



HAL
open science

Common land use in the "Coutume de Bretagne" from the fifteenth to the eighteenth centuries

Annie Antoine

► **To cite this version:**

Annie Antoine. Common land use in the "Coutume de Bretagne" from the fifteenth to the eighteenth centuries. Gérard Béaur, Phillipp R. Schofield, Jean-Michel Chevet, María Teresa Pérez Pícazo (eds). Property rights, land markets and economic growth in the European countryside (13th-20th Centuries), Brepols, pp.71-86, 2013, 978-2-503-52955-4. 10.1484/M.RURHE-EB.4.00138 . hal-04613641

HAL Id: hal-04613641

<https://hal.science/hal-04613641>

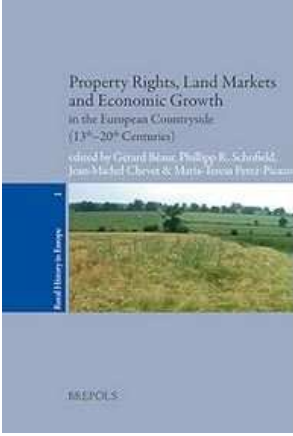
Submitted on 24 Jun 2024

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.



Distributed under a Creative Commons Attribution - NonCommercial - NoDerivatives 4.0 International License

	<p>Version fournie à l'éditeur</p> <p>Pour citer ce texte :</p> <p>"Common Land Use in the <i>Coutume de Bretagne</i> from the Fifteenth to the Eighteenth Centuries", <i>Property Rights, Land Markets and Economic Growth in the European Countryside (13th-20th Centuries)</i>, Gérard Béaur, Philipp. R. Schofield, Maria-Theresa Picazo, ed., Rural History in Europe 1, Brepols, Turnhout, 2013, p. 71-86.</p>
---	--

1. Common land use in the *Coutume de Bretagne* from the fifteenth to the eighteenth centuries

Annie Antoine

In France, those who study the rural world, whether historians or geographers, whether students of the most remote past or of more recent times, assume that there is a fundamental opposition between openfield and hedgerow country. While the former is thought to be the home of common agricultural practices up until the end of the eighteenth century, the latter is always depicted as an area of agrarian individualism. Thus it might seem that anyone who wishes to discuss common ownership, or even common use, should avoid the West of France. The usually accepted idea is that common ownership did not exist in Brittany, or even in the West of France as a whole. But things are perhaps not so simple: 'Here [in Brittany] there was no common land in the same sense as other places' wrote Nadine Vivier in her work on common lands (Vivier, 1998: 80). In this region it is therefore necessary not to look just at common land, but to look at a different way of exercising communal property.

IntroductionI.

We have to start by defining exactly what is meant by common property and common use. Until the end of the old regime, in Brittany, as in the rest of the kingdom of France, the ownership of land was almost exclusively defined in the context of the seigneurie. The land was either demesne land, known as the *domaine* and belonging to the lord (*seigneur*); he had the *dominium utile*, or movables (*mouvance*). In the latter case the lord only had direct or eminent domain (*dominium directum*) and the land really belonged to those who had the *dominium utile*; these might be nobles, churchmen, bourgeois, peasants, etc. To be strictly accurate, they should be called tenants (*tenanciers*), because they paid the *cens*, which symbolised their subordination to the lord of the domain, but during the course of the old regime in France they came to be thought of more and more as owners (Béaur, 2000:17-21) because they were never disturbed in the enjoyment of their possessions; they could sell and bequeath them freely as long as the lord received the entry fines (*droits de mutation*). In theory the owner could be a single person holding individual property, or a group of individuals, all the inhabitants of a village for example, or some part of them, and in this case we can use the term 'collective property'. But it will be seen later in this

article that this second case practically never existed in the West of France, or only in very exceptional cases. On the other hand there were vast areas in these regions, mainly uncultivated lands, which were used collectively. Breton customary law, the *Coutume de Bretagne*, recognised that the lords owned them; the local people who used them did not pay the *cens*, which, for the jurists, was proof that these areas were part of the demesnes and not of the movables. Thus the lords had the right to resume using them if they wished. That was the legal position. In practice, things were often more difficult. From the point of view of the local people, particularly the peasants, ownership was one thing, use, another. Many common usages took place on these uncultivated lands, and the local people resisted any proposals to deprive them of these practices, which they found very useful. In western France, then, the question is not so much that of ownership as of the common use of land.

For students of property rights therefore, Brittany is a somewhat special case: a region with no common ownership, but where the common uses of land were very important. This situation was the result of an evolution stretching from the Middle Ages to the second half of the nineteenth century.

