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Power, Community and the Manor Court in Sixteenth-Century English Society

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Abstract

This thesis seeks to establish why, given the withdrawal of manorial lords from direct administration of their estates, and the extinction of personal unfreedom in the late medieval period, the manor court continued to be a governing institution in so many English rural communities up to the end of the sixteenth century. It argues that a manorial court, when run primarily by resident tenants and subject to little outside interference, possessed many of the attributes necessary for the effective and sustainable control of common resources by their users. Close reading and analysis of the manorial documents of six manors in three case-study areas, supported by a survey of the historiography of sixteenth-century village studies, is used to support this argument.

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Summary of changes made since the original submission

The entire thesis has been substantially replanned and rewritten following the feedback received from the examiners.

- The introduction has been cut down and edited to make the research questions clearer. It contains more specific detail on the case studies. The historiographical section has been moved to chapter 1.
- Chapter 1 now contains a survey of the historiography of 14th-16th century social change and of English village studies. The range of published sources quoted is larger and more relevant than the historiographical section of the original thesis. Much more attention is given to land tenure and its effects.
- The former chapter 2, on gentry families, has been removed and replaced with sections on the seigniorial family in each of the case study chapters.
- The former chapter 3, now chapter 2, has been rewritten to give it a clearer structure and argument, removing irrelevant sections, and now incorporates more reading on revolt and resistance and on the English legal system.
- Chapter 3 (formerly chapter 5), the Norfolk case study, now contains evidence from the Norfolk quarter sessions records and pays much more attention to information from rentals.
- Chapter 4, the Yorkshire case study, now contains much more discussion of Hooton Roberts along with Tinsley. More attention, again, has been paid to supplementary evidence from rentals.
- Chapter 5 (formerly chapter 6), the Nottinghamshire case study, has been rewritten with a much closer reading of the available documents and more relevant conclusions.
- The case study chapters are now written to a common structure, and all contain estimates of the manors' populations.

Introduction

Research aims

The central question of this thesis relates to political power within the community, and the methods by which communities were governed. It is clear from the case studies, and from many other published studies of English village communities, that sixteenth-century manor courts could be, and frequently were, highly active in the government of their tenants, and that the prime movers in this activity were the tenants themselves. Manor courts far from their lords' residences, and which experienced frequent changes of lordship, nonetheless continued to exercise their authority and maintain customary by-laws. Given that seigneurial interests in the manor had, as chapter 1 describes, become limited by this time to little more than gathering rent and maintaining prestige, and that being largely absent from the manor themselves lords had little immediate interest in maintaining neighbourliness and order; given that the manor court lacked much in the way of effective coercive power by the sixteenth century, and given that alternative official and unofficial governing bodies were rapidly developing at this time, what kept the manor court in business?

Why did manorial tenants choose to continue making decisions through this antiquated apparatus, and why did most tenants, most of the time, abide by them? This study suggests that, despite its origins as an instrument of seigneurial exploitation, a manor court had several aspects that might make it valuable to the householders living under its jurisdiction. Manor courts, at least when they operated free of overbearing seigneurial or outside influence, met most of the criteria established by the political economist Elinor Ostrom for the sustainable self-governance of common resources.¹ They were more flexible than their format suggests. The language in which manor courts were recorded was, on one level, arcane and antiquated, not least because it was most often Latin. Decisions of the court were noted as if unanimous, and jurors' presentments were reproduced as statements of unquestionable fact. In all, court rolls form a part of what James C. Scott referred to as the 'public transcript', the 'the self-portrait of dominant elites as they would have themselves seen,' in which the ruling elite shaped the language of power and

¹ A summary of which can be found in Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge, 1990), p. 90.

government to fit their picture of how the world ought to be.² But in many cases, careful reading can reveal chinks in the façade of manorial lordship. At some courts, presentments and by-laws, the section of a court record of most interest to the manor's inhabitants, were written down in the English in which they were spoken. Some presentments from the Norfolk case study record the exact words of outbursts against the court's decisions, recording a rare eruption of the private transcript into a space of authority and social control.

A second question arises from the wide differences observed in the extent and nature of the activities of manor courts. What were the factors governing how a manor court developed prior to and during the sixteenth century? The case study chapters include discussion of the local geographical and social context of their communities. The manors in question, and the samples of court rolls taken from each, have been chosen to help fulfil the aims of this thesis. The three case studies have some aspects in common. They are (or were, in the case of Tinsley) rural settlements. They were all under the lordship of gentry families of some prominence in their local areas. The Willoughbies in Nottinghamshire and the Lestranges in Norfolk were among the most prominent families in their counties, while the Wentworths in Yorkshire gained in wealth and status throughout the sixteenth and early seventeenth centuries. The case study chapters each contain brief sections describing these seigniorial families and their relationships with their manors.

² James C. Scott, *Domination and the Arts of Resistance* (Yale, 1990), p. 18.



Figure 0.1: The locations of the three case study areas, superimposed on a map of the traditional English and Welsh counties adapted from https://commons.wikimedia.org/wiki/File:England_and_Wales_Historic_Counties_HCT_map.svg, accessed 14th July 2021.

None of the case study settlements were of any great size. Their populations, as far as can be judged from manorial documents and contemporary maps where available, were all in the low hundreds; small enough for everyone to have known each other by name and reputation. The case studies are distinguished from one another by other factors. They were in differing landscapes and local surroundings. The Yorkshire case study manors of Tinsley and Hooton Roberts were very close to urban settlements. Tinsley was between two market towns, Sheffield and the larger and wealthier Rotherham, while Hooton Roberts lay a few miles the other side of

Rotherham. The other two case studies are more entirely rural in nature, several miles from the nearest town. The two Nottinghamshire case studies are at the southern tip of their county, and the Norfolk ones in the north-west corner of theirs. In an era when much of the legal and administrative governing of England was done at county level by county communities of office-holders, this position at the edge rendered them backwaters as far as the great and good were concerned, though chapter 3 shows the wider connections that some inhabitants of Docking in particular had through their participation in the quarter sessions. Hunstanton, meanwhile, was the primary seat of its manorial family throughout the study period.

The case study manors differed, too, in the legal status of their courts. Hunstanton, Docking and Upper Broughton all possessed leet courts, while Tinsley, Hooton Roberts and Willoughby were governed by courts baron. This distinction is enlarged on in Chapter 1; essentially, leet courts were charged with upholding part of the national law, giving them a wider jurisdiction, while courts baron remained focused on the regulation of the rights and responsibilities of manorial tenants. In theory manors with leet courts would also hold courts baron on separate occasions, but in practice the two functions were nearly always elided. This selection represents a balance of common factors and differences which allows many illuminating comparisons to be drawn, which support the arguments made in the first three chapters.

Thesis structure

The thesis is divided into two roughly equal halves. The first half deals with the historical background and social structures of sixteenth-century England with reference to their effect on the running of manors, and integrates elements of anthropological theory to suggest possible explanations for the continued existence and social function of the sixteenth-century manor court.

Chapter 1 contains a survey of the history and historiography of changes in English society between the fourteenth and sixteenth centuries, with specific reference to changes in peasant society and land tenure. It also cites a number of village studies from the sixteenth century. The chapter also contains a section on the development of the manor court, including the distinction

between and court baron and court leet, and the typical appearance and content of a sixteenth-century court roll.

Chapter 2 seeks to provide a coherent framework for understanding why tenants of a manor should choose to keep the manorial court in use for their own purposes. After examining the limitations on seigniorial power and the alternatives to the manorial court that tenants had access to, it suggests that the manorial court possessed many of the attributes of a sustainable institution for governing common resources. The final section of the chapter examines the lists of jurors for each of the case study manors in order to determine whether the manor court jury can be considered as a sufficiently representative body.

Chapters 3, 4, and 5 are the case-study chapters. The basic details of the case study manors and the sample of court rolls are summarised in table 0.2:

Chapter	Manor	Seigniorial family	Court type	Dates of sample
3	Hunstanton with Holme	Lestrangle	Leet	1516-76
	Docking Hall	Lestrangle	Leet	1531-71
4	Tinsley	Wentworth	Baron	1382-1575
	Hooton Roberts	Wentworth	Baron	1391-1568 ³
5	Willoughby on the Wolds	Willoughby	Baron	1547-96
	Upper Broughton	Clifton	Leet	1535-42; 1558-68

Table 0.2: Summary of the manors and court roll samples covered by the case study chapters.

Each of the case study chapters follows a similar structure, with an introductory section and a section briefly describing the seigniorial family and its interests. They then cover the manors separately, with sections on the manors' history, geography, forms of land tenure, and the type of business recorded in their courts. The case study chapters conclude with a section comparing the manors within the chapter, and relating the case studies to the central questions of the thesis. Comparisons with the manors from the other case study chapters are made throughout.

³ The court rolls discussed in detail for the two Yorkshire manors in chapter 4 begin in the early sixteenth century.

Chapter 1: The English Manor and Its Courts, c. 1300-1600

1.1 *The nature of the manor*

Since this study concerns individuals and societies within manors, and most of the sources it draws on derive from the manor, it is necessary to provide a definition of the manor and an explanation of its importance. This section considers the constituent elements which made up an English manor, beginning from its primary legal meaning and proceeding to discuss its geographical, economic and social manifestations. It is informed by an extensive historiographical literature on the manor, including both studies of social and economic change across the whole of England, and several studies of specific locations.

1.1.1 *Legal*

The primary meaning of the term 'manor' is a unit of jurisdiction under the private legal authority of its lord. Manorial jurisdiction applied to some extent to all those affiliated to the manor, but its main impact was on tenants (serfs or villeins) who were legally unfree and were not entitled to defend their rights or land title in any royal court.⁴ Personal freedom or its absence became less consequential following the effective collapse of the institution of serfdom in the late fourteenth century, after which nearly all peasants were effectively free, but the free/unfree division continued to apply to land. Land which did not belong to the lord's demesne or to the common pasture was termed either free or 'customary,' the latter meaning that the terms on which it was held followed the custom of the manor rather than the law or a contract, usually because it had previously been held by a form of unfree tenure.⁵

Manorial customs were in theory unique to each manor, but in practice similar customs developed regionally across England, in groups of nearby settlements termed by contemporaries

⁴ Mark Bailey, *The Decline of Serfdom in England: from Bondage to Freedom* (Woodbridge, 2014), p. 16.

⁵ n.b. Frances Davenport describes a variation in which free land could be 'soliat' or soiled if it passed into the hands of an unfree or customary tenant (Frances Gardiner Davenport, *The Economic Development of a Norfolk Manor, 1086-1565* (1906, London, 1967), p. 70).

their 'neighbourhood' or 'country.'⁶ They affected land tenure and various connected areas, such as land measurement. For example, on the manors of Westminster abbey, a customary acre of land was smaller than a royal acre, because a customary rod or perch (40 one-perch squares making a rood, or a quarter of an acre) was a shorter distance than the royal perch of 16½ feet.⁷ Over time, manorial customs developed through a process of negotiation and compromise between the lord and their representatives on the one hand, and the tenants on the other. By the sixteenth century, manorial customs that royal courts deemed reasonable were held to have the force of law.⁸

It was these customs and customary tenures which remained significant into the late medieval and early modern periods, after the social order which the manor had evolved to govern had greatly changed. Alex Brown has demonstrated how contrasting features of customary land tenure from the fourteenth and fifteenth centuries on the manors of, respectively, Durham Cathedral priory and the Bishops of Durham helped to shape patterns of land tenure and seigniorial profit, and ultimately social structure, in the sixteenth and seventeenth.⁹ This 'path dependency' frustrates attempts at unified theories of transition from one economic model or social structure to another, with inflexible customs placing what, from a Whig or Marxist perspective, would seem to be roadblocks in the inevitable path of progress. Jane Whittle has described these enduring forms of land tenure within the manor as 'the most significant legacy of the manorial system to the sixteenth century and beyond.'¹⁰ They dictated the terms on which land was bought and sold, with the typical East Anglian 'copyhold of inheritance' allowing tenants to buy and sell land in parcels of any size at will, the only constraint being the necessity of recording the sale in the manor court roll and paying the entry fine demanded by the lord.¹¹

⁶ Andy Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013), p. 99.

⁷ Barbara Harvey, *Westminster Abbey and its Estates in the Middle Ages* (Oxford, 1977), p. 128.

⁸ Eric Kerridge, *Agrarian Problems in the Sixteenth Century and After* (London, 1969), pp. 67-68.

⁹ A. T. Brown, *Rural Society and Economic Change in County Durham: Recession and Recovery, c.1400-1640* (Woodbridge, 2015), p. 27.

¹⁰ Jane Whittle, *The Development of Agrarian Capitalism: Land and Labour in Norfolk, 1440-1580* (Oxford, 2000), p. 64.

¹¹ Whittle, *Development of Agrarian Capitalism*, p. 119.

By the sixteenth century, some types of customary land tenure (discussed in the following section) had also effectively slipped out of the lord's jurisdiction, being transferred from one holder to another without any input from the lord and for the payment of an increasingly nominal rent and fine. In an East Anglian manor like Earls Colne in Essex, where tenant land was held by copyhold of inheritance, a manorial lord might, by the seventeenth century, functionally be nothing more than a 'large farmer,' with almost all their income coming from the management or farm of their demesne land.¹²

Since the manor and its unfree tenants had originally been an entirely private jurisdiction, manorial lords were empowered to hold their own court, termed a court baron. The development of the manorial court is described in a separate section of this chapter; at this point, it is worth noting that the court was considered, both at the time and by historians, to be 'the heart of a manor,' without which seigniorial privilege could not be exercised and manorial customs and by-laws could not be made or perpetuated.¹³ By the end of the sixteenth century, manors in some parts of England had lost their heart, as the manor court had ceased to meet regularly, or, in some cases, at all. The court at Kibworth Harcourt in Leicestershire, by this time, met only once every seven years, and its only function was to register land transfers.¹⁴ Elsewhere, however, as at Earls Colne (despite the lord's lack of control over land ownership) and at Highley in Shropshire, the manor court continued until 1600 and beyond, with a significant role in the regulation of the agricultural life of the manor.¹⁵

The case studies for this thesis date from the sixteenth century, by which time the English economy and society had undergone considerable change. Nonetheless, like most medieval institutions, the manor and the manorial court continued to exist, while the functions it performed had changed. These changes are explored in more detail in the remainder of this chapter; the legal powers of a manor court remained similar, with the main changes relating to

¹² Henry French and Richard Hoyle, *The Character of English Rural Society: Earls Colne, 1550-1750* (Manchester, 2007), p. 294.

¹³ Kerridge, *Agrarian Problems*, p. 24.

¹⁴ Cicely Howell, *Land, Family and Inheritance in Transition: Kibworth Harcourt 1280-1700* (Cambridge, 1983), p. 36.

¹⁵ Gwyneth Nair, *Highley: The Development of a Community 1550-1880* (Oxford, 1988); French and Hoyle, *Earls Colne*, pp. 163-74 – who note that the leet court here only declined into insignificance after the 1620s.

the near extinction of personal unfreedom. The latter phenomenon meant that servile incidents (labour services and exactions such as tallage, chevage, heriot and merchet) were no longer enforced. The position of reeve, a manorial officer charged with organising labour services and collecting dues, had largely also ceased to exist. The court baron continued to be held in the name of the manorial lord and the minor income from it likewise still accrued to the lord; this income now mainly took the form of entry fines paid when copyhold land changed hands. Thus the most significant aspect of the manor court to a sixteenth-century lord was the recording of property transfers, and in some manors court rolls had come to be nothing more than a register of these transfers, as at Terling in Essex.¹⁶ Elsewhere, however, additional jurisdictions such as the lowest rung of the royal justice system, the view of frankpledge and leet courts, had become amalgamated with the court baron. This is discussed further later in this chapter, and is also seen in the cases of Hunstanton and Upper Broughton. Manorial tenants, meanwhile, sometimes chose to use the manorial court as a forum for regulating the agricultural cycle and settling disputes. These aspects are discussed in depth in later chapters.

Arising from the manor's existence as a unit of legal jurisdiction were its incarnations as an economic, physical and social unit.

1.1.2 Physical

The necessary counterpart of the legal jurisdiction of the manor was the geographical area it occupied. Manors were relatively small units of land with their origins before or immediately following the Norman Conquest, but much altered by the succeeding centuries in which they functioned chiefly as units of landed wealth and sources of social status. New manors continued to be carved out in England until their boundaries crystallised in the thirteenth century.¹⁷ Small manors could, however, be amalgamated in all but name; Chapter 3 shows how the manors of Hunstanton in Norfolk were acquired by the Lestrange family and run as a unit. This process of amalgamation was, however, difficult to achieve, both legally and financially, and the manorial

¹⁶ Keith Wrightson and David Levine, *Poverty and Piety in an English Village: Terling, 1525–1700* (Oxford, 1979), p. 104.

¹⁷ Kerridge, *Agrarian Problems*, p. 17.

geography of East Anglia remained a complex patchwork of small, interlocking pieces of land into the early modern period.¹⁸

Manors could, on the other hand, cover very large areas. This was especially true of those which remained in the hands of the crown or the Duchy of Lancaster throughout the medieval period, like Havering in Essex and Conisbrough in Yorkshire.¹⁹ These large manors, which covered multiple separate settlements and parishes, were necessarily governed in a different fashion, and by individuals of a higher social standing, than most; Conisbrough was governed by a central court or 'tourn,' attended by representatives of each of its constituent vills.²⁰ This kind of court developed from a much older tradition of county and hundred administration, which survived in attenuated form in some parts of England as the hundred court. It is difficult to point to a 'typical' manor in late medieval and sixteenth-century England. Those which have lent themselves to historical study in their own right, rather than as supplementary evidence to studies of villages or parishes, have been largely those which conform to the boundaries and populations of individual settlements, but this 'classic' manor has been found to be far from representative: 65% of manors documented in thirteenth-century Hundred Rolls were less than 500 acres in size.²¹ In areas where manors were typically this size or smaller, the manor court was less significant as a governing institution; tenants would often hold land in several different manors while having their dwelling-place in one. Elsewhere, most often in the midlands and south-central England, manor, parish and village could share the same boundaries. Among the case studies for this thesis, Hooton Roberts in Yorkshire, which is discussed in Chapter 4, was one such. Chapter 5 focuses on the neighbouring settlements of Willoughby on the Wolds and Upper Broughton in the south of Nottinghamshire, two more villages following the same pattern.

