. Then as now, there was infighting and competition among allied actors. Forest officials, for example, formed a distinct interest group according to Thompson; he makes it clear that they were not only ‘the king’s men’ (Thompson 1975, 96). A second set of powerful competitors were landed gentry who owned extensive manors and were busy converting forests to lawned estates with decorative fruit trees and private chases, transformations that excluded tenants and cottagers who had previously held customary and common rights. The expansion of these gated estates was not amenable to commoners’ cow or sheep grazing activities, their production of crops such as corn, or even local hunters’ traversing the space in pursuit of small game. Further complicating matters, gentry and the royals had to contend with a new class of wealthy folks made rich by clever investments in trade and exploration<sup>5</sup> or by the provision of expensive services – merchants, lawyers and some military men. These competitors were buying their ways into the countryside, often through purchasing ‘offices’ therein. Thompson discusses the many variations on conflict and cooperation across this general triad of ruling class contenders whose roles, power and controls over land and resources were changing. In short, they were fighting against each other *and* against the commoners and other country people who had long depended on the forest’s resources to survive. Indeed, Thompson shows that those who resisted most publicly – those who disguised themselves by blacking their faces and who secretly posted public statements about deplored injustices – were more often gentry and those just ‘below’ them in class hierarchies of the times (e.g. substantial farmers, yeoman, craftsman, tradesman, innkeepers and the like), and *not* the rural poor. He also asserts that the lines between these classes were not clear but blurred through temporarily convenient alliances between otherwise strange bedfellows, which presents still-relevant insights and questions for analyses of rural class differentiation.

The second case Thompson examines is in Hampshire, a region with patches of forest across a more extensive terrain dominated by Episcopal Church and college lands (Peluso and Vandergeest 2001). Whereas Windsor had been a largely contiguous ‘political forest’ (Peluso and Vandergeest 2001), dotted by patches of settlement (a town, two villages and numerous hamlets, and cottagers lived within the bounds of Windsor Forest), Hampshire was anything but a contiguous tract of forest cover. In Hampshire, moreover, Royal claims were more laxly enforced or revived after the Reformation and almost half the lands were in private hands (119). The stories from Hampshire are of resurging land controls by holders of feudal-era religious properties, including officers of the Church, and in the occasional forest track, and of course those who opposed their resurgence, from which they stood to lose their access to these lands. The claims of former serfs, tenants, commoners and hunters dominate these chapters, while the Royal claims and presence are more like soft but menacing music in the background. In Hampshire we are treated to a very short story about ‘King John’ – one of several alleged ‘Kings of the Blacks’. This assumed ruffian (or ‘terrorist’, choose your term) was associated with several gruesome incidents, but when so accused by a beleaguered woman, he pulled off one of his black leather gloves to reveal a smooth white hand: demonstrating authoritatively that he was a ‘gentleman’. Although an unapologetic Black, King John was never captured or even

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<sup>5</sup>This was the age of mercantile trading companies such as the East India Company.

identified after his short ‘reign’ (as far as Thompson could find in the archives), but he stands as an important and symbolic character in the story and in the reportage of the times.

In Windsor, much more ado was made about the deer than about the timbers important in Hampshire. In both, the forms of theft of rural resources from the many, and their redistribution to the few, involved negations of the complicated use and common rights prevailing in earlier times. In Windsor what predominated were not only the building and expansion of deer parks for the king and his court favorites, but also the gentry’s construction of their own private deer parks, the enlargement of fish ponds, and the criminalization of wood cutting without a license, even on one’s own land. Perquisites (or ‘perks’) associated with the offices in the forest bureaucracies were also expanded, bestowing fee-collection rights upon the gamekeepers, under-keepers, constables and officers of the forest and statute courts, all of whom managed physical access to the resources in one way or another. Huge jolts of cash thus fattened the purses of rangers, overseers, gamekeepers and under-keepers who, before these offices were coveted by the already rich or up-and-coming, lived on rather paltry salaries. These perks were much like the stock options and other financial benefits reserved by and for the OGs<sup>6</sup> of Silicon Valley tech firms in the state of California’s own late-capitalist era. Tellingly, the 1720s were the years when ‘the comparison of statesmanship and criminality became common coinage’ (216–27), particularly among contemporary satirical writers – authors of, for example, *The beggar’s opera* and *Gulliver’s travels* – who wrote in satire what the muzzled press was largely unable to do, even as men of the highest offices (except Walpole) were impeached for corruption (217). As lands in Hampshire were enclosed and privatized, commoners rapidly lost their customary rights of access to the resources necessary to their subsistence: the rights to cutting turfs (for fuel) in peat lands, collecting or cutting and selling wood, fishing in streams, hunting small game and birds, and grazing the occasional cow, sheep, or work animals on common pastures. Tenants or freehold farmers lost their access to open fields to which they formerly had common rights. Yet it was they who suffered the most dire consequences of the Black Act, especially in the years after its initial passing.