Was Brittany a province with no common land? At the end of the old regime this was in fact almost true. As in all the West of France, the isolated farm surrounded by its own land predominated (Sée, 1906: 75-76). Apart from small areas common to the inhabitants of the bourgs (*placôtres*) and villages (*issues*),¹ it is true to say that there was almost no land where the ownership of the inhabitants as a community was recognised; the *Coutume de Bretagne* did not recognise this type of land ownership. This was not because there were no uncultivated lands; on the contrary, they were many and diverse. They may be divided into two main categories: small parcels of uncultivated land (either temporary or permanent) which were integrated into holdings and were purely for individual use, and vast uncultivated expanses, the heaths, outside the holdings, which were often used collectively. Who was considered to have ownership of these lands? The question has been discussed above. The *Coutume de Bretagne* was very favourable to the lords; all the large expanses of uncultivated land (apart from small parcels within individual holdings) were considered to belong to the lords. In Brittany, everything that was not individual property was seigneurial property; there was no room for common ownership.

¹ In western France, the term *bourg* designated the main place of habitation in the parish, the one that contained the church. The term *village* was used to designate a smaller group of dwellings, which in the rest of France is generally termed a *hameau*. In Lower Brittany, *placôtre* referred to a piece of ground surrounding the church, sometimes used as a cemetery and also as public space. In a village, *issues* were the common spaces serving as access ways but which could also be used for livestock.

Was Brittany a region of common usages? The answer to this second question may seem paradoxical: Brittany, which had no common ownership, was in fact home to numerous common uses of land. These common practices, unlike those in openfield regions, did not apply to cultivated, but to uncultivated land. In openfield regions, common practices affected both uncultivated and cultivated land, which was opened to livestock after the crops were harvested. In Brittany, cultivated land was gradually closed off to common use. The progressive introduction of hedges meant that farmlands were increasingly inaccessible for common uses (Antoine, 2002) but these continued on the uncultivated lands that were acknowledged to be the property of the seigneur. These uncultivated lands were very extensive; they made up at least ten percent of the area of the province on the eve of the Revolution. In fact, in spite of increasing population density, agriculture in the West of France was still, to some degree, extensive at the end of the old regime. The early, and lasting, specialisation in cattle rearing was made possible by common use of the uncultivated lands. The bocage separated the area of farms, made up of parcels enclosed by hedges, from the area of seigneurial heaths on which common uses persisted.

Before the modern period, the question of whether land was common or private is not only relevant in discussing ownership; it is equally important concerning use. This affected vast areas and had considerable economic implications. The main purpose of this paper will therefore be to show that before the modern period, and the definition of ownership as entire and undivided, the question of common ownership cannot be discussed without considering common use of the land. Brittany was a country of common usage before it was a region of bocage, and the common uses remained after the hedgerows were put in place. At the end of the old regime the frontiers between common and private were very vague and the two types of right could be exercised at the same time on the same land. Common uses were mostly exercised on land that was recognised to be the property of the lord. But this had not always been the case.

Common use in Brittany at the end of the Middle Ages and the II. beginning of the modern period

At the height of the mediaeval period, the landscape in Brittany would have been made up of islands of cultivated fields within the heath or forest, traversed by wandering livestock, which were supervised to a greater or less extent. In the Redon cartulary (dating from the ninth and tenth centuries) the most common agrarian unit was the *ran*, a block of land identified by a person's name, partly surrounded by ditches: 'undoubtedly the dominant type of cultivated land was still the open field, the *champagne*' (Tanguy, 1999: 21-31). But this champaign landscape was not like modern openfields: it did not consist of vast expanses of cultivated land, but rather of 4 *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

cultivated clearings, standing out to a varying extent from the surrounding uncultivated areas, heaths, uncultivated land, and wooded areas. This first field pattern developed from a forest landscape and it showed the signs of it for a long time. It can still be seen on certain maps at the end of the eighteenth century. Though hedges appear from time to time in documents before the fourteenth or fifteenth centuries, they were not there to mark out the fields. In the eleventh century, in the charters in the Redon cartulary, the hedges were never on all sides of a field (Davies, 1988: 33-34). These hedges marked the boundaries of seigneurial lands or seigneurial justice, or the areas covered by customary uses (Pichot, 1995: 31 et seq.).

II.1. The mid- fourteenth century

The *Très Ancienne Coutume de Bretagne* (1350-1380) is the first document that gives an overall view of common usages in Brittany (Planiol, 1896)²; In the mid-fourteenth century enclosed land was the exception; Brittany was not yet hedgerow country. Common uses were significant and well codified. They occurred on both cultivated land and uncultivated spaces, heath, woods and forests.

Article 273 of the *Très Ancienne Coutume* stated that the seigneurial domain was always défensable³: *'toujours fust le domaine desclos'* [always even if it were unenclosed], which suggests that there were also some enclosed fields, and Article 283 treats of the situation of the *'homme ou femme de basse condicion, ou cas que leurs terres seraient closes'* [man or woman of low estate, when their land is enclosed]; these are almost the only allusions to hedges to be found in it. The fact that the domain was said to be défensable suggests that there were animals wandering about which were forbidden to enter the seigneurial domain. Only Article 283 (*'Des gienz de basse condition qui veulent deffendre leurs heritages'* [people of low estate, who wish to enclose their land]) envisages the possibility of enclosing land with hedges (*'ils povent bien clorre une pièce ou doux pour leurs menuz avairs pasturer et pour leurs bestes de cherrue'* [they may certainly enclose one or two fields to pasture their small livestock and keep plough animals], but it appears that this was a marginal practice, on one or two fields, and that the purpose was to create an enclosure for the animals as the crops did not yet need to be protected by hedges. In practice, this situation ceased to be tenable once land came to be used more intensively.