Two manors which were of substantial size and which comprised mostly contiguous areas of land might present significantly different appearances by the sixteenth century, depending on their specific history of land ownership and suitability for differing types of agriculture. However,

¹⁸ Whittle, *Development of Agrarian Capitalism*, p. 32.

¹⁹ Marjorie McIntosh, *Autonomy and Community: The Royal Manor of Havering, 1200-1500* (Cambridge, 1986), p. 6.

²⁰ For instance Doncaster Archives DD/Yar/1/103, Conisbrough court rolls 22-23 Henry VIII (1530-31).

²¹ Mark Bailey, *The English Manor, c. 1200-c. 1500* (Manchester, 2002), pp. 6-7.

most shared some common themes. The land was split between different ownership types; the lord's demesne, whether this was managed directly by the lord or farmed out to leaseholders, freehold land which could be bought and sold without reference to the manor and was often owned by wealthy individuals or institutions from outside the manor and worked by their leaseholding subtenants; and customary land held on the terms outlined above and described in more detail below. But it would have been difficult for a newcomer to a manor to discern which land was which; most of it would be split into long, parallel strips within fields or doles (parts of fields), with tenants holding discontinuous pieces of land scattered throughout the manor. By the late fifteenth and sixteenth centuries, some of these strips might have been consolidated into larger blocks by the actions of 'engrossing' wealthier peasants, but the process was usually far from complete.²² In many manors, following the collapse in food prices following the Black Death of the mid-fourteenth century and the emergence of the late medieval wool and cloth trade, some fields, or strips known as 'leys' within them, may have been enclosed with fences or hedges and turned into pasture for sheep. By the sixteenth century, the fields of many manors presented what Dyer has described as a 'confused appearance,' a mosaic of patches of arable and pasture land, with temporary or permanent enclosures breaking up the large fields.²³

Besides these 'open' fields would have been areas of non-arable land, varying in size and nature depending on the geography of the manor. Typically, areas unsuited to arable farming would have been used as grazing for animals. In East Anglia, especially in West Norfolk, these were often areas of sandy and acidic soils known as heaths or brecks; in the clay soils of the Midlands, land below spring lines tended to become waterlogged in winter and spring and difficult or impossible to plough.²⁴ These commons would usually not be subdivided, regulated instead, in many places, by a 'stint' governing how many animals the owner of each tenement was allowed to keep there. There would also be an area of common belonging to the demesne; this was sometimes notional, with the lord's (or farmers') animals grazing besides the rest, and sometimes

²² R. H. Tawney, *The Agrarian Problem in the Sixteenth Century* (1912, New York, 1972), pp. 151-54; W. G. Hoskins, *The Midland Peasant: The Economic and Social History of a Leicestershire Village* (London, 1957), pp. 30-31.

²³ Cicely Howell, *Land, Family and Inheritance in Transition: Kibworth Harcourt 1280-1700* (Cambridge, 1983), p. 113; Christopher Dyer, *Lords and Peasants in a Changing Society: The Estates of the Bishopric of Worcester, 680-1540* (Cambridge, 1980), p. 333.

²⁴ Howell, *Land, Family and Inheritance*, p. 1.

separated into demesne closes, as is seen in the early seventeenth-century maps of Willoughby and Hunstanton. The flood-plains of rivers were used both for pasture and for the gathering of reeds and grass for thatch, animal fodder and fuel. There might also be areas of managed woodland, and perhaps a hunting park, especially if the lord was resident in the manor. Any mineral resources found within the manor were usually considered to belong to the lord, and could be worked directly or leased out. These included coal-pits in Tinsley, one of the case study manors for this thesis, which was very close to the heart of the medieval and early-modern cutlery industry around Sheffield and Rotherham.

1.1.3 Economic

Lords derived their landed income through their ownership of manors. As described above, they directly owned a portion of the manor as their demesne, and had an unrestricted right to dispose of the profits from this land. For a comparatively brief period in the thirteenth and early fourteenth centuries, it was common for manorial lords to manage this land themselves, through members of their own household and officials appointed from among their tenants, most notably the reeve.²⁵ The work on the demesne land would be carried out partly by hired workers and partly by the manorial tenants, fulfilling the labour services on condition of which they held their own land. The services theoretically owed by tenants could be onerous; at Forncett in Norfolk, tenants of over five acres of customary land owed two days' work every week on the demesne for most of the year, along with supplementary tasks like carting manure.²⁶ However, even at the height of 'direct management' of demesnes in the late thirteenth century, hundreds of days of work on the demesne would be sold back to the tenants every year at Forncett.²⁷ Elsewhere, the entire labour-service element of tenure would be commuted into a monetary payment by agreement between lord and tenant, and the lord would work the demesne using hired labourers, who were more motivated and efficient.²⁸

²⁵ Christopher Dyer, *Lords and Peasants in a Changing Society: The Estates of the Bishopric of Worcester, 680-1540* (Cambridge, 1980), pp. 51; 64-65.

²⁶ Davenport, *Norfolk Manor*, pp. 62-63.

²⁷ Davenport, *Norfolk Manor*, p. 48.

²⁸ Dyer, *Lords and Peasants*, p. 100.

Manorial court rolls developed, in part, to allow the lord's bailiff to have a record of the enforcement of the labour dues or the payment of commutations owed by each tenement, and to oversee the work of peasant reeves and other manorial officials.

In practice, much of the English population in about 1300 lived by a combination of wage labour and working their own small parcels of land. Estimates of the population of late thirteenth- and early fourteenth-century England range from 4.8-6m, a figure which it would not attain again until the late seventeenth.²⁹ This fact was assigned great importance by M. M. Postan as an explanation for England's vulnerability to the natural disasters of famine (1315-22) and plague (1348-49) which occurred shortly afterwards. He argued that as the population grew, land was farmed more intensively than the methods of the time could sustainably allow, resulting in depleted soils and lower crop yields, and that expansion of farming to more marginal agricultural areas produced similarly diminishing returns.³⁰ Bruce Campbell has summarised the evidence for a 'bottom-heavy' population structure at this time, with many inhabitants surviving on very small pieces of land with little or no disposable income beyond subsistence, and in crisis years, not even that. Lean years necessitated 'distress sales' of some of their land to wealthier neighbours, making poorer tenants' livelihoods less sustainable still.³¹ This had consequences on the power structure within the manor. With food prices high and enormous demand for land, tenants had to compete for the land and employment that was available. In this environment, the ability of lords to extract additional fines and exactions from their customary tenants was relatively unconstrained. The chief servile dues are surveyed by Mark Bailey, albeit in the context of their later disappearance. They included labour services; sums payable on marriage, inheritance, or entry into a new tenement; for permission to reside outside the manor; and as a penalty (applied to women) for extra-marital sex or the birth of an illegitimate child. Bailey notes,

²⁹ S. Broadberry, B. M. S. Campbell, A. Klein, M. Overton, B. van Leeuwen, *British Economic Growth, 1270-1870: an output-based approach* (2011), pp. 20-28.

³⁰ An argument summarised in John Hatcher and Mark Bailey, *Modelling the Middle Ages: The History & Theory of England's Economic Development* (Oxford, 2001), pp. 22-23, and Philipp R. Schofield, *Peasants and Historians: Debating the medieval English peasantry* (Manchester, 2016), pp. 61-62.

³¹ Bruce M. S. Campbell, *The Great Transition: Climate, Disease and Society in the Late-Medieval World* (Cambridge, 2016), pp. 165-96; although he himself found that agricultural techniques in some areas of England adjusted to more a sustainably intensive farming regime that allowed production to rise with population levels – Bruce M. S. Campbell and Mark Overton, 'A New Perspective on Medieval and Early Modern Agriculture: Six Centuries of Norfolk Farming c.1250-c.1850,' *Past & Present* 141 (1993), p. 41.

however, that these dues were not enforced arbitrarily even in 1300, but were usually fixed by the custom of the manor.³² Manorial custom is discussed in more detail in the section on the manor court which concludes this chapter.

Much debate has centred on the transition from this 'feudal' peasant economy to the 'capitalist' mode of agricultural production and economic and social structure found in England by the late eighteenth century, in which rural society was divided into aristocratic landowners, prosperous tenant farmers, and landless labourers who worked to contract, rented their cottages by the year and bought the necessities of life on the market. The debate has necessarily broadened to encompass what these contested terms actually mean, and how to characterise a society which exhibits some, but not all, of the characteristics of both a peasant and a capitalist economy.

That changes in the economic and social structure were taking place in the fifteenth and sixteenth centuries is indisputable. They were remarked on by contemporary writers and have been confirmed by historical studies using many different sources of evidence. The key point of departure from the conditions described earlier in this section was the Black Death, an epidemic of bubonic plague which struck England in the years 1348-49. Most estimates of mortality in this initial outbreak of plague fall around 40-50% of the population. Further, smaller, outbreaks occurred subsequently, reducing the population to perhaps as little as 1.9 million by 1450, whence it did not begin to recover significantly until the mid-sixteenth century.³³ The drastic fall in population had some unavoidable results. Demand for land collapsed. The labour force was vastly reduced, and the peasantry were quick to grasp the implications of this. In response to their demands for higher wages, the Statute of Labourers (1351) specifically aimed to restrict the wages of 'servants, who were idle and refused to serve after the pestilence' to those which had been customary in 1346.³⁴ Nobles, gentry and peasants with comparatively large holdings all had an interest in its enforcement, which perhaps explains why the final death of most of the

³² Bailey, *Decline of Serfdom*, pp. 37-57.

³³ Broadberry et al., *British Economic Growth*, p. 20.

³⁴ Quoted in L. R. Poos, 'The Social Context of Statute of Labourers Enforcement,' *Law and History Review* 1 (1983), p. 30.

incidents of serfdom, and a rapid decline in the prices of land and of grain, do not appear to have occurred until much nearer the end of the fourteenth century.³⁵

This delay illustrates why it is important not to see population levels as the sole determining factor in social change, with the relative power of lords and peasants see-sawing in response to the number of people in the country. As Robert Brenner pointed out, populations fell across Europe in the fourteenth century, but the effects differed from country to country; in central and eastern Europe, seigniorial control over the peasantry increased into the early modern period.³⁶ Rodney Hilton argued that the end of serfdom in England was brought about, in part, by the peasant uprisings of 1381 and, more broadly, a resistance movement to seigniorial authority with 'powers of mobilisation and organisation' honed during 'a century of past struggle at village level in England,' in parallel with similar instances of resistance and rebellion elsewhere in western Europe.³⁷ Brenner and Hilton were thus at pains to put class conflict at the centre of explanations of social change. Other historians have noted the importance of individual decision-making on the part of peasants in choosing where and when to set up household, and whether and how many children to have, depending on the conditions of the market, especially that in land and agricultural produce, and on the availability and terms of credit to buy new land.³⁸

Both the class-conflict and market-driven interpretations of late medieval social change add depth and context to the demographic model, but in the end the market and social relations both operated in the context of a landscape inhabited by half as many people, or less, after 1350 than it had been before. After the risings of 1381 revealed both the limits of peasants' tolerance and their potential power to disrupt the established social order, most aspects of serfdom disappeared within the following 40 years.³⁹ The mechanism by which peasants brought an end to these powers was, by and large, their movement from the manor on which they had been a

³⁵ Although John Hatcher has argued that the nominal wage rates which were meant to be enforced under the labour legislation probably do not reflect reality, and that the real wages of peasants started to rise almost immediately following the Black Death: John Hatcher, 'England in the Aftermath of the Black Death,' *Past and Present* 144 (1994), p. 33.

³⁶ Robert Brenner, 'Agrarian Class Structure and Economic Development in Pre-Industrial Europe,' *Past and Present* 70 (1976), p. 39.

³⁷ Rodney Hilton, *Bond Men Made Free: Medieval Peasant Movements and the English Rising of 1381* (1973, London, 2003), p. 21.

³⁸ Summarised in Schofield, *Peasants and Historians*, pp. 126-137.

³⁹ Bailey, *Decline of Serfdom*, p. 61.

serf to another where they would be personally free and their presence would be much in demand, to take up vacant tenancies and provide their increasingly well-remunerated labour on the lord's (or, more likely, their farmer's) demesne.⁴⁰ Christopher Dyer describes a situation, by the mid-fifteenth century, where for many rural inhabitants their lords were 'shadowy figures, of no great significance to these workers and traders who pursued their own lives.'⁴¹ This bottom-up abolition of servile dues and status depended on the existence of countless empty houses and swathes of cheap land waiting to be rented at nominal rates in almost every villages in England, which was a result of the Black Death and its after-effects.⁴²

The near-complete extinction of serfdom by the mid-fifteenth century fundamentally changed the nature of English manors. Higher wages combined with falls in the prices of agricultural produce rendered direct demesne farming far less profitable for lords, and the vast majority leased out their demesnes, either as a block or in severalty, frequently to tenants of the manor.⁴³ Whatever the status of the land they held, the vast majority of tenants were now personally free, liable neither to labour services nor commutation payments. This meant that many of the original functions of the manor court were defunct, as were the duties of the reeve and other manorial officers; no reeves were elected in any of the sixteenth-century case studies examined below. The terms on which tenants held their land had also changed in a variety of ways, which are discussed in a sixteenth-century context later in this chapter. In short, by 1500, many more tenants held their land at will or by lease, which offered greater flexibility and negotiability at a time of low prices and high wages; while in other manors tenants held by secure copyhold, which was almost as good as outright ownership.

⁴⁰ Howell, *Kibworth Harcourt*, pp. 44-48; Whittle, *Development of Agrarian Capitalism*, p. 42.

⁴¹ Christopher Dyer, *An Age of Transition? Economy and Society in England in the Later Middle Ages* (Oxford, 2005), p. 125.

⁴² Nonetheless human agency must not be overlooked in the fact that the population did not recover quickly, as might be expected after a natural disaster; Keith Wrightson and David Levine found that population growth in seventeenth-century Terling in Essex was almost certainly held in check by conscious decision-making on the part of families there (Wrightson and Levine, *Terling*, chapter 3; especially pp. 63-65). There is no reason to think that earlier English peasants did not engage in similar population control.

⁴³ Dyer (*Age of Transition*, pp. 110-11) estimates that the proportion of productive land under the direct management of lords fell from 20-25% to 5-10% between 1300 and 1500.

1.1.4 Social

To complete the discussion of what is meant by a manor in late medieval and sixteenth-century England, it is necessary to consider the group of people who lived within its boundaries. It is usually possible to trace the majority of these people through manorial and parochial records, but there are nearly always frustrating gaps. For instance, it often cannot be established whether a certain tenant lived on the land they held from the manor, or whether they let it out to a subtenant whose name does not appear in manorial documents; or whether an individual called John Smith is the father or his son of the same name. On occasion these difficulties can be cleared up with careful cross-referencing of sources of evidence, combined with a little luck, but often they must remain uncertain. The names of women appear only rarely in manor court rolls, and in rentals only where they held land personally (usually as widows); moreover, they were less likely than men to make a will. The absence of women from the written record belies the fact that the contribution of women and children to family labour was vital to earning a living. In periods, such as the late sixteenth century, when women had fewer opportunities to find paid work, the living standards of the poor declined catastrophically.⁴⁴ Although servants in husbandry were very common, representing at least a third of the agricultural labour force, they are very hard to trace, small bequests in wills and passing references in presentations to leet courts and quarter sessions being the likeliest place to find them.⁴⁵

All this makes it difficult to estimate the population of a given manor or settlement. Parish records of births and marriages, which began in 1538, were just beginning to be compiled during the period from which the case studies are drawn, and do not survive from the beginning. In any case, they are of only moderate use for estimating manorial population in a society where mobility was the norm. There are proxy measures which allow a rough estimate to be made. Rentals give a list of all the tenants in a manor. Some of the tenants listed in these rentals may have been replaced by one or more subtenants, which means they cannot be regarded as a precise measure of population, but they are considerably more useful than any other potential

⁴⁴ Sara Horrell, Jane Humphries and Jacob Weisdorf, 'Family Standards of Living over the Long Run,' *Past & Present* 250 (2021), p. 133.

⁴⁵ Whittle, *Development of Agrarian Capitalism*, p. 302.

source. The number of tenants listed in a rental is more likely to undercount the real population than to overcount it, since free tenants with large landholdings might lease their land to several subtenants. Thus, taking the tenants listed in a rental and applying a multiplier for the members of their household gives a minimum bound for the population of a manor.⁴⁶ It is unlikely that the actual population would have greatly exceeded this figure. Few adult men were completely landless at this period and many of those that were would be included in the multiplier for the households of others.⁴⁷ The right to build houses on common land outside customary tenements was jealously guarded, and by the late sixteenth century, it was prohibited by statute to build a cottage with less than four acres of associated land.⁴⁸

It is often easier to trace social differentiation among inhabitants of a manor than to estimate their number. In economic terms, the amount of land each tenant held from the manor can be recorded, sometimes in exhaustive detail, in rentals and similar types of manorial document. In some particularly well-documented manors, the snapshots provided by rentals can be integrated with records of land transfers in manorial court rolls, and bequests in wills, to create a detailed picture of who held what customary land within a manor at a given time.⁴⁹ Ownership of freehold land is harder to trace, as the details given on its extent and location in rentals tend to be very sparse. On the other hand, as the case studies for this thesis show, some court rolls (especially where tenure at the lord's will was the norm) recorded the transfer of free land but not that of customary land. Another indication of inhabitants' wealth is provided by taxation records, especially the relatively comprehensive lay subsidies of 1524-25, drawn on by almost all social historians of the sixteenth century. Wrightson and Levine describe it as 'outstanding among sixteenth-century taxes in that it involved a genuine attempt to take account of the whole taxable

⁴⁶ Gwyneth Nair used a multiplier of 4.75 individuals per household to estimate the population of sixteenth-century Highley in Shropshire, while noting that other historians have suggested slightly lower multipliers (Gwyneth Nair, *Highley: The Development of a Community 1550-1880* (Oxford, 1988), p. 42); Wrightson and Levine also used 4.75 for Terling in Essex (Wrightson and Levine, *Terling*, p. 45). Cord Oestmann used a multiplier of 4.5-5 for Hunstanton in Norfolk (Cord Oestmann, *Lordship and Community: The Lestrangle Family and the Village of Hunstanton, Norfolk, in the First Half of the Sixteenth Century* (Woodbridge, 1994), p. 156). This study uses a multiplier of 4.75 in estimating the population of its case studies, of which Hunstanton is one.