Richmond Park and Enfield Chase could together constitute a third case example in which the initial contexts and the nature of subsequent developments differ from those of Windsor and Hampshire. In part this is because they are so close to London – easily accessed by horse or on foot. It is here, however, that Thompson recounts the machinations of some of the biggest players of all, who were very active in the years immediately following the passing of the Black Act. These players included Alexander Walpole, the key advisor to King George I who in 1725 acquired the Rangership of Richmond Park (it is his picture that graces the cover of the paperback version of *Whigs and hunters*). Thompson says he included this short chapter in the book because it is in Richmond and Enfield that Walpole and several other prominent and powerful men realized their own private claims to the parks, wastes and chases, over the protestations of customary claimants from four surrounding parishes to the area’s peat turfs and firewood (188). For Walpole, the Ranger’s post was not only a lucrative inheritance for his son, but a perch from which Walpole vigorously repressed the poor who depended on the park and chase lands for materials to heat their homes and cook their food. Eventually he went even further, enclosing the Crown’s land and holding it as a private estate. Richmond and Enfield are therefore not significant as prototypes of urban forests and parks, but rather as figurative ponds where the very big fish came to eat up the small fry – and gobbled up much of the other food. These particular

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<sup>6</sup>‘Original gangster’ is a common street term referring to a founding member of a street gang.

'local' contests were important as comparisons to those in the parishes in Windsor and Hampshire because, as Thompson pointed out,

At the level of affrays between poachers and keepers there was some equality in the contest. But at the point where the petty seriously inconvenienced the great, then the entire apparatus of power and law could be brought to the side of the latter. (188)

Although *Whigs and hunters* predates the rise of political ecology as a field, it is in many ways an exemplary model of it. Thompson effectively presents a political ecology of the transformations unfolding in eighteenth-century British forests, marshalling strong evidence that conflict was both on the rise and becoming more complicated. Conflicts are documented between and within classes and in both rural and soon-to-be urban forests such as Richmond and Enfield (sites now largely swallowed up by the city of London). Again, it is important to stress that the Blacks turned out only rarely to be from the lowest classes of commoners; rather, as Thompson says, 'The heart of Blacking lay in the middling orders of the forest: a few gentry sympathizers, more substantial farmers, more again of yeomen and tradesmen or craftsmen, and a few of the poorer foresters' (94). Their 'antagonists' were 'the forest bureaucracy and their allies', who he shows to be 'men of private substance' (94) who also held appointments as gamekeepers and other officials. Among these, not surprisingly, Thompson uncovers much internal competition. For example, some gamekeepers held their positions by means of 'inheritance', forming a kind of 'caste', in Thompson's terms (95). Some gamekeeper families were 'rising to the status of gentry and landholders in their own right' (96), through which we see realigning class positions and sites of control over the resources of the forest within the formalized forest hierarchy:

The spoils system of these years may have been awarding not only the titular posts of rangers and keepers to noblemen and generals, but also the posts of under-keeper (several of which were becoming almost hereditary) to gentlemen, professional men, and the sons of forest officers who had climbed to that status. The actual work was performed by servants. (97)

This amounted to a privatization not only of the rights and the lands, but also of the offices themselves. Moreover, the ranks of the urban upper classes were expanding with the newly monied and propertied who were elbowing in, some enjoying their recent enrichment by buying licenses from the Court at Eyre 'to hunt all game except deer within the forest' (98). Not surprisingly, it was more than irksome to the country people, not to mention life-threatening, that:

merchants, lawyers, army officers [from London] ... could bring down to the country fashionable sporting parties at weekends, *when the local farmers and gentry were being presented in the forest courts for taking game on their own lands.* (98, my emphasis).

It was precisely these sorts of relationships and practices that were imbricated with the law, and that constituted, as Thompson stressed, part and parcel of production relations: the law could not be separated from practice through an analytic of 'superstructure'.

The forest conflicts that Thompson brings to life reverberate in contemporary environmental politics' frequent debates over alleged 'crises' of 'over-population', 'ecological collapse' and 'resource curses', all predicted to generate civil and other kinds of wars over resources. The conflict between recreation and subsistence hunters just discussed resonates with the injustices experienced and expressed by forest- and savanna-based peoples who are

today forbidden to hunt small game, while safari hunters colonial and contemporary are allowed to take (or 'cull') big game from their customary territories. Thompson located these same kinds of crisis in chronic conflict, in this memorable paragraph:

Farmers and forest officers had rubbed along together, in a state of running conflict, for many decades and they were to continue to do so for many more. What appears as crisis ... was in the broadest sense political ... the 'crisis', while arising from forest conditions, was accentuated by political intrusions from outside. What was at issue was not land use but who used the available land: that is power and property-right ... The forest officialdom, by enlarging and reviving feudal claims [of the royalty] ... to forest land use – essentially claims for the priority of the deer's economy over that of the inhabitants – were using the deer as a screen behind which to advance their own interests. (99)

'Power and property right' are tied to land use in a later passage, however, when Thompson makes the case that land use also mattered, as it was entangled with property rights and power:

In Winkfield ... the lords of the manor were making new fish-ponds, perhaps in old quarries and peat cuttings [the customary domains of the middle and poorer forest denizens]; and perhaps these – or the ostentatious landscaped parks which were becoming the rage among the gentry – were inundating common land and obliterating valuable common-right assets. (104)

In reflecting further on the contemporary resonances of *Whigs and hunters*, one of the things that stands out most is the politics of the forest itself; in particular, how Thompson identifies these forests as political entities not just 'wild natures' or biological tracts of woody species (28–29). Rather, 'a forest has its own complex economy; and where forest settlements had become numerous, the competing claims of red and fallow deer, lesser game, hogs, cattle, sheep, and human demands for timber, firing and transport, were subject to intricate regulation' (28–29). In short, it was a complex society embedded within and constitutive of a larger complex society.

Thompson was clear that the creation of deer parks was not for the sake of the deer but to set aside a species of game animals for the Royals and their entourages to chase – and kill. Nevertheless, the 'nature' of that resource, the deer, required its needs attended to, which meant caring for extensive habitats. The deer needed foraging areas but did not have good sharing skills. Red deer especially – the species preferred by the king – did not take well to the presence of certain other animals, including sheep and horses owned by gentry and some of the more substantial yeoman farmers (30). For everyone who grew crops, the deer were a nuisance: leaping over hedges and high fences and devastating farmers' harvests, for which little if any compensation was offered. Further, the creation of deer parks created another level of competition between old-school gentry and newcomers buying land and titles (to lands and lordships) in the countryside. It is not lost on political ecologists that the surpluses invested in the British countryside for private use and gain came from capitalist speculation, trade and violent extraction in other parts of the world, some already colonized, others just under attack.

Forest residents felt some of the restrictions on access to land and other commonly held resources more harshly than others. There were hunting curfews, restricted days to hunt, and restrictions on dogs, including 'clawing requirements' – according to which three of a hunting dog's paws were to be chopped off (!) if the animal were kept to join 'the poor man's hunt' (31). Forest dwellers were not supposed to own bows, engines, guns,

nets or snares. No woodcutting without a license was allowed, even on private land. No fences too high for deer to leap over (or any that were topped with sharpened pales) could be built to keep deer from foraging where they wished – even if that meant a farmer would lose a year’s crop (42). The ‘chases’ – the deer’s constructed habitats – were maintained year round, and the gamekeepers kept better track of the deer population than the parish kept track of the humans (55).

Some influential legal models were established; both forest law and civil law were locally enforced, but forest bureaucrats, rangers and keepers reported to the staff of the royal house in power at the time. One of the things that struck me most when I first read Thompson in the late 1980s was that equivalent laws to those in eighteenth-century England had been established and enforced in the mid- to late-nineteenth-century forests of colonial Java (Peluso 1992), colonial Burma (Bryant 1996), colonial Tanzania (Neumann 1999) and colonial India (Guha 1990; Saberwal 1999; Sivaramakrishnan 1999). Further, in all these cases, foresters carried over the colonial-era forest laws to their respective post-colonial national contexts.

Another striking feature of Thompson’s discussion is how he located historical actors and their strategies in the contentious politics of their times – including the politics of class formation – and in historical trajectories repeatedly marked with political and agrarian violence. The Black Act is an instance of formalized state violence against the king’s own subjects, imposed in the reign of the first Hanoverian King, George I. References to violence and transformation throughout the book invoke Oliver Cromwell’s ‘Commonwealth’, the ‘Glorious Revolution’, and the ‘Restoration’ of the Stuart Kings. It was a newly restored Stuart – Charles II – who expelled some of the forest farmers installed during Cromwell’s era, and who also restocked and extended parks before the Hanoverian Kings and their Whig allies revived the forest law even more enthusiastically (38–40).<sup>7</sup> If there is a critique to be made of the way in which Thompson tells this story, it is his assumption that readers will understand the briefly made references and innuendos to these larger political economic moments and actors in English history. While we might mark *Whigs and hunters* as an example of studying up – remembering his article coining the memorable term ‘history from below’ (Thompson 1966; see also 1975, 16) – reviewers of such a manuscript today would surely insist upon footnotes to these references, if not in-text explanations.