All the common uses mentioned in this text concern animals, which shows the importance of stock rearing at this period. The year was divided into two periods: *guerb* or *yvenage*, and the rest of the time. *Aller à guerb* was for the animals to graze

² This text was first published in 1896, based on three manuscripts, two dating from 1350 and one of 1380. Articles 273 to 283 concern the countryside. All the quotations that follow are from this edition.

³ *Défensable* = forbidden to animals.⁵ Annie Antoine

on cultivated land after the harvest; *yvenage* was the time when winter tasks, that is autumn ploughing, were done. These two terms designated the same period, which lasted from mid-September to the first week of December. During the time of *guerb* or *yvenage* all kinds of livestock could go anywhere, except on the noble domains, which were always forbidden to animals (*en defens*). It was however necessary to watch the animals by night as well as by day, except in the time of *yvenage*. Thus it can be seen that at the end of the Middle Ages, common uses (grazing) were carried out both on uncultivated land and on cultivated land which might be thought of as private land.

Among the animals mentioned in the *Très Ancienne Coutume* there was a special place for plough animals (*avairs de cherrue*). Those who drafted the text showed particular concern for them. It is explained in the *Coutume* that it is necessary to plough the land to survive, that it is necessary to have animals to work the land, and that the plough animals must be fed. As they were working all day in the period of *yvenage* they could not *aller à guerb*. And as the owners of the animals did not have enough fields or meadows to feed them, they had to be able to *aller à guerb* at night. They did not have to be watched; they could even go on the domain of nobles if they were not enclosed. If someone found them on enclosed land, unless it could be proven that they had been put there intentionally, they were to chase them off, without mistreating them. It can be seen from these indications that the agrarian landscape was beginning to take on some of the characteristics of hedgerow country. There were probably private holdings with some hedges, seigneurial domains and also uncultivated land, heath, forest and scrubland. The plough animals were essential, which proves that the fields were worked and under cultivation. Meadows are also mentioned. The animals wandered over all the uncultivated areas to find food.

Within the grazing area the cultivated fields formed enclaves that were not necessarily enclosed. They were obviously forbidden to the animals. None of the articles mention the cultivated lands on the noble domains as they were always forbidden, whether or not they were enclosed. On the other hand, the *Coutume* protected the crops of 'people of low condition'. It distinguished '*gaigneries*', '*terres brandonnées*' and meadows. The *gaigneries* seem to be areas of temporary cultivation: they are only noticed when they are under plough and they are not mentioned unless they are bearing crops.⁴ Their existence is recognised in the *Très Ancienne Coutume*: Article 274 says that it is necessary to make *gaigneries* to live. The fields to be sown were forbidden to animals from the moment they were ploughed and during all the time they had crops on them (Article 276: '*les gaigneries dès le temps que ils sont faits jusques au temps que ils sont en grain*'). The *Très Ancienne Coutume* also talks of *terres brandonnées*.

⁴ Some *gaigneries* are still mentioned at the end of the old regime in certain regions of Brittany. See below in the discussion of the 1768 enquiry.⁶ *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

These seem to have been permanent fields that were not cultivated continuously; they were only *brandonnées* (that is, marked with a wisp of straw) when they were going to be cultivated. This was authorized by the *Coutume* from mid-February on; after the harvest animals could once again wander across them. Finally, the *Coutume* mentioned the meadows, which in principle were *brandonnées* as soon as the grass started growing again, and as long as it was produced, that is, from mid-February until the period of *guerb* (279).

From the point of view of use of space the situation the *Trés Ancienne Coutume* describes is one in which the circulation of livestock is the general rule and exclusion the exception. This shows both that there was very extensive use of the land, as cultivation took place in clearings, which were often temporary, and that there was a very restricted conception of private use of *non-noble* land. Common uses applied to all uncultivated land and cultivated land was only private when bearing crops, or growing hay.