⁴⁷ Whittle, *Development of Agrarian Capitalism*, p. 223.

⁴⁸ Steve Hindle, 'Exclusion Crises: Poverty, Migration and Parochial Responsibility in English Rural Communities, c. 1560-1660', *Rural History* 7, p. 128.

⁴⁹ As French and Hoyle did (*Earls Colne*, p. 181), eventually creating a database sufficiently detailed to generate a rental of Earls Colne for any moment between 1546 and 1750.

wealth of the kingdom.’ They used the wealth recorded in this assessment to divide the population of Terling into four economic classes: class I, assessed on at least £10, ‘gentry and very large farmers’; class II, over £2-£8, ‘yeomen, substantial husbandmen and craftsmen’; £2 exactly, ‘husbandmen and craftsmen’; and less than £2, ‘labourers and cottagers.’⁵⁰ Nair used a somewhat later lay subsidy (from 1542) to divide the population of Highley into four very similar classes, with the wealth bands lowered a little, reflecting the less prosperous economy of the far west of England compared to the south-east.⁵¹ Roughly speaking, and allowing for the fact that some relatively wealthy inhabitants might gain some or all of their income from their craft, a large farmer would hold 100 acres or more; a yeoman 30-60; a husbandman perhaps 15-20, the minimum required for subsistence; and the rest, if anything, a smallholding of a few acres, requiring them to seek paid employment elsewhere to make a living.⁵² Unfortunately, no tax assessment offers the historian a comparable level of detail to the 1520s lay subsidies until the Hearth Tax of the 1660s, which assessed households on the number of hearths they possessed. By this time, a house with two hearths signified ‘middling’ prosperity, while rural labourers usually had only one.⁵³

Correlated, though not exactly, to inhabitants’ economic status was their social status. This is much harder to assess, since establishing social status is a highly subjective business, both to historians today and to sixteenth-century peasants. Some documents record the self-identification of peasants as to their status; records from sixteenth-century Norfolk quarter sessions invariably add such a qualifier to the people they name, mostly ‘yoman,’ ‘husbandman,’ or ‘laborer,’ [sic] or their specific craft if they had one.⁵⁴ Wills frequently do the same. For those

⁵⁰ Wrightson and Levine, *Terling*, pp. 32-34.

⁵¹ Nair, *Highley*, pp.15-16.

⁵² When considering smallholdings, whether or not the holding came with rights to common grazing and other resources was of critical importance. Even a very small piece of land with common rights could allow its holder to derive a significant proportion of their subsistence, greatly increasing their independence and standard of living. See Margaret Spufford, *Contrasting Communities: English Villagers in the Sixteenth and Seventeenth Centuries* (1974, Cambridge, 1979), chapter 5, ‘The reality: the small landholder in the fens: Willingham,’ especially pp. 133-37.

⁵³ Spufford, *Contrasting Communities*, p. 44.

⁵⁴ For instance, a sessions of the peace at East Dereham in Norfolk in 1559 named ‘Richard Stone, formerly of Holme next the Sea, yeoman, Nicholas Futter, yeoman, Henry Dorrell, yeoman, Richard Rightwys, husbandman, Gilbert Riches, husbandman, John Graver, labourer, John Baker, husbandman, William Punyer, labourer, John West, labourer, John Bennett, husbandman, John Chamblayne, husbandman, Ed[mund] Brees, labourer, John Beele, shepherd, Edward Holley, husbandman, Willim Lyef, husbandman, John Palmer, labourer, Thomas Palmer, labourer, John Bayly, husbandman, Nicholas Englisshe, husbandman, Nicholas

at the upper end of the wealth distribution, the status of gentleman was one that might be claimed and even generally accepted if the family could satisfy not only the criterion of wealth but of manner and lifestyle, 'eating the right foods, playing the right sports, making the right kinds of bargains, relating in the right ways to one's tenants, building the right kinds of houses, and at death endowing the right monuments.'⁵⁵

Most manors contained tenants of all social ranks below the gentry. All those holding land from the manor were obliged, at least in theory, to attend the manor court. In practice, where courts were held regularly, it seems that most of those living in the manor did indeed attend. It is hard to establish how the social differentiations within a manor affected the processes and decisions of manor courts. Chapter 2 considers how far manorial tenants of all socio-economic statuses perceived themselves to have shared interests which conflicted with those of, firstly, their lords, and secondly, non-tenants, especially ones from beyond the boundaries of the manor. It discusses the traditions of resistance to seigniorial authority which had developed across England by the sixteenth century and the ways in which tenants might come to use the manorial court as a vehicle to run their community according to their own priorities.

Finally, it is important to note that tenants of a manor were a 'community' only to the extent that they jointly attended the manor court and observed the same set of customs and by-laws. In many areas of England, especially those where manorial boundaries did not match those of village and parish, people identified far more readily with the latter two institutions.⁵⁶

1.1.5 Conclusion

An English manor is thus best defined as the private legal jurisdiction of a lord, exercised through the court baron, which held authority over customary law and land tenure. Manors were also

Banyard, husbandman, Richard Palmer, husbandman, [and] John Hales, labourer' as some of those under suspicion for sabotaging their lord William Aslack's attempt to drain a coastal salt-marsh (Norfolk Record Office C/S 3, box 5A, quarter sessions rolls 5 & 6 Philip & Mary, 1 Elizabeth).

⁵⁵ Philippa Maddern, 'Gentility,' in Raluca Radulescu and Alison Truelove (eds.), *Gentry Culture in Late Medieval England* (Manchester, 2005), p. 31.

⁵⁶ Whittle (*Development of Agrarian Capitalism*, p. 188) noted that in sixteenth-century Norfolk tenants frequently held land from several different manors, but rarely from more than one parish.

physical territories, inhabited by people of differing social and economic standing, whose fortunes were shaped, if not decided, by the rights and obligations their lord's manorial jurisdiction imposed on them. Manors featured a wide variety of customs and forms of land tenure; the powers of their sixteenth-century lords might remain strong or be practically extinct; and they were influenced by their geographical context and the wider economies of their regions. The case studies for this thesis explore some of this variety.

1.2 Land tenure

The debate over the supposed transition from a feudal to a capitalist economy in late-medieval and early modern England was initiated (despite its origins in the writings of Karl Marx) by R. H. Tawney in *The Agrarian Problem in the Sixteenth Century* more than 100 years ago. In explaining the decline in the number of small- and medium-sized landholders which took place across the sixteenth century, and their replacement by a society of major landlords, tenants farmers and landless labourers, Tawney attributed central importance to the terms on which land was held. He concluded that

*the tenure of the vast majority of small cultivators left them free to be squeezed out by exorbitant fines, and to be evicted when the lives for which most of them held their copies came to an end... the small cultivators of our period were fettered by the remnants of the legal rightlessness of the Middle Ages, without enjoying the practical security given by medieval custom.*⁵⁷

Tawney was referring to copyhold, the form of tenure by which a majority of tenants in England held their land. Tawney himself sampled the records of 118 sixteenth-century manors, predominantly in Norfolk and Wiltshire, and found that 61% of tenants were copyholders.⁵⁸ Most of the land in Margaret Spufford's Cambridgeshire case studies was held by copy.⁵⁹

⁵⁷ Tawney, *Agrarian Problem*, p. 407.

⁵⁸ Tawney, *Agrarian Problem*, p. 25. Describing tenants purely as freeholders or copyholders is, however, problematic, given that there was no reason why a tenant should not hold freehold, copyhold and leasehold land at the same time. In the case studies for this thesis, it is seen that tenants in Hunstanton held land of more than one status, whereas it appears that at Tinsley they did not.

⁵⁹ Spufford, *Contrasting Communities*, pp. 65-73; 99.

Tawney's model of expropriation of small tenants by landlords' extortionate entry fines is one which fits very well into the anti-enclosure rhetoric of many sixteenth-century 'Commonwealth' writers, a number of whom he quoted. In this model, lords and engrossing larger tenants were to blame for creating a class of landless rural workers, obliged to sell their labour to make any kind of living, and thus fulfilling the criteria for a transition to capitalist agriculture, criteria defined by Jane Whittle as a polarisation of wealth and land ownership, where large landowners produced mainly for the market, while the landless labourers who formed the majority had to sell their labour to the landowners and purchase the necessities of life rather than producing it themselves.⁶⁰ Tawney regretted this change, associating landholding with the 'exercise [of] that control over the conditions of their lives which is of the essence of freedom,' and claiming that 'in those countries where the peasant tradition has not died altogether away, the unreasonable creature prefers starving on land which is his own, though it be but a tiny patch where he sweats from dawn to dark.'⁶¹ The spectre of enclosure certainly haunted sixteenth-century peasants, especially in the open-field counties of England, even if its actual practice was rare. Joan Thirsk explained the particularly inflammatory politics of sixteenth-century enclosure by noting that the lack of permanent common pasture and growing population pressure created a situation in midland England in which 'no one could enclose without risk of hurting others,' and where, moreover, the rising prices of food and other agricultural produce gave already-substantial landowners both the means and the motivation to 'increase the scale of their undertakings.'⁶²

The emphasis on land tenure puts the manor at the centre of English social and economic history of this period, since it was manorial custom which dictated the terms on which customary land was held. Tawney's thesis attracted much further study, and although many of his conclusions have been overturned by later consensus, the importance of tenure remains at the heart of understanding early modern social relations. Eric Kerridge launched a direct attack on what he regarded as Tawney's moralising, socialist-influenced picture of callous landlords evicting tenants in defiance of law and custom, describing it as a 'monstrous and malicious slander.'⁶³

⁶⁰ Whittle, *Development of Agrarian Capitalism*, pp. 8-9, 178, and elsewhere.

⁶¹ Tawney, *Agrarian Problem*, pp. 35, 168.

⁶² Joan Thirsk, 'Enclosing and Engrossing,' in Thirsk (ed.), *The Agrarian History of England and Wales*, vol. 4 (Cambridge, 1967), pp. 203-05.

⁶³ Kerridge, *Agrarian Problems*, p. 93.

Using painstaking legal scholarship, Kerridge demonstrated that most copyhold and leasehold tenants had legal security of tenure.⁶⁴ In practice, late-medieval and sixteenth-century enclosure and engrossment affected less than a quarter of the farmland of England. Tawney did not acknowledge the fact that the west and south-east of England were old-enclosed landscapes which had never been worked as open fields in the first place.⁶⁵ Dyer estimates that half of all agricultural land was enclosed (i.e. not part of an open field) by 1600, of which half had already been enclosed by 1200.⁶⁶ He noted, moreover, that on the occasions when a manorial lord did engage in the wholesale enclosure and conversion to arable of one of their manors, 'he was usually removing the remnants of an already decayed village.'⁶⁷ The abandonment of villages, especially in the central region of England was a feature of the late-medieval period.⁶⁸ Even villages which survived intact until the renewed population growth of the sixteenth century often contained fewer households than they had plots of land for, as is shown in the case of Willoughby on the Wolds in Nottinghamshire.

Nonetheless land tenure changed recognisably during the sixteenth century. A half-yardland of approximately twelve to fifteen acres is considered to have been the minimum area from which a family could exceed their subsistence needs, with ten as an absolute minimum for survival, and tenants holding a full yardland or more in 1500 could consider themselves relatively wealthy.⁶⁹ During the sixteenth century, however, inflation greatly increased the prices of basic goods and the size of the minimum sustainable landholding grew. With the price of land also increasing, it became economically more logical for the tenant of 15-30 acres to sell their holding and rent land from a larger landowner instead.⁷⁰ Several local studies have observed an increasing polarisation in patterns of landholding, with a stratum of tenants holding land equating roughly to

⁶⁴ Kerridge, *Agrarian Problems*, chapter 3, 'Security of Tenure', pp. 67-93.

⁶⁵ Jane Whittle, 'Introduction: Tawney's *Agrarian Problem Revisited*', in Whittle (ed.), *Landlords and Tenants in Britain, 1440-1660: Tawney's Agrarian Problem Revisited* (Woodbridge, 2013), p. 12.

⁶⁶ Dyer, *Age of Transition*, p. 58.

⁶⁷ Dyer, *Age of Transition*, p. 70.

⁶⁸ Brian Roberts and Stuart Wrathmell, *Region and Place: A Study of English Rural Settlement* (2002), p. 11. 'Central region' in this instance is used in the specialised landscape-history sense of a swathe of England in which open-field agriculture was the norm, extending from northern England east of the Pennines through the Midlands to the south-central counties, excluding the north-west, south-west and south-east of the country.

⁶⁹ Mark Bailey, 'Peasant Welfare in England, 1290-1348,' *Economic History Review* 51 (1998), p. 232; Christopher Dyer, *Standards of Living*, p. 117.

⁷⁰ French and Hoyle, *Earls Colne*, p. 36; Whittle, 'Agrarian Problem Revisited', p. 16.

the medieval 'half-yardland', about fifteen acres, being squeezed out. Wrightson and Levine noted the development of a 'tenant system' in the decades around 1600, with more land being bought up by the gentry and 'a decline of the independent yeomen freeholders and the metamorphosis of their successors into tenant farmers.'⁷¹ Spufford found that by the time of the Hearth Tax (1662-89), land ownership was polarised between smallholders with less than ten acres of land and yeoman farmers with 80 or more, and concluded that in most areas 'the 'typical' medieval holding was no longer a viable economic unit in the price rise of the sixteenth century, as the 200-acre farm is no longer a viable unit today.'⁷² Howell described Kibworth Harcourt by the end of the seventeenth century as 'the typical "closed" village, with a small circle of gentlemen and yeomen farmers, a growing number of craftsmen and tradesmen, a few husbandmen or small farmers and a group of landless labourers for whom housing was provided by their employers.'⁷³ This process was underway by the mid-to-late sixteenth century date of the court rolls and other manorial documents examined by this thesis, but it was far from complete; England in 1550-1600 was not a feudal society, but nor was it a capitalist one. On a scale from wealthiest to poorest, the median adult male was probably still a small landholder who obtained a good proportion of his subsistence needs from his own land.

The terms on which a tenant held dictated much about the speed of the transition described above. Freehold land, and land which was held by copyhold of inheritance, was effectively the property of its tenant, as described above. A medium-sized tenant who was minded to keep their own land and pass it to their descendants stood a good chance of being able to do so, until the economic pressures on them became too much to resist; a point which had not generally been reached by 1600. This was especially the case where opportunities existed to supplement their income by the exploitation of common rights and by employment in rural industry or on the farms of wealthier neighbours. Other forms of tenure, however, were more closely approximated to real rental contract, their terms more responsive to the real values of land and

⁷¹ Wrightson and Levine, *Terling*, p. 30.

⁷² Spufford, *Contrasting Communities*, pp. 37-38; 165.

⁷³ Howell, *Kibworth Harcourt*, p. 69.

commodities, and thus the pressure on small and medium-sized tenants was proportionately greater.

Copyhold outside of East Anglia was often granted for a term of 'three lives' – that is, for the life of the initial tenant, their spouse and their heir (usually an eldest son where one existed), after which the tenure would have to be renewed, with the possibility of higher rent being charged and a higher entry fine levied.⁷⁴ Some copyholds were granted for terms of 21 years, a term apparently regarded as more or less equivalent to these three lives. 'Tenant right,' a form of tenure common in the northernmost counties of England, carried low rents and fines but came with the obligation to provide military service in the event (relatively frequent in the fourteenth and fifteenth centuries) of Scottish invasion.⁷⁵ This form of tenure was abolished on the accession of the Scottish king James I to the English throne. Tenants in other manors held land 'at the lord's will,' theoretically leaving them open to arbitrary expulsion or rent and fine increases; but in practice, the 'lord's will,' was often coupled with the 'custom of the manor,' and inheritance customs and fixed rents remained in place, as at Kibworth Harcourt.⁷⁶ Chapter 5 shows that the tenants of Willoughby on the Wolds in Nottinghamshire, despite apparently being tenants at will, experienced little or no increase in their rents from the mid-fifteenth to the early seventeenth century.

A form of tenure local to Norfolk was 'fee farm,' a fixed rent on terms largely equivalent to copyhold of inheritance.⁷⁷ Leasehold tenure was common on demesne land or land which had been enclosed from common fields. This seems to have been the form of tenure where rents came closest to matching real values, especially where the term of the lease was short. 'Lease-parol' was renewed from year to year, levels of rent being racked up and down in response to the state of the market.⁷⁸ Leasehold became more common in the fifteenth century, as lords let out their demesnes. Its proliferation was spurred by the fact that, under fifteenth-century conditions of low land values and low prices, a flexible lease often worked out cheaper for

⁷⁴ Kerridge, *Agrarian Problems*, pp. 36-40.

⁷⁵ Brown, *Rural Society and Economic Change*, p. 21.

⁷⁶ Howell, *Kibworth Harcourt*, p. 52.

⁷⁷ Davenport, *Economic Development of a Norfolk Manor*, p. 57.

⁷⁸ Kerridge, *Agrarian Problems*, p. 46

peasant tenants than holding customary land.⁷⁹ But in the sixteenth century these conditions reversed, leases became shorter, and leasehold land the quickest to be taken out of the hands of small and medium-sized tenants and into those of gentry or substantial yeoman farmers with more capital. At Earls Colne around 1600 land was commonly leased for terms of two or seven years, while in sixteenth-century Hunstanton demesne land was leased for seven years.⁸⁰

Everywhere in sixteenth-century England, the terms on which tenants held land affected the economic and social structure of their communities. The tenants of a manor where copyhold of inheritance was the norm had little to fear from the exactions of their lords, and their ability to earn a living from a moderate landholding was only very slowly strangled by the effects of long-term change in economic conditions. Meanwhile, sixteenth-century price inflation might have a much more immediate effect on a manor where copyhold was for shorter terms, or where the lord had bought up copyholds and converted them to leasehold; here, the transition to a 'capitalist' model of gentry or noble landowners, large tenant-farmers and a dependent near-landless labouring population might be well under way by 1600. Lords' power to bring about change in this way, however, was rarely as absolute as the letter of the law might suggest. The nature of power, especially in pre-modern society, was such that collective action by the inhabitants of a rural community could hold back or thwart the designs of those higher up in the social and economic hierarchy.