For example, Thompson alludes to but provides no explanations of how to locate key players such as the aforementioned King Charles II, his son James II (after whom the notorious ‘Jacobites’ were named) or Queen Anne (the last monarch in the Stuart line), or how and why the much-derided Hanoverian Kings came to take the throne (by agreement with the Stuarts). Thompson never makes it clear that the allegedly bloodless ‘Glorious Revolution’ was a move to maintain a Protestant monarch on the throne – or that the Protestant monarch (William of Orange) was the brother-in-law via his wife Mary of the late (Catholic) Queen Anne and James (also Catholic: see comment on Jacobites, above). These were quite the family feuds. Even more importantly, he does not directly explain that both the Stuarts and the Hanovers needed to restore their claims to rule because Cromwell’s army had disposed of the monarchy during the Commonwealth period, nor that upon their return they immediately re-claimed (or ‘grabbed’, one could say) the rural resources described in the book. The master of manipulation, Alexander Walpole, who was later

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<sup>7</sup>Oddly, however, the London Plague of 1665–1666, from which people living in the city fled, is not mentioned as a source of migrants to forest areas – or vagrants as they might have been called then, even though the plague clearly forced people to leave.

dubbed the 'first Prime Minister' of England, is also an actor without grounding for the uninitiated, at least until the chapter on the Black Act's politics near the end of the book. Perhaps none of these quibbles would matter if Thompson had not made comments about the *global* relevance of the events on 'this small island off the coast of Europe' (1975, 258). For a global audience, a better playbook to the political drama would have helped.

Nevertheless, for many reasons, and with a few modest reservations, I continue to assign this unique book, knowing that I will have to endure student groans about the detail on the one hand and the scarcity of political context on the other. Most eventually realize that they are reading about the putative ancestors of the people they study and advocate for today. Thompson demonstrates the differential legal treatments for customary claimants who use forest and heath resources for subsistence or commercial ends (e.g. the peat turfs used for heating and sale), another set of practices and conceptualizations that echoes forward to contemporary conflicts over indigenous peoples' rights to resources that they wish to sell. He shows the classed effects of the criminal prosecution of woodcutting and hunting – hanging or 'transportation' for some (the poor), and the payment of relatively insignificant fines by others (the rich). And in foreshadowing critical conservation narratives of the late twentieth century, he states unequivocally that deer enjoyed such elevated status in the law and agrarian practice that their lives were valued more than farmers' whose crops the deer were eating on a regular basis. In this, he further develops a theme that he brought to the world's attention in other works: how changing political economies could generate claims to moral economy (Thompson 1963, 1971, 1993).

Thompson was thus a scholar of historical agrarian change who questioned his research subjects as best he could, as he encountered them in local and national archives. He wrote about their lives to make their travails with law and social transformation visible to current and future students of commons and enclosures, and the agrarian-environmental politics that comprise them. In the book, struggles between 'local' and 'central' government institutions and actors took specific forms, and in its many pages of glorious detail, we see how England's most powerful and public figures did not enact these conflicts in the courts or major cities alone. The detail elegantly demonstrates the complexity and mobilities of players, positions and alliances, even if, in the end, it was largely the powerful forces connected to the 'center' that occupied and controlled the countryside's land and what was left of the forest.

The struggles over England's fading forests and of their inhabitants, Thompson showed, were relevant to, grounded in and symbolic of other social dynamics within the changing political economic contexts of their times. They would be worth reading about in a future that constructed contexts both familiar and foreign to this dawning capitalist world; events that would retain their relevance, even as 'the last imperial illusions of twentieth century fade[d]' (259). Thompson saw his subjects as thinking, complex people, 'not as stupid as some structural philosophers suppose[d] them to be' (262) – a nearly final comment in a position statement that he knew would generate a debate on the rule of law. Given the running commentaries and dry observations Thompson provides on this hodge-podge of people and their foibles, it is fitting that he ended his famous essay with a pun about his beleaguered but shrewd historical subjects, asserting: 'They will not be mystified by the first man who puts on a wig' (262).

Read this book: I recommend it for political ecologists, agrarian historians, critical and mainstream conservation scholars, scholar-activists working on conflictual resource management, and ethnographers of the effects of large- and small-scale land acquisitions, past or present. At the very least, Thompson helps us realize that today's accounts of

land grabbing, enclosure, and encroaching capitalist and state controls on land and resources are stories foretold – if different in their details – as are myriad subversive efforts.

### Acknowledgements

I am grateful to Tony Weis for his engaged editorial comments on this review, which improved and tightened it even as it expanded, to Annie Shattuck for suggestions from an early read, to Scott Prudham for an interjection of inspiration around the academic debates discussed as part of this review, to Jeffrey Paige who first suggested I read this book long ago, and to my graduate students in political ecology who often made me justify assigning it – but who, upon reading all or part of it, admitted its relevance to contemporary agrarian-environmental politics.

### Disclosure statement

No potential conflict of interest was reported by the author.

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