II.2. The beginning of the sixteenth century

From the end of the fifteenth century, Brittany experienced very strong demographic growth – all the parishes in Upper Brittany for which data exist, and which have been studied, had growth rates from 70 to 100 percent between 1500 and 1560 – and though there was a sudden decline at the end of the century the recovery was just as rapid and growth continued to be vigorous until 1640, or even 1670 or 1680 (Croix, 1993: 275). The need to produce more cereals to feed a growing population evidently led to great pressure on the land, and all known sources show that the network of hedges increased. They are shown in the *Manuscrit de la Vilaine* (Mauger, 1994) and mentioned in the *Propos Rustique* of Noël du Fail (Du Fail, 1549). This evolution was confirmed when the *Coutume de Bretagne* was revised in 1580 (Argentré, 1613-1614). The text reproduces part of the 1380 version, but assumes that everyone is free to enclose. Article 393 of the *Coutume* of 1580 is unambiguous:

‘Si aucun veut clore ses terres, prés, landes ou autres terres décloses, où plusieurs aient accoutumé d’aller et venir, et faire pâturer, justice doit voir borner et diviser les chemins par le conseil des sages, au mieux que faire se pourra, pour l’utilité publique: et laisser au parsus clore lesdites terres; nonobstant longue tenue d’y aller et venir et pâturer durant quelles étaient décloses’. [‘If anyone wishes to enclose his land, meadows, heaths or other unenclosed land, where other people are accustomed to come and go, and pasture their animals, justice must see that the paths are marked and divided with the advice of wise men, in the best way possible for public utility; and leave the said lands enclosed notwithstanding that it hath long been the custom to come and go and put to pasture there when they were not enclosed’].⁷ Annie Antoine

This article clearly shows that there were common uses (*aller et venir, faire pâturer*) on the unenclosed lands, but that the ancient practice of grazing animals and freely moving about fields which were formerly open did not constitute a bar to enclosure. It can be seen that the laws evolved at the same time as the network of hedges; common uses were now strictly limited to land not enclosed by hedges. Equally, common use of certain fields from time immemorial could not be considered an obstacle to enclosing these lands. This is clearly explained in the commentaries on the *Coutume* written in the eighteenth century by Poullain du Parc (Poullain du Parc, 1759), who added a note to Article 393 to explain how common uses should be seen.

‘This possession is considered precarious and a matter of simple tolerance when there are no titles or signs to characterise true servitude; it cannot give cause for an action of complaint and repossession against enclosure by the proprietor’.

The great difference between the texts of the fourteenth and the sixteenth century is that in the *Coutume* of 1580 anyone may put up hedges (*hayer*) on his land as he wishes — this article replaces the one in the *Trés Ancienne Coutume* which allowed him to mark (*brandonner*) his fields — and no longer makes any distinction between noble and *non-noble* land. Article 405 does, however, allow fields to be forbidden to animals. This suggests that not all the fields were enclosed and that common uses still took place on the unenclosed fields. But these were only very small areas that could be removed from common use without being enclosed: some *gaigneries* and vines while they were in leaf (Article 401). The bulk of unenclosed land was no longer composed of cultivated or cultivable fields, but of heaths, which are so abundant in Brittany.

In conclusion, it can be seen that the growth of hedgerows from the fourteenth century on was accompanied by a reduction of the areas under common use. The agricultural holding, made up of fields, meadows, and gardens, surrounding the buildings, was completely free from them, and the situation was clarified: enclosed fields were strictly for individual use and open fields were available for common uses.

Common use in the 1768 enquiry III.

In the years from 1760 to 1770 physiocrats and agronomists succeeded in imposing the idea that the economic development of the country necessitated modernising agriculture and developing uncultivated land. This meant removing it from common use, and the question of how to divide common land became the order of the day (Bourde, 1967; Vivier, 1998). However, in practice, there was much resistance, both because people were attached to common use and because the definition of common 8 *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

land was not as simple as the authorities, and following them the historians, thought. What was to be done in Brittany where there was no common land, but a great many common uses on uncultivated land?

In July 1768, Secretary of State Bertin, a strong supporter of physiocratic ideas in the government, sent an enquiry to the intendants on the subject of the *droit de parcours* and the existence of *vaine pâture*. The right to *vaine pâture* allowed all the inhabitants of a given area (generally the territory of the parish) to put their animals on all unenclosed fields after the grass or the crop had been harvested; *parcours* was much the same but took place from one parish to another (Moriceau, 1999: 135-146). On 4 July 1768, Bertin sent out a circular to the intendants, announcing that the king had decided to give people the right to enclose their personal property. The intendant of Brittany then put two questions to his *subdélégués* (Sée, 1928-29: 752-767)⁵: What is the state of the *droit de parcours*? How are animals fed in this province? The texts of the answers sent by the *subdélégués* – sixty-three answers, that is, almost all of them – are preserved in the Archives Départementales of Ille-et-Vilaine. While some of them replied curtly that these questions were not relevant in their area⁶ and others paid lip service to physiocratic discourse on agricultural progress, so as not to be seen as bad administrators, not all did so. The collection as a whole is very rich and contains a great deal of information on matters of private and common use of land, food for livestock, seigneurial division and *enfeoffement* of land, the respective rights of lords and other inhabitants on uncultivated land, and the like. To the first question, the replies were unanimous and unambiguous. The *subdélégués* wondered why anyone would bother to ask them about it. Yes, in this province the right to enclosure has existed for a long time and there is no *parcours*. It would be incompatible with Article 393 of the *Nouvelle Coutume*, which asserts that farm fields were enclosed (Antoine, 2002:149)⁷ and that *parcours* did not apply to enclosed fields. But when it came to the second question, although the initial answer was very simple – there are heaths to feed the livestock – things were much more complicated, and the *subdélégués* described many forms of common use that were perfectly compatible with the hedgerow enclosures.