1.3 *The gentry and manorial lordship*

The ownership of manors was central to the assertion of gentry status in late-medieval and early modern England; 'most commentators started, as do most historians, from the affirmation that all non-noble landowners with some claim to exercise lordship or jurisdiction were unquestionably gentlemen.'⁸¹ Other markers of gentle status existed, such as formal education, the ability to demonstrate distinguished ancestry, voluntary service in local administration as Justices of the Peace, sheriffs and lords lieutenant, and a distinct culture, covering norms of

⁷⁹ Whittle, *Development of Agrarian Capitalism*, p. 70.

⁸⁰ French and Hoyle, *Earls Colne*, p. 118; Oestmann, *Lordship and Community*, p. 59.

⁸¹ Felicity Heal and Clive Holmes, *The Gentry in England and Wales, 1500-1700* (Basingstoke, 1994), p. 7.

speech, dress and conduct. Nonetheless, many of these status symbols required a steady and substantial income, and the most common way to derive one was through the ownership of land in the form of manors. The gentry existed in a world of competition and more or less constant social insecurity. The fortune of a gentry family depended on the existence of healthy, adult male heirs, and in their absence an estate could be radically reduced or disappear altogether. Cliffe found that nearly 30% of Yorkshire gentry families became extinct in the male line between 1558 and 1642.⁸² When a male heir was a minor on inheriting their estate, they could be placed in the wardship of another local gentleman, who might not have their charge's best interests at heart. In these circumstances, members of the gentry were prone to take every opportunity to assert and display their right to social status. Established gentry families sought to burnish their ancestry and intermarry with equally old houses. Meanwhile, more recently elevated families aimed for widespread recognition of their gentle status and their legal right to it. This status anxiety provided one reason for the lord of a manor to be concerned with keeping up the manor court and preserving its records in the family archive.

As discussed above, most manorial lords withdrew from direct management of their demesnes in the late fourteenth century, ceasing to rely (in so far as they ever had) on customary labour and the co-opted services of peasant reeves. Some gentry families, especially those which had relatively small estates of a handful of manors, maintained a hands-on approach to the enforcement of rent payments and the appointment of personnel.⁸³ Even they, however, usually leased out their demesne land to farmers. This did not mean that they were indifferent to what went on there. Lords might take a particular interest in the manors in which they resided, as is shown at Hunstanton in Chapter 3. More importantly, the gentry were facing increasing financial pressure, given the inflation of the sixteenth century and the increasing levels of consumption required to maintain a credible appearance of lordly status. The economic logic of the sixteenth century, as noted above, began to favour those who worked a lot of land or were able to extract a large percentage of its economic rent. Chapter 2 discusses how far, and under what circumstances, lords were and were not able to capitalise on these circumstances.

⁸² J. T. Cliffe, *The Yorkshire Gentry: From the Reformation to the Civil War* (London, 1969), p. 16.

⁸³ Dyer, *Age of Transition*, pp. 105-06.

1.4 The Manor Court and its Records

Though manorial courts had existed before this, the first systematic records of the proceedings of manor courts date from the 1230s and 1240s, on the estates of the abbeys of St Albans, Ramsey, and Bec. The practice of recording manor courts then proliferated swiftly across England in the second half of the century.⁸⁴ Razi and Smith argue that the practice arose from manorial lords having an incentive to make the workings of their courts resemble those of the royal courts, and thus to encourage their free tenants to attend and pursue legal business in the manor court.⁸⁵ The court would have retained its jurisdiction over unfree tenants regardless, but free tenants formed a very large proportion of the population, especially in the north and east of England – Mark Bailey estimates that only half of the population of England in 1300 were ‘servile, villeins and unfree.’⁸⁶ Not only did free tenants’ choice to use the manorial court bring in income to the lord from fines and amercements, it helped to ensure that the court’s decisions were known to a larger share of the manor’s population, and that these tenants had had some say in making them. Thus manorial court rolls were, from the beginning, a defensive measure aimed at maintaining seigniorial authority.⁸⁷

This purpose became increasingly manifest in the decades following the Black Death, when manorial courts tried to keep track of the whereabouts of servile tenants who had left the manor, in order, theoretically, to force them either to come home or to pay chevage for the right to live outside the manor. They also placed an ‘almost obsessive’ importance on the upkeep of buildings on peasant tofts, some of which, given the far lower population, were inevitably left without resident tenants. The effect of the abandonments of tofts was often to break the customary link between a peasant dwelling and the virgate of land with which it was

⁸⁴ Zvi Razi and Richard Smith, ‘The Origins of the English Manorial Court Rolls as a Written Records: A Puzzle,’ in Razi and Smith (eds), *Medieval Society and the Manor Court* (Oxford, 1996), pp. 39-41.

⁸⁵ Razi and Smith, ‘Origins,’ p. 37.

⁸⁶ Bailey, *Decline of Serfdom*, p. 3.

⁸⁷ Christopher Dyer, ‘The Ineffectiveness of Lordship in England, 1200-1400’, *Past and Present* 195, supplement 2 (2007), p. 72.

associated, and thus to render the task of keeping track of property transfers more complicated.⁸⁸ As is seen in Chapter 4, the manor court at Tinsley in the fifteenth century tried to force incoming tenants either to live in their holdings and keep the buildings there in good repair, or to find a subtenant who would. Thus the decline in most aspects of serfdom did not immediately lead to a loss of seigniorial interest in holding manorial courts.

Meanwhile, many manorial courts became amalgamated with the view of frankpledge, a court originally held by the authorities governing shires, hundreds and boroughs. At the 'sheriff's tourn,' representatives of the communities within a jurisdiction would attend and present breaches of common and statute law, which (unless they were felonies that could only be tried in royal courts) would be punished there and then by the twelve free men who formed the jury. F. W. Maitland considered the development of the private leet court an imitation of these tourn courts, by which a manorial lord 'made his court a court for the presentment of offences against the peace.'⁸⁹ The court of the royal manor of Conisbrough in Yorkshire followed the template of a sheriff's tourn, while the courts of Hunstanton, Docking and Upper Broughton, three of the case studies for this thesis, were private leet jurisdictions of the kind described by Maitland.

1.4.1 *The anatomy of a manor court roll*⁹⁰

By the sixteenth century, manorial court records, whether baron or leet, followed a broadly similar template, with types of entries following one another in a fairly predictable pattern. This section details the types of entries and the business dealt with at the courts which form the case studies examined in the later chapters.

⁸⁸ Edward Miller (ed.), *The Agrarian History of England and Wales, Volume III: 1348-1500* (Cambridge, 1991); Chapter 7, 'Tenant Farming and Tenant Farmers,' section titled 'East Midlands,' written by Edmund King, p. 626-27.

⁸⁹ F. W. Maitland, *Selected Historical Essays*, ed. Helen M. Cam (Cambridge, 1957), Chapter III, 'Leet and Tourn,' p. 50.

⁹⁰ Historians conventionally use the term 'court roll' to describe the records of manorial courts. This study therefore uses the same term, while noting that most of the records from the case study manors for this thesis were actually kept either in books or as a collection of loose documents. The term 'court roll' is thus something of an anachronism, conjuring up images of vast sewn-together collections of documents, perhaps in a royal archive or monastic library, and unrepresentative of the way manorial records were kept in much of England by the sixteenth century.

Heading

The heading usually gave the name of the lord of the manor, whether a member of the minor gentry, the abbot of a religious house, or the king himself. Occasionally the feoffees or trustees of the lord may be named instead, especially if the lord was a minor in wardship. It also gave the date, nearly always by the regnal year of the current monarch. Early sixteenth-century rolls commonly dated the court session within the year by the closest Christian feast day, for instance 'the Thursday next after the feast of the Archangel Michael' for a September court session. After the Reformation, the old dating system continued for a while in some places, but it became more common to give the calendar date. At some courts the names of seigniorial officials, the steward and bailiff, were added.

Pleas

Some manor courts still decided minor civil cases between tenants, usually for debt or damage to property (trespass). It was rare for a court roll to go into detail about the dispute, and pleas seem to have been kept at arm's length from the main business of the court. When a body was appointed to arbitrate a dispute, it is made clear that this was separate from the jury.

Essoin

Some courts listed the names of tenants who had a valid reason for not attending court. In some places the names of the tenants who applied for the absentee to be essoined are also recorded, and very occasionally the nature of the excuse appears in a superscript annotation.

Jury or homage

The names of the questmen are listed next. The order in which the names were written can give a very faint impression of the order of precedence among a manor's tenants. The first three or four names listed changed little from court to court, except when one of the more prominent tenants died. Chapter 2 goes into jury lists in more detail to establish how representative manor court juries were of the population.

Suitors of court

The names of the tenants of the manor, both freeholders and those who held copyhold or native land, and who did not attend despite their legal requirement to do so, were usually written beneath the jury. The amount they were amerced for non-attendance was frequently added as a superscript annotation to their names. The tenants most frequently, and most heavily amerced for non-attendance, were those who would hardly have been expected to attend a village court. At Tinsley in South Yorkshire, these high-status tenants included the Earl of Shrewsbury and the master of the College of Jesus in Rotherham (until the latter was dissolved during the Reformation). Both were amerced multiples of the small sum common tenants incurred for not attending. In Tinsley from the 1540s, this section began listing all the manor's tenants, and amercing only those who did not attend.

Following these sections, the questmen would make their presentments. These could include any or all of the following types of entry:

Property transfers

One of the key purposes of many manor court rolls was to record the transfer of land between tenants. This was especially important where copyhold was the most common form of tenure, as a copy of the entry in the court roll recording a tenant's admission to their holding would be

made and given to them as evidence of their right to it.⁹¹ In such cases the land being transferred was frequently delineated in detail, with reference to its exact position and to the tenants whose holdings it abutted on. If land was bought and sold outside the court, the seller may be presented for having 'alienated' the land, and the new tenant threatened with having the land confiscated if they did not come to court to swear fealty. On being admitted to their holding, tenants paid an entry fine to the lord, conventionally a year's rent or a multiple of it. These entry fines, and the extent to which manorial lords could and did increase them, have caused much controversy both at the time and among later historians, as described above.

Where tenure was more flexible, by lease or at the lord's will, property transfers may or may not be recorded. At Tinsley, by the sixteenth century, only transfers of freehold land appeared in the court rolls. Transfers of land held at the lord's will were presumably recorded in a contract or indenture made outside the court.

Presentments

The jury at a manor court was the unquestioned authority on the facts of a case. Presentments and amercements made by the jury were not subject to appeal – to use Maitland's words, 'untraversable if they are made by a jury of at least twelve and do not touch any question of freehold,' although, as Chapter 3 shows, they did not always pass without protest.⁹² Not every type of misdemeanour presented at a manor court was equal. An amercement of 3d for collecting firewood, for instance, was routine and might be interpreted as a payment for licence to continue doing so, rather than a genuine punishment. Presentments for allowing livestock to stray beyond their customary bounds were also commonplace. Although the questmen were trying to stop this occurring too often, little stigma seems to have attached to the offence and the jury would frequently present its own members for it. Chapter 2 suggests reasons for the relatively lenient treatment of first offenders. More serious breaches included fighting ('insult and affray'), which carried a larger amercement, especially when one of the parties drew blood from

⁹¹ Bailey, *Decline of Serfdom*, pp. 26-27.

⁹² Maitland, *Selected Historical Essays*, 'Leet and Tourn,' p. 41.

the other. At a leet court, presentments could include the punishment of individuals in breach of statute law.

Orders, pains and by-laws

A pain (*pena*) was an order to desist from some harmful activity, for example to repair derelict parts of one's landholding such as gaps in hedges or fences, or to engage in maintenance of the manor's common resources, usually roads and drainage channels. Pains could be directed against an individual inhabitant, to all landholders in a certain field, or to all inhabitants, regardless of age, gender or status.⁹³ Pains could be combined with an amercement; that is, a defaulter could be amerced 6d for their initial offence and put under pain of 12d or more if they reoffended or failed to remedy a defect before a date set by the court. If a pain was incurred more than once, the financial penalty usually increased by increments. Study of these pains and orders can allow a researcher to deduce a set of manorial customs and by-laws. In some manors, the pains could be recorded in English as well as or instead of Latin, befitting their status as the most bottom-up and adaptable part of the court's business. Among the case studies for this thesis, the practice of recording pains in English was particularly common in the Nottinghamshire manors of Willoughby on the Wolds and Upper Broughton.⁹⁴ There is evidence that where court rolls remained in Latin, lists of pains were drawn up separately and less formally in English for courts to refer to. An example of this is found in the papers of the Clifton family, where a list of pains relating to a 1558 session of the manor court of Upper Broughton in Nottinghamshire found its way into the archive along with the official record.⁹⁵

Election of officers

⁹³ Or simply 'whoever' (*quilibet*), as at Upper Broughton in Nottinghamshire: Nottingham University Special Collections CI M 019, Upper Broughton court roll dated 7th April 1 Elizabeth (1559).

⁹⁴ For example Nottingham University Special Collections Mi 6/177/26, Willoughby-on-the-Wolds court roll dated 21st March 12 Elizabeth (1570), where the pains and by-laws are recorded solely in English.

⁹⁵ Nottingham University Special Collections CI M 18, list of pains most likely belonging to CI M 17, Upper Broughton court roll dated 17th October 6 & 5 Philip & Mary (1558).

Not every court roll made note of officers being elected. The office of reeve, charged with overseeing the common agricultural life of the manor and ensuring tenants turned up to perform labour services on the demesne, seems to have died out by the fifteenth and sixteenth centuries in the manors included in the case studies for this thesis, if it had existed in the first place. Certainly it was less needed after centuries of piecemeal assarts and enclosures, in addition to the extinction of serfdom.

Some manors did elect a 'neatherd' to watch tenants' livestock during the working day, thus cutting down on trespasses. This is a prominent feature of the court rolls from the Nottinghamshire case study. Chapter 5 shows that the neatherds were not necessarily above abusing their office by keeping their own animals separate from the common herd, conceivably to profit by putting them on better grazing ground. Affeerors were sometimes chosen to set the level of pains and amercements, but more often these were decided by the jury as a body. Plebiscites or bylawmen seem to have been elected to enforce the pains laid at the previous court. The pinder's task was to round up stray livestock and impound the animals until their owner paid a fee for their restitution, or to forfeit them to the lord if no-one came to claim them for a set period (often a year and a day). The pinder seems to have been halfway between a manorial officer and a servant of the lord. Pinders at Hunstanton in Norfolk seem to have held the position on a semi-permanent basis without the annual rotation characteristic of the other offices.

Leet jurisdiction

Private leet court rolls in the sixteenth century were written to the same basic template as a court baron, with the lord's name and the date followed by a list of jurors and then the body of court business. The chief difference was the wider scope of this business, as leet courts were responsible for upholding elements of the royal law, not just manorial custom. Leet courts could present inhabitants for common law offences like slander, scolding and theft, and for immoral or disorderly conduct, for instance the keeping of an ale-house, especially one where the owner permitted gambling. Historians including Martin Ingram and Marjorie McIntosh have charted the

interplay between these local secular courts and the ecclesiastical hierarchy in their attempts to regulate the morality of those within their jurisdiction.⁹⁶

The leet courts studied in this thesis all elected one or more constables, or sub-constables (denoting their subordinate position to the constables of the hundred chosen at the quarter sessions). Constables elected by the leet court retained some official government duties. Kent refers to their position as 'interhierarchical' between the village and the state.⁹⁷ Their wider state duties do not form part of this study, but by the sixteenth century they could include tax collection, mustering recruits in wartime, pursuing fugitive criminals and executing the orders of sheriff and Justices of the Peace. Several statutes were passed during the sixteenth century adding these and other duties to the constable's remit.⁹⁸ Manorial subconstables were likely to be pressed into service to assist full constables in these duties. The constablenesship was an annually-elected role which tended to rotate among the more substantial tenants. The task of regulating and reporting their neighbours' conduct, in the absence of any physical means of enforcement, was a delicate one which depended much on the co-operation of the rest of the community. The ways order might be maintained in these conditions are discussed in detail in chapter 2. The leet also upheld the antiquated Assizes of Bread and Ale, appointing ale-tasters to enforce them. What this amounted to in practice was listing and collecting a small fee from anyone selling these commodities, with the modest proceeds going to the lord.

One of the findings of this thesis is that the functions of a manor court could adapt in response to local circumstances. The appearance of court records, however, was largely uniform across England, which allows the general summary above. The explanation for this may lie in the rudimentary legal training which a very large proportion of the gentry and clergy underwent, along with the 'the 'army of jobbing scribes' who carried out the plentiful legal writing of the period.⁹⁹

⁹⁶ Martin Ingram, *Carnal Knowledge: Regulating Sex in England, 1470-1600* (Cambridge, 2017), especially chapters 3 and 4; Marjorie McIntosh, *Controlling Misbehavior in England, 1370-1600* (Cambridge, 1998), p. 7.

⁹⁷ Joan R. Kent, *The English Village Constable, 1580-1642: A Social and Administrative Study* (Oxford, 1986), p. 14.

⁹⁸ Kent, *Constable*, pp. 17-18, 28-32.

⁹⁹ Bailey, *The English Manor*, p. 20.

Moreover, throughout the early modern period a number of handbooks were published for stewards, bailiffs and scribes presiding over manor courts. The quotations in this paragraph are taken from a volume titled *The Maner of Kepyng a Court Baron and a Lete*, which went through several print runs in the 1530s and 1540s, coinciding with the sweeping changes in land ownership brought about by the Dissolution of the Monasteries.¹⁰⁰ The book first lists the proclamations to be made by the steward or bailiff. At the beginning of a court session, the bailiff was required to shout (three times if the court was a leet or once if it was a court baron):

All maner of men that have for to do here at this day for the court or for the Lete: drawe nere and attend to the Court.

The headboroughs and questmen are then sworn in, with the leading members required to kiss a Bible. The book then lists the proclamation which, in theory, the bailiff was to make regarding all possible matters that the jurors could present to the court, from the prosaic:

Yf the lords comon be so charged by any tenaunt wyth mo beastes than he shulde holde after the quantite of his tenure, ye shall do us to wete [inform us].

to the rarer and more serious:

Also of all wou[n]des made, of blode shede or wepo[n] drawe[n] against y^e kinges peace, ye shal do us to wete

to the lyrical:

Also yf there be any vacaboundes or hasarders or robbers amonge you, that walke in the nyghte and slepe on the daye, and haunte customable ale-houses and Tavernes and routes aboute, and no man woteth fro[m] whens they come, ne whyther they shal, ye shal do us to wete of the[m] & theyr receytours.

After this section, the book provides template entries in Latin for the scribes writing up the court roll. The instructions in the *Maner of Kepyng* relate to an idealised manor court and do

¹⁰⁰ *The maner of kepyng a court Baron and a Lete wyth dyvers fourmes of entreis, plaintes, processes, presentmentes, and other maters determinable there.* (London, 1546 edn.)

not take into account differences in custom that had arisen over centuries in specific locations, nor the fact that the tenants who made up the juries had their own interests to further.

Nonetheless the forms of words specified in the book correspond quite well with those found in court rolls around the country. The court rolls of the manor of Willoughby-on-the-Wolds in Nottinghamshire, one of the case studies of this thesis, include entries which recall the forms of words found in the *Maner of Kepyngge*. For instance, the courts in April and October 1565 include at the foot of the list of pains the statement *It[em] ordinat[ur] q[uo]d om[n]es et sing[u]l[ae] pen[ae] in cur[ia] p[re]cedent penden[t] in suo Robor & effect[u] p[er]ma[n]ent.*¹⁰¹ [Item: they ordain that each and every of the pains hanging in the preceding court shall continue in their vigour and effect]. This corresponds with part of the charge which was meant to be read out by the bailiff at the start of a court baron, according to the *Maner of Kepyngge*: 'Also yf there be any playnt of olde hangyng in the court rolles before this courte, let call the parties before the inquest...' The Willoughby rolls make it clear that a charge was indeed read out to the questmen before they were sworn in, noting that the jurors were truly charged (*vero on[er]at[ur]*) regarding all matters touching the court.¹⁰² Given that the manor court was, in the 1560s, being held in the names of a trio of caretaker gentry while the heir to the Willoughby family was in wardship, it seems likely that the trustees' bailiff and steward were relative newcomers and were relying on doing things literally by the book, whether the book in question was the *Maner of Kepyngge* or another similar. Local peculiarities are found in which of the many possible types of presentment the jurors of a given manor chose to make, and in the orders and pains they passed. Works like the *Maner of Kepyngge*, together with conventions passed on during the training of scribes and the apprenticeship of stewards and bailiffs, ensured the outward uniformity of the written records of manor courts, and very likely also meant the same rituals of oath-swearing, proclamations and presentments were widespread too.

There is nothing in any written source which sheds any light on the deliberations among members of manorial juries. All that can be said with certainty is that an agreed set of

¹⁰¹ Nottingham University Special Collections Mi 6/177/23 and 24, Willoughby court rolls dated 2nd April and 28th September 7 Elizabeth I (1565).

¹⁰² For instance Nottingham University Special Collections Mi 6/177/21, Willoughby court roll dated 18th November 4 Elizabeth I (1561).

presentments must have been reached, either at the court session or by prior consultation. The difficulty of establishing the mindset of peasants in agrarian societies, and the ways in which communities have used existing institutions to govern their shared resources, are analysed in chapter 2.

Conclusion

This thesis attempts to add to the existing historiography on the manor and English peasant society by adopting a comparative approach, contrasting the functions which the manor court had assumed in the three pairs of case study manors. This offers a wider scope than the classic village study, several examples of which have been cited above, while retaining the ability to discuss specific local factors which is sacrificed in the creation of a study based on surveying a large sample of communities.

It also seeks to offer an explanation for the persistence of the manor court as an institution in places where it might not be expected to continue; in manors that lacked copyhold tenure, or where the lord was a distant presence with little direct influence on the manor, and where the steady process of subaltern resistance had greatly reduced the scope of seigniorial power.

Chapter 2 builds a bottom-up framework for understanding the tenants' motivations for keeping the manor court working.

Chapter 2

Explaining the Persistence of the Manor Court

2.1 Introduction

Chapter 1 examined the manor's place in the English society and economy and surveyed the historiography on the effects of wider change in local communities. This chapter attempts to establish a more bottom-up, or perhaps inside-out, understanding of how manorial institutions, and particularly the manor court, functioned.

The central problem the chapter seeks to address is the contradiction between, on the one hand, the ostensibly extractive and coercive nature of seigniorial authority within the manor, and on the other, the evidence of continued cooperation with the manor court on the part of the tenants of many manors, and indeed the tenants' use of the manor court to serve their own ends. Studies of power and resistance in peasant communities and elsewhere have established the necessity of consent for power to be exercised effectively, and that, in its absence, even those in the lowest degree of legal subordination could effectively hamstring higher authority without resorting to open defiance. In many areas of England, the end of serfdom in the aftermath of the Black Death sooner or later brought about the effective end of the manor court as a governing institution. Elsewhere, however, the manor court continued to be held and to carry out a considerable amount of business beyond the recording of property transfers.

The following section suggests a resolution to the contradiction established above, noting the potential similarities between the functions of an active sixteenth-century manor court and those identified by the economist Elinor Ostrom as necessary for the sustainable management of common resources by those who used them. It discusses how apt the comparison may be under the varying circumstances English manors found themselves in.

One of the key aspects of an effective institution for governing a commons is that all its users should be represented and have a say in making decisions. Whether this was the case at the manor court is a difficult question to answer, but a section of this chapter attempts to do so, at least in part, by examining the lists of jurors named in the court rolls of the case study manors and determining how broad-based and stable a body the manorial jury was.

Having thus established a framework for understanding how a manor court might be useful to its own tenants, not merely to its lord, this chapter gives a focus to the discussion of the individual case studies in chapters 3, 4 and 5.

2.2 Decline and persistence in the activity of manor courts

Where manor courts continued to be held and records of them kept, it was commonplace for their functions to be restricted to the amercement of non-attenders and the recording of property transfers. Maitland, writing in 1888, stated that the sixteenth-century manor court 'can no longer be described as flourishing; the growth of the commission of the peace has drawn away its life.'¹⁰³ Subsequent scholarship has borne out this conclusion up to a point; examples of lifeless manor courts are not difficult to find in published local studies. By the early modern period at Terling in Essex, the manor court is described as 'nothing more than registries of land transactions, meeting very irregularly.'¹⁰⁴ At Earls Colne, 'the sixteenth and seventeenth-century manor courts conform to the pattern of a declining institution with a narrowing range of business.'¹⁰⁵

Counter-examples, in which manor and leet courts continued to fulfil important functions, have also been cited in published studies. Walter King studied the relationship between leet courts and the next rung up the judicial ladder, quarter sessions, in early seventeenth-century Lancashire, and found that an active leet court in this region dealt with far more crimes than were ever presented to the sessions.¹⁰⁶ King concluded that the leet court remained a 'needful and useful' component of the English justice system at a later period than previous historians had allowed for. In Chapter 3, it is noted that the leet court of Hunstanton in Norfolk produced no business which proceeded to the quarter sessions in the mid-sixteenth century, despite some violent interpersonal disputes. John Cruickshank noted that the election of constables by certain

¹⁰³ Maitland, *Selected Historical Essays*, 'Leet and Tourn,' p. 41.

¹⁰⁴ Wrightson and Levine, *Terling*, p. 104.

¹⁰⁵ French and Hoyle, *Earls Colne*, p. 163.

¹⁰⁶ Walter J. King, 'Early Stuart Courts Leet: Still Needful and Useful', *Histoire Sociale/Social History* 23 (1990), p. 276. The leet court at Prescott in the first half of the seventeenth century passed fewer than 2% of the individuals presented to it up to the quarter sessions.

courts leet in the West Riding of Yorkshire remained a live political issue as late as the first half of the *nineteenth* century.¹⁰⁷ Brodie Waddell sampled another sizeable set of court rolls from the early modern period, from the sixteenth century to the eighteenth, and found that manor courts remained active in many areas, albeit that after 1600 they tended to 'shift their focus away from violence, disorder and victualling towards "infrastructure" such as roads, drainage, and fences, while often remaining heavily involved in the management of common lands and local immigration.'¹⁰⁸ Waddell also noted what is one of the chief findings of this thesis, that English manors were flexible institutions which could be adapted to local circumstances.¹⁰⁹ Jane Whittle noted a similar situation in her Norfolk case study, finding that aspects of the manor court 'that were vital to the tenants and the regulation of village life,' far from dwindling away, were mentioned more frequently in court rolls from the late fifteenth century onwards.¹¹⁰

A much broader-based social history using court rolls was Marjorie McIntosh's *Controlling Misbehaviour in England, 1370-1600*. In it she collected and analysed records from 255 'minor courts,' mainly comprising manor courts leet and the much rarer surviving records of hundred courts. She looked beyond the usual run of land transfers and lists of suitors and focused on the presentments which showed the manor court trying to keep order and harmony within the community.¹¹¹ She found, like Whittle, that these types of presentments were rare in the fourteenth and early fifteenth centuries, but increased during the late fifteenth and early sixteenth. In the late sixteenth century, parish institutions and alternative courts took much of the burden of controlling misbehaviour away from the manor. This resulted in presentments concerning what she termed 'disharmony' and 'disorder' becoming rarer, but presentments for offences connected with poverty (such as breaking hedges for firewood, gleaning from other tenants' crops, and harbouring wandering strangers) continued being made in ever-greater numbers right up to 1600.¹¹²

¹⁰⁷ John L. Cruickshank, 'Courts Leet, Constables and the Township Structure in the West Riding, 1540-1842', *Northern History* 54 (2017), pp. 59-78.

¹⁰⁸ Brodie Waddell, 'Governing England through the Manor Courts', *The Historical Journal* 55 (2012), p. 280.

¹⁰⁹ Waddell, 'Governing England,' p. 285.

¹¹⁰ Whittle, *Development of Agrarian Capitalism*, p. 83.

¹¹¹ Marjorie McIntosh, *Controlling Misbehaviour in England 1370-1600* (Cambridge, 1998), p. 225 onwards lists the sample of 'lesser' courts. These included the Conisbrough manor court in South Yorkshire.

¹¹² McIntosh, *Controlling Misbehaviour*, pp. 180-84.

McIntosh introduced the concept of 'social ecology' to describe the combination of local variables that affected a community's response to misbehaviour.¹¹³ She did not define exactly what she meant by this, but her analysis of court presentments suggests that differentiating factors between one court and another include size of population, whether the manor was situated by the sea or on or near a major road, and whether there were significant non-agricultural occupations available to its inhabitants. These three factors correlate quite well with each other, and McIntosh found that local courts that combined all three were likely to take the most active interest in controlling misbehaviour. She also found, for each time period, that many courts presented no offences in any of the 'disorder', 'disharmony' or 'poverty' categories. Even in the period 1580-99, when national concern with beggars and vagrants was growing so severe that it prompted the passing of a comprehensive set of Poor Laws, 53% of the courts in McIntosh's sample presented nothing poverty-related.¹¹⁴ It is clear that far from all local courts saw it as their responsibility to govern their communities in any more than a limited sense, but that in some places the institution remained highly relevant.

McIntosh's fundamental conclusion is that an increase in social control by local courts in the sixteenth century was probably brought on by rising population. Between 1522 and 1600 England's population grew from an estimated 2.35 million to over 4 million.¹¹⁵ This would have manifested first in a surplus of children and young unmarried adults, which spurred a larger number of 'disorder'-type presentments in an attempt to control young people's sexual and social behaviour. Later in the century, England was faced for the first time in more than two centuries with the problem of able-bodied and willing poor being unable to find employment, and with the prospect of major and repeated famine. The sustained rise in 'poverty'-type presentments reflected anxiety about this.

This is probably a fair generalisation, but it says little about the 'social ecologies' of the individual places that made up McIntosh's sample. She was able to suggest a few other tentative conclusions, notably that 'vigorous social regulation in some market centres during the later 15thc

¹¹³ McIntosh, *Controlling Misbehaviour*, p. 138.

¹¹⁴ McIntosh, *Controlling Misbehaviour*, p. 184.

¹¹⁵ Broadberry et al., *British Economic Growth*, p. 20.

resembled the patterns visible in many more communities by around 1600,' but many of these were based on small sub-samples.¹¹⁶ *Controlling Misbehaviour* is an extremely valuable work, not least for demonstrating how rich fifteenth- and sixteenth-century court rolls can be as primary sources despite the death of feudal society. But it leads the reader to question the use of coming up with a methodology and rolling it out across such a large and widespread sample. As Chapter 1 suggested, each English manor had its own geographical, historical and social background, its own 'social ecology.' In some places, the social ecology was such that the leet or hundred court served as a vehicle for social control by the leaders of the community, while in others it did not and likely never had. Any method of studying social change over time that works for one type of manor may cause confusing or misleading conclusions if applied to somewhere very different. If the manor court of Hunstanton in Norfolk presented a range of disorder, disharmony and poverty-related offences, while those of Conisbrough, Tinsley and Hooton Roberts in South Yorkshire presented none, it would not be reasonable to conclude that people in the north of England were less concerned with morality or order than those in East Anglia.

A more comprehensive survey of a few chosen manors would therefore complement McIntosh's work. The case studies that form the basis of the following chapters are based on a thorough reading of their manorial court rolls, breaking down the details of who and what they presented to a finer degree than McIntosh's twenty-year blocks. At this smaller scale, individual office-holders and culprits of misdemeanours can be isolated, and, as far as the evidence allows, placed in their own social context. Occasionally a particular court session can be shown to have been the setting for a crackdown on certain types of offence or a power struggle between lord and tenant or between prominent tenants. Where possible, the evidence of the court rolls is supported by wills, accounts, property deeds or other primary sources.

The remainder of this chapter, meanwhile, deals with the survival of the manorial court as an institution anywhere at all. As established in the previous chapter, the structure of English society was transformed by plague, governmental reform, and resistance and rebellions in the two centuries following the Black Death. Personal unfreedom and the involuntary services that came with it virtually disappeared, but the manor court, an institution intimately associated with them,

¹¹⁶ McIntosh, *Controlling Misbehaviour*, p. 141.

continued and in many cases adapted to an entirely different function. The next section explores the means by which peasants could erode seigniorial authority.

2.3 Power and resistance

As noted in Chapter 1, Christopher Dyer suggested that the innovation of court rolls may have been a defensive action on the part of lords, 'conceived as a means of recording precedents and past decisions with a view to maintaining the lords' authority.' He also noted that customary labour services extracted from tenants proved less cost-effective than paid labour, despite the additional costs.¹¹⁷ In the years immediately following the Black Death, agricultural labourers' wages rose by 50%.¹¹⁸ Contemporary elites were aware of their growing labour problems, and during the late fourteenth century both central government and many lords attempted to enforce the letter of feudal law. The 1351 Statute of Labourers made it illegal to offer higher wages for labour than had been customary in 1346, immediately before the Black Death arrived.¹¹⁹

With the end of personal unfreedom from the late fourteenth century onwards, labour services could no longer be exacted. Much land remained theoretically associated with servile dues, but the growth and spread of copyhold tenure granted tenants a large degree of security and fixed rents and fines with the authority of manorial custom; while custom itself, provided it was not deemed unreasonable, was being upheld in the highest courts of the realm by the sixteenth century.¹²⁰ Only in manors where there was a great deal of demesne land or land held by lease at the lord's will was the lord of the manor able to retain much direct influence over who his tenants were, how much land they held and on what terms they held it.

¹¹⁷ Christopher Dyer, 'The Ineffectiveness of Lordship in England, 1200-1400', *Past & Present* 195, supplement 2 (2007), pp. 69-86.

¹¹⁸ Bruce Campbell, *The Great Transition: Climate, Disease and Society in the Late-Medieval World* (Cambridge, 2016), p. 311.

¹¹⁹ Hilton, *Bond Men Made Free*, p. 153.

¹²⁰ John Baker, *Introduction to English Legal History* (5th edn., Oxford, 2019), p. 32; Kerridge, *Agrarian Problems*, pp. 67-68.

Chapter 1 touched on the debate among historians of late medieval England as to what lay behind this drift of power away from lords. As noted there, the decline in population following the Black Death provides a number of reasons why the initiative might have passed from lord to peasant, but does not give a full explanation. The plague affected the whole of Europe, but in many areas serfdom persisted and expanded in subsequent centuries. In England, too, the government made a determined effort to restrain peasant from acting on the opportunities that now lay open to them. The 1349 Ordinance and 1351 Statute of Labourers were no dead letter, having been described as ‘perhaps the most zealously enforced ordinance in medieval English history.’¹²¹ Manorial court rolls after 1350, more often than in the preceding era, qualified their tenants by their legal status, adding *nativus de sanguine* or an abbreviation of it after their names to give greater clarity as to which tenants were personally unfree as opposed to merely holding unfree lands.¹²² Some institutions went further; in the fifteenth century Spalding Priory created a volume of peasant genealogies to keep track of their villein families through multiple generations.¹²³

This activity on the part of lords and government seems to be an example of what Chris Wickham identified as a periodic tendency for medieval elites across Europe to break through the barriers of custom and economic logic and increase the share of agricultural surplus they could appropriate. But at the same time, Wickham noted that such efforts ‘took a lot of work’ and rarely lasted long.¹²⁴ The post-1350 legislation and seigniorial activity was no exception. The poll taxes of 1377-81 provoked peasant revolt on a grand scale, beginning a period of 250 years or more in which local or regional uprisings were a recurring feature of social relations.¹²⁵ By the sixteenth century these rebellions had acquired the trappings of time-honoured tradition. Andy Wood describes how ‘rebels were so often summoned by the ringing of church bells that “to

¹²¹ E. B. Fryde and Natalie Fryde, ‘Peasant Rebellion and Peasant Discontents,’ in Edward Miller (ed.), *The Agrarian History of England and Wales, Volume III: 1348-1500* (Cambridge, 1991), p. 755.