III. 1. Common uses of cultivated land

First of all it might be noted that some cultivated land was involved in common uses. This was the case for the *gaigneries* in the region of Nantes. These were

⁵ The original document is: Enquête sur les clôtures, 1768, Archives départementales d'Ille-et-Vilaine, C 1632. This reference will not be given each time a *subdélégué* is quoted.

⁶ The *subdélégué* of Dol de Bretagne replied '... there is no need for a law which would only give the inhabitants of Brittany what is already given to them by the custom of the province'.

⁷ Though there were still unenclosed fields on holdings in the eighteenth century.⁹ *Annie Antoine*

effectively open fields and probably had the most restrictive common uses in all the West of France. The *subdélégué* of Pontchâteau explained what it was:

‘...throughout this district the *gaigneries* of grain which are completely sown with wheat and rye, or those with all barley and oats, or all buckwheat and millet are closed from the time they are sown until the harvest of the said grains after which harvest these *gaigneries* remain open and common until they are sown and all the neighbours, whether or not they own *gaigneries*, let their livestock wander there often even without waiting for them to be entirely empty, which causes much wrong to those who were not prompt enough to avoid it’.

This was an old practice, already mentioned in the *Trés Ancienne Coutume* at the end of the fourteenth century, which can be considered as a right of *vaine pâture* carried out on cultivated fields. The enclosures were temporary, like the crops; they were usually made of dead vegetation (stakes and branches). Afterwards, the fields were opened up and given back to common use.

Some *subdélégués* also mentioned common use of water meadows. This could take very different forms. On the Loire, or the Vilaine near Redon, some meadows were *afféagées* (that is, conceded to tenants) on condition the vassals should ‘*les laisser à galoy après la faux*’ that is, open them to everyone after the hay was harvested (reply of the *subdélégué* of Ancenis). This was called *marchage* and was the only case in which the common ownership of all the inhabitants was recognised since they were still paying a *cens* to the lord at the end of the old regime. These areas were therefore part of the *censive* and not the seigneurial domain. In other cases the system was the *tressaut* where an inhabitant cut hay in a different part of the meadow each year. This was a common use of the meadow, but carried out in an individual way.

But these were isolated cases; on the whole, in Brittany at the end of the old regime, there were few common uses on cultivated fields (or meadows, which can be put in the same category as they also involved a great deal of work) but there were a great many common uses beyond the holdings, similar to those on the outfields of northern European countries, particularly Wales and Scotland.

III.2. The use of uncultivated land

The uncultivated areas available for common use were, in contrast, very great. If the figures given for each *subdélégation* by the intendant Des Gallois de la Tour in 1733 (Lemaître, 1999)⁸ are added up, the total area of Brittany was 2,817,558 arpents, of which 56.6 percent was made up of cultivable fields and 43.3 percent

⁸ Jean-Baptiste des Gallois de la Tour, *Mémoire sur la Bretagne*, 1733 (Lemaître, 1999).¹⁰ *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

(1,219,977 arpents) uncultivated. This 43 percent was made up of the types of uncultivated land previously mentioned, and also of forests and copses, which are not discussed in this article (Gautier, 1945: 92-96; Antoine, 2001: 13-19).

The uncultivated areas (minus the forests) were referred to by a great many terms: *landes*, *gallois*, *pâtis*, *terres vagues*, *terres frostes*, *froides*, *vacques*, *incultes*, *montagneuses*, *marécageuses*. etc. They differed from cultivated lands in that they were not enclosed. The *Coutume* gave the inhabitants the right to *communer* and *litrer et préager* there; that is, to put their animals there, to take material for bedding and fertiliser. That was the custom. But when it comes to considering who owned the land the question becomes more difficult.

Article 393 of the • *Coutume de Bretagne*, which is always quoted by the *subdélégués* in their replies, and is very favourable to the lords, acknowledges that all land used in common is considered to belong to the seigneurial or royal domain if there is no title to prove the contrary. Consequently the seigneurs could enfeoff it (concede it to tenants) freely, and without compensating the users, even if there had been common use on it for a very long time. In the enquiry of 1768 the language is a little more nuanced, but the lord's right was still largely recognised. Most of the *subdélégués* maintained that uncultivated land subject to common use belonged to the royal or seigneurial domain and said that the seigneur could, when he pleased, enclose, *accenser* or *enfeoff* it 'in spite of the long untitled possession by neighbours and vassals'. Only one *subdélégué* (from Callac) put forward the theory that the common lands had belonged to the inhabitants from time immemorial; for all the others the principle of seigneurial ownership of these spaces was evident. In all the cases where the lord could prove that the uncultivated land was not a free concession (that is, that the people who used it did not pay a *cens* or make an avowal; these lands were considered to be part of the lord's demesne and not part of the movables. The seigneur could thus recover them when he wished and do what he wanted with them. If, on the other hand, the users were recognised to be vassals who paid seigneurial dues, then the lord could only use his right of *triage*⁹ to recover part of the area for himself. That was the general rule in Brittany. But the enquiry of 1768 showed that the reality was much more complex. In 1768 the *subdélégué* of La Guerche¹⁰ gave a very precise description of the different types of common land found in Brittany, and what