¹²² Bailey, *Decline of Serfdom*, p. 57.

¹²³ The ‘Myntling Register’ of Spalding Priory, held at the Spalding Gentlemen’s Society, Broad Street, Spalding (Lincolnshire).

¹²⁴ Chris Wickham, ‘How did the feudal economy work? The economic logic of medieval societies’, *Past & Present* 251 (2021), pp. 32-33.

¹²⁵ Roger B. Manning, *Village Revolts: Social Protest and Popular Disturbances in England, 1509-1640* (Oxford, 1988), p. 1, describes the period 1381-1685 as ‘three centuries of recurrent regional uprisings’; Fryde and Fryde, ‘Peasant Rebellion’, p. 744, also note that local risings continued until the seventeenth century, often securing ‘such wide popular support that the royal governments were initially quite unable to resist them.’

ring awake” had, by the mid-sixteenth century, become a euphemism for popular rebellion,’ and how the names of notorious rebel leaders of the past like John Ball and Jack Straw reappeared in later risings.¹²⁶ Another traditional element of peasant uprisings was that their participants frequently justified themselves by claiming to be the victims of predatory enclosures of common land by landlords, even in the sixteenth century when enclosure was relatively rare. Roger Manning argues that they used ‘enclosure’ as shorthand for a range of what they considered to be detrimental changes in agricultural practice and for the inflationary effects of rising population.¹²⁷

Participation in the larger revolts of this period often had deadly consequences. If a rebellion was successful to the point of threatening the royal government, the nobility and gentry of the nation would close ranks and brutally suppress it, as at the battles at Blackheath outside London and Dussyngdale near Norwich, which terminated the Cornish rebellion of 1497 and Kett’s Rebellion of 1549 respectively. Some of the rebels’ aspirations might nonetheless be achieved in the aftermath of the revolts’ suppression; for instance, no poll tax was levied after 1381. More commonly, though, rebellion was on a smaller scale and the stakes were not raised as high. As Manning notes, ‘except during the mid-Tudor rebellions, agrarian disorders were nearly always contained within a single local community,’ while the few which spread further were usually led by members of the gentry.¹²⁸ An instance of open defiance on the part of a village community was more likely to lead to extended proceedings at the quarter sessions or in Star Chamber than to violent suppression. Violence was contained by the actions both of the rebels themselves and of local authority figures. The objectives of peasant rebels were nearly always limited in nature, seeking ‘to defend traditional use-rights against extinction and to prevent commons from being held in severalty.’¹²⁹ Studying the motives behind similar uprisings in early modern Europe at large, Yves-Marie Bercé asserted that it was at the level of defence of their local communities

¹²⁶ Andy Wood, *The 1549 Rebellions and the Making of Early Modern England* (Cambridge, 2007), pp. 9-10.

¹²⁷ Manning, *Village Revolts*, pp. 31-33.

¹²⁸ Manning, *Village Revolts*, pp. 46-50

¹²⁹ Manning, *Village Revolts*, p. 52.

that peasant revolts began, 'not kinship by blood, economic differences, social rivalry,' or any other factor.¹³⁰

Even in the case of large-scale rebellions, the remedies peasants sought did not amount to a radical overhaul of society. In 1549, East Anglian peasant rebels camped outside Norwich drew up a list of grievances centred on increased rents and lords' exploitation of common rights at the tenants' expense.¹³¹ At several points in their list, the rebels specified that they wanted rents and prices returned to what they had been at the beginning of Henry VII's reign in 1485. They did not question the manorial system itself, and the only real alteration in social status that they called for was for 'bond men to be made free,' a change in technical legal status rather than a revolution. In the localised, custom-governed societies of the period, peasants wanted a secure set of rights, specific liberties rather than liberty in the abstract. In doing so, they justified themselves with an appeal to tradition, representing their demands as a rejection of harmful innovation and a return to a happier past. Any acknowledged attempt to build an entirely new order would have been far less persuasive in an era in which 'the growing influence of new and strange customs and ideas... was inherently threatening.'¹³² Moreover, peasants were strongly dissuaded from rebellion by the teaching of the English church. Even the most zealous evangelical reforming governments of the sixteenth century did not wish to overturn the social order. One of the official homilies of the Elizabethan Church of England was against the evils of rebellion, stating that 'Kings and Princes, as well the evill as the good, doe raigne by Gods ordinance, and that subjects are bounden to obey them.' It enlarged on the scriptural precedents against rebellion, the practical dangers involved in it, and denounced 'ambition... the unlawfull and restlesse desire in men, to bee of higher estate then GOD hath given or appointed unto them.'¹³³ Regularly hearing this sort of rhetoric backed up with religious and political authority, it is hardly surprising that most peasant rebels' ultimate desire, according to their own words, was

¹³⁰ Yves-Marie Bercé, *Revolt and Revolution in Early Modern Europe*, tr. J. Bergin (1980, Manchester, 1987), p. ix.

¹³¹ The lists of grievances is reproduced in Frederic William Russell, *Kett's Rebellion in Norfolk* (London, 1859), pp. 48-56, accessed at <https://archive.org/details/kettsrebellioni00russgoog>, 5th August 2020.

¹³² Sara Warneke, 'A Taste for Newfangledness: The Destructive Potential of Novelty in Early Modern England', *Sixteenth Century Journal* 26 (1995), p. 896.

¹³³ 'An Homilie Against Disobedience and Wilfull Rebellion,' from the 1571 Second Book of Homilies, accessed at <http://www.anglicanlibrary.org/homilies/bk2hom21.htm>, 28th August 2020.

no more than to return to their local communities and live a secure and prosperous life, with the established social order working as they perceived it should. Manorial lords could rest assured that they would continue to be manorial lords at least in name.

Nor were sixteenth-century elites universally hostile to the peasants' grievances. Throughout the sixteenth century, 'commonwealth' political literature expressed sympathy if not outright support for the anti-enclosure cause, beginning with Thomas More in 1516, who (through the fictional narrator of *Utopia*) accused English nobles, gentry and religious institutions of leaving 'no ground for tillage; they enclose all in pastures; they throw down houses; they pluck down towns; and leave nothing but only the church, to make of it a sheep-house.'¹³⁴ This kind of rhetoric recurred throughout the century in the works of Robert Crowley (quoted below), John Hales and others. The government of the Duke of Somerset in the first half of the reign of Edward VI took these criticisms of enclosure to heart, establishing commissions of enquiry to investigate illegal enclosures. Policies like this convinced much of the peasantry that they had the government and the king on their side, triggering a wave of direct action in 1548-49.¹³⁵ In addition to the well-known revolts in Norfolk and the south-west of England, twenty-five counties experienced some kind of smaller-scale popular protest at this time.¹³⁶ Peasant rebellion, for the most part, was thus both limited in scale and in the violence with which it was conducted and quelled. It was an option which village communities considered they had a right to turn to in the absence of other remedies, and one which the English state was unable to prevent until well after the study period of this thesis.

Nor was rebellion the only means peasants had at their disposal to frustrate the will of lords and farmers, and to defend what they considered their rights. There were many practical means of obstruction and resistance which stopped short of open defiance, and did not expose peasants to the possibility of draconian punishment that came with engaging in revolt. In his studies of peasant societies in southeast Asia, James C. Scott documented smallholders' acts of 'foot-

¹³⁴ *The Utopia of Sir Thomas More*, ed William Dallam Armes (New York, 1912); accessed at the Internet Archive, <https://archive.org/details/TheUtopia/page/n11/mode/2up>, 5th November 2022.

¹³⁵ Wood, *1549 Rebellions*, pp. 48-50.

¹³⁶ Amanda Claire Jones, "'Commotion Time': The English Risings of 1549,' PhD dissertation, University of Warwick (2003), p. 1.

dragging, dissimulation, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so forth' when required to cooperate with larger, richer farmers.¹³⁷ This arm-wrestle also took place over local customs like traditional charitable donations from rich to poor: 'members of the lower class strive to transform discretionary favours into rights to which they are automatically entitled to lay claim... patronage that is not patronising.'¹³⁸

John Walter considered it partly possible to apply Scott's framework to early modern English society, and 'to recover something of the quotidian and largely unremarked exchanges by which individuals attempted to blunt the exercise of power in the micro-politics of manor and parish.'¹³⁹ Walter focuses on the creation of what Scott termed the 'public transcript,' a language crafted by the elites to express and legitimate their power, which nonetheless had to be phrased in such a way that it secured the consent of the ruled by acknowledging the crown's duty to defend its weaker subjects.¹⁴⁰ This created an opportunity for 'selective appropriation' of this language of duty and common good by people who found their interests in conflict with those of 'landlords, employers, merchants and magistrates.' His conception of the 'weapons of the weak' available to the sixteenth- and early seventeenth-century poor were somewhere between this public transcript and the 'hidden transcript' in which subordinates expressed their views about their social superiors in private. They ranged from grumbling in a public place, through anonymous letters or satirical poems, to formal petitions to the monarch.¹⁴¹

The true hidden transcript of sixteenth-century peasants, on the very rare occasions it becomes visible to the historian or social scientist, expresses the violence of subordinates' resentment. The Commonwealth writer Robert Crowley, in a 1550 tract against sedition and rebellion, put one of these outbursts into the mouth of his 'pore man of the contrey':

*He woulde tel me that the great fermares, the grasiers, the riche buchares, the men of lawe,
the marchauntes, the gentlemen, the knightes, the lordes... [are] Men without conscience.*

¹³⁷ James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven, 1985), p. 29.

¹³⁸ Scott, *Weapons of the Weak*, pp. 194-97.

¹³⁹ John Walter, 'Public transcripts, popular agency and the politics of subsistence in early modern England,' in Michael Braddick and John Walter (eds), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge, 2001), p. 124.

¹⁴⁰ Walter, 'Public transcripts,' p. 126.

¹⁴¹ Walter, 'Public transcripts,' pp. 128-38; Scott, *Domination and the Arts of Resistance* (Oxford, 1990), pp. 5-7 for the concept of the hidden transcript.

*Men utterly voide of Goddes feare. Yea, men that live as though there were no God at all!
Men that would have all in their owne handes; men that would leave nothyng for others; men
that would be alone on the earth; men that bee never satisfied. Cormerauntes, gredye gulle;
yea, men that would eate up menne, women & chyldren, are the causes of Seditiō!*¹⁴²

Glimpses of the hidden transcript are very rare in primary source material, but the court books from the Norfolk case study manors contain several instances where a tenant presented before the court could not contain himself. These are discussed in some detail, in their local context, in Chapter 4. Where such resentment existed under the surface, it is unlikely that peasants would let any effort on the part of their lords to extend seigneurial power go ahead without severe resistance; resistance which the lords rarely had the resources to overcome.

Peasants' partial control of the field of tradition and custom, and of the language of commonwealth and good governance, gave them, at least in their own minds, firm moral grounds for asserting themselves and seeking to uphold their rights against their lords'. Andy Wood demonstrated that in sixteenth-century England, peasants were seen in the law as the repository of local customs and memory, and that they used their appeal to tradition to 'craft a discursive space within which popular criticism of their rulers could legitimately be voiced.'¹⁴³ Over time, peasants eroded the theoretical power of their lords into something less all-embracing, more contingent on local circumstances, and above all something negotiable, in which lords and the more substantial tenants came into conflict where their interests diverged, but could also work in harness where they lay together.

Given the power of steady resistance, overt or covert, to diminish seigniorial authority, the question arises of why manorial courts continued to function at all. As shown above, some did not. Many manor courts were moribund or had disappeared entirely by the end of the sixteenth century. But in many other places they remained active institutions, highly relevant to the lives of those within their jurisdiction. The role of the sixteenth-century manor court, as the following section and the case studies demonstrate, comes into focus less as an instrument of feudal

¹⁴² Robert Crowley, 'The Way to Wealth,' in J. M. Cowper (ed.), *The Select Works of Robert Crowley*, Early English Text Society, Extra Series 15 (1872, New York, 1975), p. 132.

¹⁴³ Andy Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013), pp. 319-21.

exploitation than a vehicle for social control and governance of common resources in which the leading role fell to the established community members who made most of the decisions.

2.4 *The infrastructural power of the manor court*

One reason for the continuity of manorial institutions in parts of sixteenth-century England lies in the type of power which long-standing institutions wield. Feudal lords are sometimes imagined, and imagined themselves, to wield unlimited 'despotic' power over their tenants. Michael Mann, from whose article on state power this terminology derives, defined despotic power straightforwardly as 'the ability of all these Red Queens to shout "off with his head" and have their whim gratified without further ado.'¹⁴⁴ As the above discussion has shown, in reality this despotic power was far more limited, by the lack of immediate coercive power at lords' disposal, by the late-medieval tenurial changes which gave most tenants legally-guaranteed security of tenure and protection from arbitrary rent increases, and, not least, by the proliferation of alternative legal forums in which personally-free tenants could assert their rights. The court of Chancery developed in the late Middle Ages with the express purpose of providing access to justice for those who lacked the money or connections to pursue a case through the common-law courts. Chancery cases were adjudged on the principle of conscience or equity rather than according to precedent or the interpretation of statute. This greatly simplified legal procedure at the price of having cases decided partly according to the whims of whoever was Lord Chancellor at the time.¹⁴⁵ The court of Star Chamber fulfilled a similar function, with cases here being decided by members of the king's council, again without reference to the common law.¹⁴⁶ Star Chamber was in fact more often used for litigation by members of the gentry than were the other courts, but in principle it offered another avenue for tenants to mount a legal challenge to seigneurial authority.¹⁴⁷ The use of national courts by manorial tenants was made

¹⁴⁴ M. Mann, 'The autonomous power of the state: its origins, mechanisms and results', *European Journal of Sociology* 25 (1984), p. 189.

¹⁴⁵ John Baker, *Introduction to English Legal History* (5th edn., Oxford, 2019), pp. 110-11.

¹⁴⁶ Baker, *Introduction to English Legal History*, p. 126.

¹⁴⁷ K. J. Kesselring and Natalie Mears, 'Introduction: Star Chamber matters,' in Kesselring and Mears (eds), *Star Chamber Matters: An Early Modern Court and Its Records*, London (2021), p. 11.

more feasible still by 1495 legislation which allowed individuals worth less than £5 in goods or 40s a year to bring an action *in forma pauperis*, which was described by Eric Kerridge as amounting to 'full and free legal aid, including the costs of all processes, in all courts of record,' although the extent to which this could be taken advantage of in practice has been questioned.¹⁴⁸ Tenants could, and did, bring their lords to court when they felt they had a case, and Manning has noted the frequency with which the language of those engaged in village revolts mirrored that used in the legal system.¹⁴⁹

This familiarity with the law may equally have come from experience at a more local level. By the fifteenth and sixteenth centuries, the most immediate arm of royal justice in the English countryside was the commission of the peace or quarter sessions. These developed from the medieval governmental practice of naming regional gentry to commissions of oyer and terminer or gaol delivery to deal with specific matters. By the late fourteenth century, the crown began naming gentry to permanent commissions to keep the peace in their local area. These justices of the peace held sessions in county towns or other prominent places on or near the four quarter days.¹⁵⁰ Chapter 3 demonstrates how, in practice, the machinery of the quarter sessions interacted with village communities in Norfolk. Essentially, larger landholders in the villages that made up the jurisdiction of local sessions would serve as jurors and constables for hundreds, bringing forward more serious misdemeanours than could be dealt with by leet or hundred courts.

All of these factors thus circumscribed the despotic power manorial lords had over their tenants; the sixteenth century manor court was a far cry from the instrument of coercion it had been three centuries earlier, when villeins were forced to undertake strenuous labour services without the right to appeal to any other court. Returning to Mann's classification of power, by the sixteenth century some manor courts had come to possess power which was less despotic than 'infrastructural.' This was a less personal form of power. Instead of relying on the personality of the ruler, a state with infrastructural power wields it through established

¹⁴⁸ Kerridge, *Agrarian Problems*, p. 81; Hillary Taylor: 'Labourers, legal aid and the limits of popular legalism in Star Chamber', in Kesselring and Mears, *Star Chamber Matters*, pp. 126, 131-33.

¹⁴⁹ Manning, *Village Revolts*, p. 2.

¹⁵⁰ Baker, *Introduction to English Legal History*, pp. 28-29.

institutions. Subjects of infrastructural power have themselves consented to the legitimacy of the system and help to actively sustain it; any resistance or calls for reform will therefore be exercised using the state's infrastructure as its channel. Infrastructural power is both more stable and more productive than despotic power, but it locks rulers and ruled into a constant negotiation. Mann summarised the difference between despotic and infrastructural power as being that between power over civil society and power *through* civil society.¹⁵¹ The English state in the medieval and early modern periods possessed more infrastructural power than most, as witnessed by the networks of local gentry who were willing to carry out many state functions unpaid to earn the social cachet it offered.¹⁵²

Infrastructural power extended further down the social scale. In light of Mann's explanatory framework, rebellious peasants' usual methods of appealing to the monarch's good nature and claiming to uphold venerable traditions against innovation become more understandable. The English state was something to which even peasants were committed. It possessed an infrastructural power which existed independently of the people currently administering it. It is possible that the manor court had acquired similar institutional legitimacy over the centuries it had existed. Peasants themselves filled the manorial offices of constable, pinder, bylawman, affeeror, neatherd and ale-taster, which are described in more detail in Chapter 1. They formed the jury which presented tenants who broke laws and by-laws, making the court's ordinances into reality. The system depended, therefore, on the consent and active participation of those governed by it. Without such participation, lords and stewards would be able to achieve little beyond hosting a ritual of homage and fealty, while the actual governance of the community would take place elsewhere in the unreachable 'hidden transcript,' or by a more-or-less formalised body along the lines of the 'Four Men' at Dean Prior in Devon, the 'viii persones' at Stoneleigh in Warwickshire, the 'churchwardens and other the most honest and substanciall persones' who ran Holbeach in Lincolnshire, or the 20-25 'Chief Inhabitants' of Hadleigh in Suffolk.¹⁵³

¹⁵¹ Mann, 'Autonomous power of the state,' p. 190.

¹⁵² Braddick, *State Formation*, chapter 1 details the various official roles filled by the gentry.

¹⁵³ Andy Wood, *Faith, Hope and Charity: English Neighbourhoods, 1500-1640* (Cambridge, 2020), p. 213; Marjorie McIntosh, *Poor Relief and Community in Hadleigh, Suffolk, 1547-1600* (Hatfield, 2013), p. 30.

As the case studies show, this seems to have been the case in some manors. In others, though, the manor court remained a living institution which made a real impact on tenants' lives, and which they were culturally and emotionally invested in. The Norfolk case study demonstrates this to be true, while also bearing witness to the court's adaptation into a form suited to its function as an instrument of infrastructural power through the tenants. Except for its continuing role as a register of land transfers, the sixteenth-century manor court had been largely transformed into an institution for governing those parts of the manor which were common to all its tenants: the common pasture, the roads and waterways, wooded areas, and the common fields in which tenants held strips of land.

2.5 The manor as a means of governing the commons

A school of thought developed in the mid-to-late twentieth century which held that almost any attempt to govern shared resources on the part of their own users must end in failure and the degradation of the common resource. Since the possibility always existed that a 'free rider', either within or outside the community, might take advantage of the other commoners by abusing their access to the common resources, then the only rational course was to do the same, and as quickly as possible, in order to make an individual profit from the common resource before it was exhausted. Garrett Hardin, in his influential article 'Tragedy of the Commons' summarised the theory in dramatic terms: 'Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all.'¹⁵⁴

Applying the concept of the 'tragedy of the commons' to a manor, it would follow that, to be sustainably prosperous, the manor required the authoritative rule of a lord to keep the individual tenants from pursuing their interests. A similar kind of logic could be (and was) used to make the case for enclosure of common land into private farms later in the eighteenth and early nineteenth centuries. The 'Physiocrats' in eighteenth-century France argued that since landowners, rather than tenants or commoners, were the only ones guaranteed to receive the

¹⁵⁴ Garrett Hardin, 'Tragedy of the Commons', *Science* 162 (1968), p. 1244.

full profits from their land, they were the ones with the greatest interest in ‘improving’ the land and increasing its yields, and that common land should therefore be enclosed and divided among individual, private owners.¹⁵⁵

In an effort to explain the lack of the kind of universal devastation that might be expected if the ‘tragedy of the commons’ theory was accepted without qualification, Elinor Ostrom questioned its theoretical basis. Supported by anthropological case studies and a more sophisticated application of game theory than Hardin’s, Ostrom concluded that a community of users of a given resource could succeed in governing it sustainably in the interests of all. Her 1990 work *Governing the Commons: The Evolution of Institutions for Collective Action* turned the study of commons into a sub-discipline of the social sciences, with a focus on the co-operative behaviour of groups and communities rather than the individual ‘rational’ actor. The growing influence of Ostrom’s school of thought culminated in her receiving the Nobel Prize for Economics in 2009.¹⁵⁶ Historians have used Ostrom’s work to understand the development of past societies. Tine de Moor, in the study cited in the preceding paragraph, studied the development of commons in early modern Flanders using Ostrom’s framework to understand her source material. Susan Oosthuizen’s work on the medieval Fenland suggested early medieval local identities grew out of the institutions that Fenland inhabitants developed to govern the common resources of the wetland.¹⁵⁷

One of the case studies Ostrom cited in *Governing the Commons* was a Swiss village where access to grazing on the village common had been successfully maintained since the fifteenth century.¹⁵⁸ This is a similar kind of challenge to that which the tenants of a late-medieval manor were faced with, especially on manors such as Upper Broughton and Willoughby on the Wolds (Nottinghamshire) and Hooton Roberts (Yorkshire) where the arable open fields covered almost the whole area of the manor, leaving only a small area set aside as permanent common

¹⁵⁵ Tine de Moor, *The Dilemma of the Commoners: Understanding Use of Common-Pool Resources in Long-Term Perspective* (Cambridge, 2015), pp. 20-21.

¹⁵⁶ Tim Forsyth and Craig Johnson, ‘Elinor Ostrom’s Legacy: Governing the Commons and the Rational Choice Controversy’, *Development and Change* 45 (2014), pp. 1093-1110.

¹⁵⁷ Susan Oosthuizen, *The Anglo-Saxon Fenland* (Oxford, 2017).

¹⁵⁸ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge, 1990), p. 62.

pasture. It is therefore worth considering whether a sixteenth-century manor could share the attributes of one of Ostrom's successful institutions for governing a common-property resource.

Ostrom suggested seven design principles required by a long-enduring institution for governing a common.¹⁵⁹ This section briefly discusses each in turn to establish whether a late-medieval manor could, in some circumstances, be considered such an institution. It also cites evidence from the primary sources of this study to illustrate their potential applicability to a manor court. The land of the whole manor (apart from the lord's demesne and park if one existed), in this context, is regarded as a sort of commons, albeit one divided into individual tenements.

Although each tenant had some autonomy in deciding how to work their own landholding and appropriated the profits from doing so, the common aspects of this kind of agriculture were so numerous that treating the manor as a common resource appears reasonable. Peasant tenements, in many sixteenth-century villages, were scattered promiscuously in the fields with those of their neighbours and divided from each other only by narrow grassed leys. After harvest and before sowing, animals grazed freely across the land of multiple tenants, which required sowing and harvesting to be undertaken by all tenants at the same time. Manor courts routinely set dates by which animals could be let into or must be driven out of the open fields, and by which temporary enclosures must be set up or taken down.

2.5.1 Ostrom's seven design principles applied to the manor court

1. Clearly defined boundaries

Boundaries in this sense not only include physical boundaries between one manor and another, and between one land division and another, but also boundaries between those entitled to use the common resource and those who were not. If the resource were permitted to become open-access (which in a manor might mean freedom for non-tenants or tenants of other manors to access the common), then Ostrom accepted that the logic of the 'tragedy of the commons' would apply, citing the example of forests in developing countries which deteriorated

¹⁵⁹ Ostrom, *Governing the Commons*, p. 90.

rapidly after being 'nationalised' from their traditional owners.¹⁶⁰ Enforcing boundaries of both kinds was a primary concern of manor courts. The court at Upper Broughton in 1536 commanded tenants to repair 'the common metes', meaning the boundary markers separating the common from the open fields; and similar by-laws on the upkeep of metes and bounds occur in the other case-studies.¹⁶¹ The court at Tinsley in the previous year threatened the tenants of Brinsworth with a fine of 12d if they continued to bring 'alien pigs' to pasture.¹⁶² A court that was able to enforce these boundaries could effectively limit access to common resources to the tenants who attended the court, meaning that all the users potentially had a say in setting the rules and could be held to account for breaking them. Where intercommoning was allowed, it was under the control of the court and considered part of local custom, as at Docking where a court of 1531 spelled out that while the lord of the adjacent manor of Southmerehall did not possess a legal right to pasture his flocks in Southmere Field in Docking, nevertheless the lord of Docking had for many years given them permission to do so. This pronouncement drew on the testimony of 'old and trustworthy' (*veteres et fidedignos*) tenants of the manor.¹⁶³

2. *Congruence between appropriation and provision rules and local conditions*

Since each manor court had its own customs and set its own by-laws, it was free to tailor appropriation and provision rules to local conditions. In the small manors of Upper Broughton and Willoughby on the Wolds, where many of the tenants kept considerable numbers of sheep, the common was stinted. This meant that the court rationed access to the common according to the size of each tenant's landholding, amercing tenants who went over their limit. These limits were adjusted over the course of the sixteenth century as the tenants' judgement of how much livestock the fields could sustain changed (see chapter 5 below).¹⁶⁴ At Hunstanton, a less

¹⁶⁰ Ostrom, *Governing the Commons*, p. 23.

¹⁶¹ Nottingham University Special Collections, CL M 003, Upper Broughton court roll dated 22nd June 28 Henry VIII (1536).

¹⁶² Sheffield Archives, WWM/C/1/27, Tinsley court roll dated 20th May 27H8 (1535).

¹⁶³ Norfolk Archives LEST Q1, Docking court roll dated the Thursday of the Vigil of St Faith 23 Henry VIII (October 1531).

¹⁶⁴ for instance Nottingham University Special Collections, CL M 020, Upper Broughton court roll dated 1st November 1Eliz (1559).

intensively pastoral region, stinting does not seem to have been required, but court rolls contain entries peculiar to a seaside manor, such as regulating where tenants were entitled to set up fish traps on the beach and where the catch was allowed to be sold. At Tinsley, where the manor court insisted on its jurisdiction over 'the whole stream of the River Dun [Don]', the court frequently amerced tenants from Rotherham and other surrounding settlements for fishing in the river.¹⁶⁵ National laws rarely reached down far enough to have an effect on the running of the manor. The assizes of bread and ale may once have done so, but by the late medieval period they had become, in effect, a nominal fee paid to the court as a license for small-scale brewing and baking. The main roads through a manor were called *via regia* (the king's highways) and technically came under royal jurisdiction, but in practice the responsibility for their upkeep devolved upon manor courts.

3. *Collective-choice arrangements*

Ostrom argued that compliance with the rules governing a common resource was more likely to be achieved when 'most individuals affected by the operational rules can participate in modifying the operational rules.'¹⁶⁶ Rather than seeing the rules as an imposition from above, and perhaps resenting and trying to circumvent them, users of the common will feel that they have the ability to change what they perceive to be an unjust rule through persuasion and collaboration with other users. It is difficult to gauge how far a manor court embodied this principle. The presentments and by-laws are framed as a unanimous decision on the part of the whole jury, mostly gliding over any disagreements and not acknowledging the possibility of the jury being under pressure from the lord or the steward. It would be unwise to conclude that these did not occur, and glimpses of the disharmony that likely existed under the lapidary tone of the court rolls appear occasionally in court rolls from Hunstanton and Docking (see below, Chapter 5 which discusses these brief glimpses of the hidden transcript in detail). Whether collective-choice arrangements could be said to exist on the late medieval manor is a difficult question to answer, and can only be attempted through careful comparison of a range of

¹⁶⁵ Barnsley Archives NBC 17-2, boundaries of the manor of Tinsley, a 1771 copy of the 1676 original.

¹⁶⁶ Ostrom, *Governing the Commons*, p. 93.

manors. The final section of this chapter looks in more detail at how representative the manorial jury was of the population of the community it governed.

4. *Monitoring*

According to Ostrom, monitors of the rules governing a common should be accountable to the users. The manor court elected officials to monitoring roles from among the tenants. The most significant of these were the pinder, whose task was to take note of any infringements of by-laws regarding animal grazing and to capture and impound stray animals, and the subconstable, who recorded other offences, especially concerning personal violence. Here there is a clear divide between genuinely active manor courts and more symbolic, fossilised ones. It is argued that the Tinsley court was one of the latter. Being a court baron, its records during the sixteenth century do not record the election of a constable. Nor do they contain any presentments for insults or affray, although these did fall within its potential jurisdiction. Though by-laws and presentments about animals do occur at every court, and there must have been someone doing the pinder's job, no election to that role is recorded either. In fact the only elected officials who are named in most Tinsley court rolls (with a few exceptions) are the affeerors, who were concerned with setting and collecting pains and amercements, a role profitable only to the lord of the manor. Conversely, at its near neighbour Hooton Roberts, a more compact manor which governed only one settlement, affeerors, bylawmen and pinders were elected. Again, it is difficult to tell whether the monitors were freely chosen by the tenants or whether the lord or the steward could nominate their preference.

5. *Graduated sanctions*

Punishments for infringements of the rules of commoning needed to be serious enough to represent a deterrent to free-riding, but not so harsh and unforgiving that they tempted participants to try to ignore the governing institutions altogether. The typical way Ostrom's case-studies achieved this was by starting small but increasing the penalty for confirmed offenders, giving them an incentive to become responsible users of the common resource. The system of

by-laws and pains at the manor court is an excellent illustration of the principle of graduated sanctions, by which a user of the common would be amerced a nominal sum, usually 2d or 3d, for a first offence. This acted as more of a warning than a punishment. The court would then put them under a pain of a considerably larger sum for repeating the offence, usually giving them until the next court to amend their wrongdoing. Repeating a pattern noted above, the less functional Tinsley manor court was the only one among the case studies which infringed this principle. Chapter 4 describes the inordinate ameracements the court arbitrarily imposed on a leading tenant named John Staniforth during an apparent power struggle in the 1530s. There were offences which commanded a larger amercement even on first offence, but these were primarily public order offences such as insult and affray or illicit gaming, which did not directly concern governing common resources, and were in any case offences against the law of the land rather than manorial bylaws.

6. *Conflict-resolution mechanisms*

The manor court itself was the conflict-resolution mechanism. Its effectiveness as such was a delicate matter, which could be severely compromised by a domineering lord, by a lack of trust within the community, or by a privileged group of tenants within the manor dominating the rest. Stephen Miles on noted, using archaeological findings and spatial analysis, an increasing division between richer and poorer tenants in later medieval villages.¹⁶⁷ Jane Whittle drew a similar conclusion from sixteenth-century Norfolk, finding a steady decline in the numbers of middling tenants holding 3-10 acres, at the expense of a handful of substantial farmers who came to own 100 or more by the end of the sixteenth century.¹⁶⁸ If these growing divisions were replicated at sessions of the manor court, it is likely that less wealthy tenants would have lost confidence in it as a vehicle for resolving conflicts. There are indications that the process was underway at Hunstanton in the sixteenth century. In addition to John Grave's outburst mentioned above, there are instances of other tenants apparently acting in contempt of the court and repeatedly being presented for it. In 1538 Henry Deynes was presented for taking 'by force of arms' sails

¹⁶⁷ Stephen Miles on, 'Openness and Closure in the Later Medieval Village', *Past & Present* 234 (2017), pp. 3-37.

¹⁶⁸ Whittle, *The Development of Agrarian Capitalism*, pp. 180-82.

and tackle which other tenants had recovered from a wreck on the beach, while in 1545 he was presented for a range of offences – keeping a ‘grett mastiff’ which had been attacking his neighbours’ animals, harbouring a thief, and hosting illicit card games.¹⁶⁹ Meanwhile in the spring and autumn courts of 1542 his wife Elizabeth was presented for being an *obiurgatrix* (scold) and then for stealing her neighbour’s ducks. Meanwhile, at Docking, disputes between prominent tenants were apt to find their way to the quarter sessions rather than being dealt with locally. This apparent alienation of certain families may have hindered the ability of manor courts to retain the confidence of the community, at a time when the sessions and the royal courts of Chancery and Star Chamber offered an alternative open to anyone with enough money. On other manors, however, especially at Willoughby on the Wolds, which was a smaller community separate from its lord, affairs seem to have been more harmonious.

7. *Recognition by central authority*

As established above, manorial customs were held to have the force of law unless a higher court deemed them unreasonable. The reach of the national government into small communities grew from the mid-sixteenth century, beginning with the establishment of parish registers of births, deaths and marriages from 1538. In the late sixteenth century the government also worked to create a centralised system of poor relief, culminating in the Poor Laws of 1598-1601. The parish, rather than the manor, was the vehicle through which this took place; but the churchwardens and vestry who undertook parochial activities were often drawn from the same group of tenants as manorial jurors and officers. The government of late medieval and sixteenth-century England was yet to attain the infrastructural power to fully usurp local forms of government like the manor.

The section above seems to suggest that a manor court could, under a certain set of circumstances, serve as an effective and sustainable institution for governing a set of common

¹⁶⁹ Norfolk Archives, LEST Q2, Hunstanton leet court sessions dated 16th May 30H8 (1538) and the Friday after the feast of St Faith 37H8 (1545).

resources. It nonetheless faced serious potential challenges. If a manorial lord chose to prioritise increasing revenue by raising rents, evicting tenants or attempting to enforce the feudal services which they were nominally entitled to, the resulting turnover of population, discontent and distrust could reduce the manor court to a lifeless performance of the lord's authority.

Alternatively, tenants could use their ownership of the field of custom, the infrastructural power of the court and Scott's 'weapons of the weak' to successfully resist the lord's attempts to exploit them.

Governance of common resources through the manor court was also vulnerable to being too open to those who did not come under the court's jurisdiction, and who would therefore have nothing to lose from abusing the commons. The manor court at Docking, a sprawling and sparsely-populated place, struggled with physically policing the boundaries of the community. Shepherds from neighbouring villages were presented for grazing on the common fields of Docking, and individual tenants' flocks strayed out of the prescribed bounds.¹⁷⁰ The less tangible boundaries of a community could be equally vulnerable. Most of the free tenants of sixteenth-century Tinsley resided elsewhere and held land there through subtenants, who were not, as far as can be ascertained, drawn from the tenants-at-will of the manor. These subtenants did not attend courts baron, and the court was left in the hands of the Wentworth and Denman lords, and of the largest tenants like John Staniforth. Absentee tenants would undermine a manor court's ability to proceed through collective choice, and for the actions of individual users of the commons to be monitored and sanctioned by the others. By contrast, at Hunstanton and Upper Broughton a majority of tenants seem to have lived on their land and participated at court sessions; the lessees of demesne land at Hunstanton were mainly drawn from the body of fee-farm and bond tenants.¹⁷¹

¹⁷⁰ for example Norfolk Archives LEST Q2, Docking leet court, dated Thursday after the Feast of St. Edward 27H8 (autumn 1535), where William Barrett of Stanhoe was presented for grazing the common herd of Stanhoe on Docking Common; and Docking leet court dated Tuesday before the Feast of Sts. Philip and James 36H8 (spring 1544), where a number of shepherds were presented for trespass.

¹⁷¹ Cord Oestmann, *Lordship and Community: The Lestrange Family and the Village of Hunstanton, Norfolk, in the First Half of the Sixteenth Century* (Woodbridge, 1994), p. 222.

2.6 *Who really ran the manor court? The evidence of presentment juries*

The previous sections of this chapter have established that the sixteenth-century manor court need not only have been an instrument of exploitation used by lords against tenants. Many of the functions that were habitually in use in at least some courts concerned the lord's interests tangentially if at all. The lord gained hardly any income from the array of pains and presentments that formed the greater part of the agenda of most of the courts which comprise the case studies for this thesis. In 1537-38, the Willoughby family who held the manor of Willoughby on the Wolds received £70 in income from the manor, including £28 in rent from their tenants, but nothing at all in proceeds of the manor court.¹⁷² Where they received any income from the court, it was counted in shillings rather than pounds. The same was true of the other seigniorial families studied in this thesis. Despite this, the reiteration of customs and by-laws went on through the agency of jurors and officers elected from among the peasant population. That it did so without prompting from above is explicable using the direct research of generations of social and economic historians of medieval England, and the theoretical frameworks of Ostrom, Scott, Mann and others as applied to the priorities of peasant societies and the origins and persistence of adaptive institutions for governing them. Nevertheless, the suggestion advanced in this chapter that the manor court could, in certain circumstances, be such an institution is a precarious one which is open to objection.