⁹ This right allowed the seigneur, under certain conditions, to add one third of common land situated in the estate to his demesne. The 1669 Ordinance on *Eaux et Forêts* defined the conditions under which the lord could exercise his right of triage; it was necessary for the inhabitants to exercise their rights *gratuitement*, that is, without making any specific payment in exchange for the use. It was also necessary that the remaining two thirds was sufficient for the needs of the community (for pasture and firewood). The lord had to show that there was no payment for the use of the land in order for the principle of triage to be accepted.

¹⁰ La Guerche is now a commune in the Department of Ille-et-Vilaine.¹¹ *Annie Antoine*

people had the right to do there and if it was possible to divide them. He distinguished three main categories:

Commons that belonged to the parish: they made up part of the fief (the • movables) and were not part of the seigneurial demesne; they were thus the property of the vassals, and they could not be forced to enclose or cultivate them. These were the only lands that were commons in the strict sense of the term.

Commons that were part of the seigneurial demesne, which the vassals had • used without right or title for a very long time: the lord could put an end to these uses whenever he wanted in order to enclose and enfeoff the land.

Commons for which the vassals made avowal and paid • *cens* (these belonged to the seigneurial movables) and on which they could put their animals to graze, and cut bed litter. On these the lord could exercise his right of triage (to take over a third of the space) on condition he could prove that the vassals did not pay him any fine in exchange for the common use they made of them.

In addition there were three other types of commons that could not be taken back by the lord to be put under cultivation:

Commons on the domain for which the lord had given his vassals the right • to cut bedding and to graze livestock in return for a *rente particulière* (a *rente foncière*, not a seigneurial rente, a sort of land rent)

Commons below 50 • *journaux* (about twenty hectares) for which the lord could not ask for triage

Commons that were enclaves in the villages and made up the issues: they • were part of land formerly *enfeoffed*, and the vassals kept their use in common; the lord could not take them back and the vassals could not be forced to divide them.

This description illustrates once again that under the old regime the question of ownership cannot be separated from that of use.

III.3. The economic importance of these uses

The uncultivated lands had two uses, to provide bedding and food for the animals and to provide fertiliser for the crops. Those close to the sea served as salt meadows as well as places to collect kelp (*goémon*). This is what the *subdélégué* of Pont-L'Abbé wrote:

'In this *subdélégation* we have land that borders the coast from the parish of Penmarc'h to that of Plovan. These lands are called *pallues*" and the inhabitants of all the

¹¹ *Pallues*: in Cornouaille this term is still used for the broad stretches of sand behind the shore.¹² *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

neighbouring villages to the *pallues* use them to get clumps which they mix with manure to fertilise their fields; they put their livestock to pasture there and their flocks, one can see innumerable quantities of beasts and flocks of sheep which provide great riches for those who live by the *pallues*... Apart from these advantages the inhabitants of the parishes go to the shore and pull the kelp (also called *varech*) from the sea, which they spread out on the land bordering the sea to dry; when it is completely dry they put the kelp or *varech* in heaps on the *pallue* and when it is ready they cart it into their fields where they put it in heaps again and then they spread it on their land at the proper season; this becomes the best of fertilisers and without the help of the kelp, which is a marvellous fertiliser, the peasants who live nearby these *pallues* would not be able to sow their fields”.

Away from the shore, the vegetation on the heaths was cut and burned, or left to rot, to provide fertiliser. This was mixed with manure from the barn and put on the cultivated fields. The *subdélégué* of Malestroit wrote, “It can be seen that the heaths are very necessary in this canton since they are the only source of fertiliser for the ploughed fields by mixing them with *marny* (manure) and putting it all on the pasture” The heaths were subject to *étrepape* (collection of vegetation and leaf mould) and sometimes *écobuage* (burning vegetation to make fertiliser). The *subdélégués* of Lower Brittany used the terms “cold land” and “hot land”; the vegetation collected from the first served to increase the fertility of the second. However, the most frequently mentioned use of the heathland was for the peasants to *litrer et préager* (gather bedding material and put the animals to graze). The *subdélégué* of Josselin said:

‘There are many heathlands which have parts which could be enclosed but this would harm the people living nearby, who use the heather for bedding for their animals; it is likely they will need them this year as the meadows are almost all spoiled. However, if only those parts of the heaths that are suitable for cultivation were enclosed, there would be enough left to *litrer et préager*’.

These places did not provide high quality fodder, but they provided a kind of safety valve when there were shortages of animal food. Studies of farm accounts show that before the winter farmers got rid of animals they thought they would not be able to feed. There were not many hay meadows and the amount they produced varied greatly according to the rainfall. But farmers kept more animals than they were certain of being able to feed from their reserves. While they were waiting for the grass to start growing again they could feed them with a great deal of supplementary fodder: tree leaves, straw (more or less hard), vegetation from the heaths, grazing on uncultivated land and so on. Then, when the grass grew back, the animals were fed better, sometimes fattened, and became a significant object of speculation (Antoine, 1995: 105-136). We can therefore say that the uncultivated lands were partly responsible for specialisation in cattle-rearing because they allowed farmers to raise more livestock than the size of their holding and the grass it produced allowed.¹³ *Annie Antoine*

To sum up, Brittany had almost no true common land (land owned by communities); there were no 'true' common uses like those that exist in openfield areas (*parcours* on private land after grain harvest). But there were a great many common uses of the land that, in the modern period, left a very indistinct line between collective and private.

Conclusion: the indistinct line between collective and private^{IV}.

It is generally realised that, in the modern period, the question of ownership was complicated and the alternative owning/not owning did not give a full picture of the real situation. In studying the case of Brittany, it can be clearly seen that the question of common uses is at least as complex as that of ownership. It even seems to be quite difficult to draw the line between what is right of use and right of ownership.

There are few property rights that do not permit any shared use. The private character of a space is not in contradiction, for example, with traffic on that space; the private space of holdings was not a space where no one penetrated. Farm property could be crossed by passers-by on certain conditions and in certain circumstances, mainly when the roads were unusable. There were many rights of way through hedgerows, and for pedestrians at least, and sometimes for those on horses, these paths were used as much as the roads; this behaviour, which in itself does not seem to have been considered reprehensible, only appeared in the courts when the gaps in the hedges were left unclosed, and animals had got on to fields bearing crops, or gardens, and caused damage. Conversely, public use of a space did not exclude private uses, some of which were harmful to the public interest. This was particularly clear in the case of roads. Apart from roads inside holdings, linking the different parcels, all other roads linking villages and bourgs¹² were not private; those who lived on the roads maintained them, but the common use was always asserted. However, it seems that certain of the inhabitants used these roads as if they belonged to them personally. They took stones for building or put their animals to graze there. Court records show that this was frequent and not even resented. The problem came when the animals got through the hedges that bordered the roads and caused damage in the neighbouring fields. The collective and private were thus not rigorously opposed, at least not until the end of the old regime.

This indistinct line between collective and private, between use and ownership, almost coincided, in mediaeval and early modern Brittany, with the division between enclosed spaces and open spaces. Unlike in the openfield regions, in hedgerow country there was a physical barrier between cultivated land and uncultivated land, between

¹² In this region of semi-dispersed habitat the *bourg* was the centre of the parish, and the *villages* were interspersed around it; as there were many of them the road system was very dense.¹⁴ *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

areas of individual use and collective use. In general it can be assumed that the fields are private and uncultivated land is public. In fact, with no chemical fertilisers, in a region where the soil is naturally acid and thin, it was customary to leave fields for many years with no crops, to regenerate. But these fields were not subject to common use during this period; they were enclosed with hedges and their use was private. In the last analysis, the real difference between zones of private use and zones of collective use was expressed in the landscape: the private land was enclosed with hedges: these were the cultivated fields and meadows. The common was open: these were the heaths that the *Coutume* recognised as belonging to the seigneur.

This contrast partly coincides with another indistinct line which environmental historians have pointed out in old agrarian systems, that between the natural and the cultivated. In general it can be said that the cultivated spaces, being enclosed, were for private ownership and enjoyment, and that the “natural” spaces, although they had a private (seigneurial) owner were for collective use. They still formed islands in the hedgerow country of Brittany at the beginning of the nineteenth century. The fertiliser and extra fodder they produced, for collective use, ensured better productivity in the private spaces, the agricultural holdings with well-enclosed parcels (Antoine, 1999: 107-132).

But at the end of the eighteenth century the agronomists made their voices heard. They could not conceive of an agrarian system outside the physiocratic norms: soil must not be left uncultivated, heaths were unproductive, livestock rearing needed artificial meadows. All the soil had to be worked; heathland was an aberration; nature was only beautiful when it was cultivated and totally productive. Uncultivated land was no longer seen at its true value (that given to it by the peasants, to provide fertiliser and feed the livestock) that is, the value it had in the context of a technique of light and semi-extensive use of the land; it was seen as uncultivated land degraded by the use made of it. The critique of non-cultivation led to the discredit of collective practices, for in the West of France, it was essentially the unploughed land that was the object of common use. There was a general hue and cry from those who wanted to see beautiful countryside, from those who wanted well cultivated land, and from those who wanted roads that were not all potholes; they all denounced the practices of the farmers who persisted in not cultivating the uncultivated land, and who used it in ways that they considered disastrous. That was the heart of the problem: for the peasants the uncultivated and the cultivated were two parts of the same system; for all the others — the *élites* who accepted the physiocratic line — the uncultivated was a space which would be used more efficiently if it were cultivated individually.¹⁵ *Annie Antoine*

Bibliography

- Antoine, Annie, 'Les Bovins de la Mayenne (1752-1820). Un modèle économique pour les campagnes de l'Ouest', *Histoire et Sociétés Rurales*, 4, 2^e semestre 1995, p. 105-136.
- Antoine, Annie, 'Systèmes agraires de la France de l'Ouest : une rationalité méconnue ?', in Olivier Chaline & François-Joseph Ruggiu (eds), *La Terre et les paysans en France et en Angleterre*, numéro spécial de *Histoire, Économie, Sociétés*, 1999, 1, p. 107-132.
- Antoine, Annie, 'Les troupeaux contre la forêt. Pâturage forestier et systèmes d'élevage dans l'Ouest bocager au XVIII^e siècle', in *Forêts et troupeaux, Groupe d'Histoire des Forêts françaises*, ihmc-Cnrs, Cahiers d'étude n° 11, 2001, p. 13-19.
- Antoine, Annie, *Le Paysage de l'historien. Archéologie des bocages de l'Ouest de la France à l'Époque moderne*, Rennes, Presses universitaires de Rennes, 2002, 340 p.
- Argentré, Bertrand (d'), *Commentarii in patrias Britonum leges, seu consuetudines generales antiquissimi ducatus Britanniae*, suivis des coutumes générales du pays et duché de Bretagne réformées en 1580, Paris, Nicolas Buon, 1613-1614, id. 1628, id. 1646.
- Béaur, Gérard, *Histoire agraire de la France au XVIII^e siècle*, Paris, sedes, 2000, 320 p.
- Bourde, André-Jean, *Agronomie et Agronomes en France au XVIII^e siècle*, Paris, sevpén, 1967, 3 vol., 1743 p.
- Croix, Alain, *L'Âge d'or de la Bretagne, 1532-1675*, Rennes, éditions Ouest-France Université, 1993, 275 p.
- Davies, Wendy, *Small Worlds. The village community in early medieval Brittany*, London, 1988.
- Du Fail, Noël, *Propos rustiques*, texte établi d'après l'éd. de 1549, Geneva, Librairie Droz, Collection : Textes littéraires français, 1994, 187 p.
- Gautier, Marcel, 'Pseudo-pratiques communautaires en Bretagne méridionale', *Annales de Bretagne et des Pays de l'Ouest*, 1945, 52, p. 92-96.
- Lemaître, Alain, *La misère dans l'abondance en Bretagne au XVIII^e siècle. Le Mémoire de l'intendant Jean-Baptiste des Gallois de la Tour (1733)*, Rennes, Société d'Histoire et d'Archéologie de Bretagne, 1999, 311 p.
- Mauger, Michel, (ed.), *En passant par la Vilaine, de Redon à Rennes en 1543*, Rennes, Apogée, 1997, 94 p.
- Moriceau, Jean-Marc, *L'Élevage sous l'Ancien Régime*, Paris, sedes, 1999.
- Pichot, Daniel, *Le Bas-Maine du X^e au XIII^e siècle : étude d'une société*, Laval, Société d'Archéologie et d'Histoire de la Mayenne, 1995, 455 p.
- Planiol, Marcel, *La Très Ancienne Coutume de Bretagne avec les assises, constitutions de Parlement et ordonnances duciales*, Rennes, J. Plihon and L. Hervé, 1896, 566 p. 16 *Common land use in the Coutume de Bretagne from the fifteenth to the eighteenth centuries*

Poullain du Parc, Augustin-Marie, *La Coutume et la jurisprudence coutumière de Bretagne dans leur ordre naturel*, Rennes, G. Vatar, 1759, 372 p. ; 2nd ed., *id.*, 1778, 448 p. ; 3rd ed., *id.*, 1783, xxiv-438 p.

Sée, Henri, 'L'enquête sur les clôtures en Bretagne (1768)', *Annales de Bretagne*, 1928-29, t. xxxviii, p. 752-767.

Sée, Henri, *Les Classes rurales en Bretagne du xv^e siècle à la Révolution*, Paris, v. Giard et E. Brière, 1906, xxi-544 p. Réed. 1978, 544 p.

Tanguy, Bernard, 'Le cartulaire de Redon (ix^e siècle), un témoignage médiéval sur le paysage breton', in *La Fabrication du paysage. Actes du colloque de Brest (mars 1998)*, *Kreiz*, 11, 1999, p. 21-31.

Vivier, Nadine, *Propriété collective et identité communale. Les biens communaux en France (1750-1914)*, Paris, Publications de la Sorbonne, 1998, 352 p.