Governing the commons requires those engaged in it to take part on an equal footing, to ensure that the decisions of the governing institution represent the common will. If there was a large body of commoners who felt themselves disenfranchised, they would likely undermine consent and lead to a destructive arm-wrestle for rights to control and exploit the commons. A manor court, looked at from different angles, may or may not have featured the necessary degree of equality. Everyone serving on a presentment or inquest jury needed to give consent to the verdict. Manor court records have the jury speaking with one voice, never naming a foreman, either in their pronouncements on custom and by-laws or in their election of officers. Justice could be, and frequently was, exercised on the most prominent tenants as much as on the

¹⁷² Nottingham University Special Collections Mi M 146, Willoughby family account roll dated 29-30 Henry VIII (1537-38).

poorest. If anything, tenants with more land and possessions, and therefore more potential to break the rules, could expect to be presented and amerced more often. On the other hand, the case studies show that equality among jurors existed more in theory than in practice. Chapter 5 shows how, in Hunstanton in Norfolk, the office of constable was mostly restricted to the most established and propertied tenant families. At all of the case-study courts, observation of the lists of jurors reveals a rough pecking order, the same names appearing in more or less the same positions on the list year after year. This was especially the case for the first few names. On the occasions that someone of the status of gentleman appeared as a manorial juror, their name would always be at the top of the list. Every manor court from the three studies, with the possible exception of Docking in Norfolk, had a member of the minor gentry sitting in at least once. But this was a very rare occurrence. Only at Hunstanton was any gentleman a regular attendee, and the gentry status of the Pedder family in question is uncertain (see chapter 3 below).

Besides this inequality of status among jurors, not all inhabitants of the manor were entitled to serve on the jury. No female tenant's name appears as a juror in any of the case study manors, although widows held land in their own right and were liable to be penalised for infringements like any other tenant. A court roll from Hunstanton in 1558, which contained a register of all tenants attending the court (whether jurors or not) contains the names of the widows Margery Impyng, Alice Grygby and Margaret Marshall.¹⁷³ Wives and female children of tenants were also occasionally named on the receiving end of presentments and pains for breaking by-laws they had not had a say in creating. Nor did they have any right to speak up for themselves when named in court. Among the male population, not all tenants served as jurors (though most seem to have done, at least on rural one-settlement manors). Then there was the ill-documented category of servants, labourers, apprentices, vagrants and other non-tenant inhabitants. Some of these would have belonged or been closely related to tenant families whose heads did serve as jurors, and might be held to be represented at the court in this way; others were, like the women, subject to the law and custom of the manor with no input into how it was made or upheld.

¹⁷³ Norfolk Archives LEST Q3, Hunstanton manor court roll dated 4th May 4 and 5 Philip and Mary (1558).

Only a few historians have directly addressed the topic of how well manor court juries represented the entire society of their settlements. There is little consensus among those who have. J. S. Beckerman regarded the introduction of juries into the manor court process in the thirteenth and early fourteenth centuries as a signal of decline in whole-community participation in manorial justice compared to the practice of compurgation which it superseded (where a defendant could escape punishment by finding a number of fellow tenants to swear they were telling the truth).¹⁷⁴ Susan Kilby found richer peasants at Lakenheath in Suffolk in the early fourteenth century enforcing by-laws about the manor's rich fenland resources largely at the expense of the poorer inhabitants who depended on these commons for their living.¹⁷⁵ Peasants in Kilby's case-study manors were individualistic enough to try, sometimes successfully, to get parts of the landscape named after themselves and permanently associated with their families, while in their living arrangements better-off peasants emulated manorial lords in creating private, enclosed spaces around their homes.¹⁷⁶ This is hardly the makings of an Ostrom-style government of common resources based on consent and broad participation.

On the other hand, historians of the later medieval and early modern manor court have been more inclined to stress its collaborative elements. Spike Gibbs' study of three manors in fifteenth- and sixteenth-century East Anglia led him to conclude that 'that tenants were invested in an effectively functioning system of officers, which met their needs in the manor court.' Gibbs also noted the shared interest possessed by lords and tenants in eliminating corruption and abuse of authority by office-holders, as harmful to both their interests.¹⁷⁷ Brodie Waddell, already quoted earlier in this thesis, noted that manor courts were kept going, largely under tenant initiative, into the seventeenth and eighteenth centuries, especially in areas where other forms of social regulation, like parish vestries, were lacking.¹⁷⁸

¹⁷⁴ J. S. Beckerman, 'Procedural Innovation and institutional change in medieval English manorial courts,' *Law and History Review* 10 (1992), p. 218.

¹⁷⁵ Susan Kilby, *Peasant Perspectives on the Medieval Landscape: A Study of Three Communities* (Hatfield, 2020), pp. 191-94.

¹⁷⁶ Kilby, *Peasant Perspectives*, pp. 56-59.

¹⁷⁷ Alex 'Spike' Gibbs, 'Lords, tenants and attitudes to manorial office-holding, c.1300-c.1600', *Agricultural History Review* 67 (2019), pp. 155-174.

¹⁷⁸ Brodie Waddell, 'Governing England through the Manor Courts', *The Historical Journal* 55 (2012), p. 299.

A simplistic response to this divergence of interpretation would be to repeat the points made in chapter 1: that the form into which a manor court evolved depended on social, seigniorial and geographic factors so that no two were identical, and that some juries represented their communities much better than others. Any more penetrating analysis must look more closely at individual manors. Many studies suggest the existence of a relatively stable core of tenant families in most manors, together with a semi-permanent or itinerant group of inhabitants working as servants, labourers or in non-agricultural occupations. Studying Terling in Essex, Wrightson and Levine identified 'extraordinary age-specific mobility among youths and, on the other, a solid core of stable, usually substantial families.'¹⁷⁹ At Highley in Shropshire, Gwyneth Nair found that there were 'those who could obtain some land in Highley, even just the four or five acres that went with a cottage, tended to remain there all their married lives. Those who could not would seem to have been engaged in a series of moves every three or four years, or perhaps less, from village to village.'¹⁸⁰

The long-lasting shared memory and customs of a community resided in members of the core families, who alone would be able to cite precedents established before their own lifetimes. This reconstruction is borne out by anthropological study of rural English communities, though in a more modern context. Marilyn Strathern wrote up a long-term study carried out in the Essex village of Elmdon between 1962 and 1977, interviewing older residents of the village to create an exhaustive picture of how the structure of village society had changed since the late nineteenth century. She concluded that a core of four 'real Elmdon' families had persisted until relatively recent times, 'raising a barrier against outsiders of all kinds.'¹⁸¹ Membership of this core depended on generations of residence in the village and recognition by other core members. Strathern's 'core' was composed of farm labourers, but in the sixteenth century people of a similar social status were likely to have been tenants of the manor, holding their land either by copy or by another relatively stable and secure form of tenure. The core regarded itself, and was, to an extent, regarded by others as the embodiment of the village. If such a village core can be shown to have existed in the case study manors, it will go some way towards answering the

¹⁷⁹ Wrightson and Levine, *Terling*, p. 69.

¹⁸⁰ Nair, *Highley*, pp. 57-58.

¹⁸¹ Marilyn Strathern, *Kinship at the Core* (Cambridge, 1981), p. 72.

question of who within the village community was responsible for the continuing authority of the manor court.

Establishing a village 'core'

The primary evidence for this section is the lists of jurors at the top of each court roll. Jane Whittle found that in north Norfolk, manor court jurors were more likely to come from families resident in the same community over several generations than the rest of the otherwise highly mobile population.¹⁸² These lists can be used to build a database for each of the case study manors, containing the names of every tenant who served as a juror in at least one session of the manor court during a selected timespan. The databases also record the number of sessions at which each individual was a juror, and the timespan between their first and last appearances. For example, Robert Fyn of Docking made his first appearance as a juror at the manor court in 1535 and his last in 1563. He appeared at 42 of the 46 court sessions between those two dates, or 91% of the maximum number he could have attended. During this period, he served twice as constable, in 1550-51 and 1558-59. These numbers mark him out as a particularly long-standing and ubiquitous figure in the manorial governance of Docking. How many such people existed in the various manors of the case studies? Five of the six manors have been analysed in this way, with Upper Broughton excluded due to the brevity of the period covered by its sample of court rolls. The sample of Hunstanton jurors is that of the headboroughs of the leet court, who had the power to decide by-laws and pains, rather than the presentment jury (which is discussed later in this section). All the other manors had only one jury.

¹⁸² Jane Whittle, 'Population mobility in rural Norfolk among landholders and others c.1440-c.1600', in Christopher Dyer (ed.), *The Self-Contained Village? The Social History of Rural Communities 1250-1900* (Hatfield, 2007), pp. 35-36.

Manor	Sample timespan	No. of courts	No. of jurors	Est. population
Tinsley	1529-75 (47 years)	32	81	270
Hooton Roberts	1534-68 (35 years)	19	61	130
Hunstanton	1531-76 (46 years)	74	74	225
Docking	1531-71 (41 years)	66	65	180
Willoughby	1547-92 (46 years)	29	55	160

Table 2.1: the sample of manor court jurors from the case study manors. N.B. in a few cases it was not possible to determine whether a name which reappears after a long period of absence, such as Hugh Thorpe of Tinsley who did not appear as a juror between 1547 and 1559, is in fact the same individual or two relatives of the same name. In these cases an educated guess had to be made, and the number of individual jurors at each court has a margin of error of one or two either way. For the estimated populations of each manor, see the relevant case study chapters.

It is immediately noticeable from the table above that the number of surviving records of each manor court does not seem to affect the size of the corpus of individual jurors who appear across the timespan. Hooton Roberts, from which records of only nineteen court sessions survive across 35 years, features almost as many individual jurors as appear in Docking's 66 courts over 41 years. Hooton's population was also probably lower than that of Docking, with approximately 130 inhabitants compared to Docking's 150-200. The differing sample sizes do, however, affect the number of appearances made by individuals. An equivalent of Robert Fyn from Tinsley, Hooton Roberts or Willoughby would not have been able to be listed more than forty times as a juror. Moreover, the relative paucity of records from the three manors outside Norfolk is a partial (but only partial) explanation of the much greater number of names that

made only a single appearance on the jury. The numbers of appearances considered necessary to regard a juror as being part of a village core is adjusted accordingly.

What conclusions can be drawn from these figures? Firstly, it seems that a large proportion of the adult male population of each settlement could expect to serve as a juror at least once. Each sample timespan (except perhaps Hooton Roberts) represents a period in which two successive generations of tenants would spend much of their adult lives, so it would seem reasonable to halve the total figure of named individuals to give a rough estimate of the number of jurors alive as adult males at a given time. This would give a figure of about 30-40 for all the manors. The 1558 register of attendees for Hunstanton manor, quoted above, lists 37 tenants from Hunstanton and 22 from Holme next the Sea.¹⁸³ Tinsley, spread out as it was over four separate settlements, is a special case. For each of the others, which were single villages with populations likely to have been in the low hundreds, thirty or forty men must have represented between them a majority of the households in the village. The population estimates based on the number of tenants named in manorial documents, provided in table 2.1 and explained in each of the case study chapters, suggest such a conclusion. At Docking, where only four of the 65 named jurors made a one-off appearance and thirteen appeared five times or fewer, it seems certain that most of the tenants would have been co-opted into the leet court jury on a fairly regular basis.¹⁸⁴

But though a large number of tenants served as jurors at least once, the average jury at any given court session was much smaller, usually between twelve and sixteen, except at Hunstanton with its three separate juries. There seems to have been an awareness that twelve was the ideal number for a jury. A court roll of 1566 from Willoughby on the Wolds carries a marginal annotation calling the jurors the '*xii jur,*' though there were in fact sixteen of them.¹⁸⁵ The fact

¹⁸³ Norfolk Archives LEST Q3, Hunstanton manor court roll dated 4th May 4 and 5 Philip and Mary (1558).

¹⁸⁴ Of the thirteen with five or fewer appearances at Docking, four made their first appearance in the court book within five courts of the end of the sample in 1571, and served at every subsequent court, so the number of real 'outsider' tenants is reduced even further.

¹⁸⁵ Nottingham University Special Collections Mi 6/177/25, Willoughby court roll dated 18th April 8 Elizabeth (1566). Published guides to keeping a court, however, do not seem to specify a number of jurors: Jonas Adams, *The order of keeping a court leete, and court baron with the charges appertayning to the same: truely and playnly deliuered in the English tongue, for the profite of all men, and most commodious for young students of the lawes, and all others within the iurisdiction of those courtes* (London, 1599), p. 3; John Wilkinson, *A treatise collected out of the statutes of this kingdom, and according to common experience of the lawes, concerning the*

that manorial juries tended to be unnecessarily large suggests that the tenants of the manors were willing and eager to serve as jurors, and is a point in favour of the idea that they perceived the manor court as a suitable forum for common governance.

Some tenants were jurors much more often than others. In all the case study manors, to a greater or lesser extent, the distribution is skewed towards a small group of tenants who were on the jury at almost every manor court, while others served either sporadically over a long period, or served for a small number of consecutive courts before disappearing. The following table shows the number of tenants who appeared most consistently as jurors (adjusted to the total number of court sessions in the sample, meaning tenants with 20 or more appearances at Hunstanton and Docking, ten or more at Tinsley and Willoughby, and six or more at Hooton Roberts).

Manor	Long-serving jurors	Percentage of total named jurors
Tinsley	20	24.7%
Hooton Roberts	19	31.1%
Hunstanton	14	18.9%
Docking	19	29.2%
Willoughby	14	25.5%

Table 2.2: the proportion of long-serving jurors as a percentage of the total number in the samples of court rolls from five case-study manors.

office and authoritie of coroners and sherifes: together with an easie and plain method for the keeping of a court leet, court baron, and hundred court, &c. (London, 1618), p. 116 (both accessed at Early English Books Online, eebo.chadwyck.com, 14th March 2023).

Meanwhile, the next table documents the number of jurors who appeared at only a handful, or only one, session of their respective manor court. The figures have been adjusted for sample size: one to five appearances at Hunstanton and Docking, one to three at Tinsley and Willoughby, and one or two at Hooton Roberts.

Manor	Infrequent or one-off jurors	Percentage of total named jurors
Tinsley	32	39.5%
Hooton Roberts	31	50.8%
Hunstanton	23	31.1%
Docking	13	20%
Willoughby	23	41.8%

Table 2.3: the proportion of infrequent or one-off jurors as a percentage of the total number in the samples of court rolls from five case-study manors.

Hooton Roberts exhibited the greatest degree of polarisation between a large number of long-standing jurors and a host of ephemeral ones, with little in between. Here, more than half of the individuals named as jurors did so only once or twice, while nearly a third served six times or more. At the other end of the scale, Docking is the only manor from all the case studies where the number of long-serving jurors exceeds that of occasional ones. At Hunstanton, the numbers of both long-standing (20 or more appearances) and occasional jurors (five or fewer) are comparatively low, with exactly half of the 74 named jurors falling between the two. This is most likely explained by the fact that there were two juries for the village. A few tenants appeared as headboroughs (the class of juror counted here) at some courts and questmen or presentment jurors at others. Tinsley and Willoughby both fall somewhere between the extremes, with about a quarter of all named jurors appearing frequently, and two-fifths being one-off or very occasional jurors – though these two manors were structured very differently and the similar figures here are likely to result from different causes.

2.6.2 Did the village 'core' exist in sixteenth-century England?

2.6.2.1 The Yorkshire study area: Hooton Roberts and Tinsley

Hooton Roberts was a small village in the countryside east of Rotherham, but away from the main road from Rotherham to Doncaster. As such it was a relative backwater. On the face of it, it is surprising to find such a large number of jurors, and that so many of them appeared in that capacity once or twice and were never seen again. Taken together, the source material for the Yorkshire case study reveals a high turnover of tenants. As chapter 4 shows, the copyhold tenants at Tinsley show a raft of new families coming to hold land in the manor between 1514 and 1545.¹⁸⁶ The wealthier landholders in Tinsley often resided outside the manor, in Rotherham, Sheffield or the villages around them. A good example of this would be Thomas Swift, a gentleman of Rotherham who held Capilwood Field in Tinsley until 1537, and appeared twice at the head of the list of jurors, before he sold the land to a Richard Fenton of Sheffield.¹⁸⁷ A little further down the social scale, several people with the same surname can be found scattered across the various settlements and manors of this corner of Yorkshire. Members of the Staniforth clan (a distinctive and highly local surname, as attested by Redmonds, King and Hey in their study of the origin of English surnames), are found by their wills to have resided in Tinsley, Darnall, Wincobank, Treeton, Attercliffe, and Brinkless (now Brincliffe) Edge in Sheffield, all within a few miles of one another.¹⁸⁸

With this in mind, it seems telling that several of the surnames of jurors at the Hooton Roberts manor court are the same as those found at Tinsley: tenants named Mellor, Trypett, Wainwright, Wilson, Winter and Wood are all found among the jurors at both manor courts. These shared surnames are mostly found to have been among the less frequent attendees at either court, with the exception of Richard Mellor, who attended every Tinsley court from 1562

¹⁸⁶ Sheffield Archives WWM C/1/22, Tinsley rental, 1514; Barnsley Archives NBC 17/1, Tinsley rental, 1545.

¹⁸⁷ WWM 1986/25 Box 21 Bundle 1, deed xxxviii, Thomas Swyft to Richard Fenton; WWM C/1/31, Tinsley court roll dated 22nd September 1 Edward VI (1547).

¹⁸⁸ George Redmonds, Turi King and David Hey, *Surnames, DNA, and Family History* (Oxford, 2011), p. 42; Borthwick Institute (University of York) PROB Reg 13/916, 13/985, 15/1/355, 21/131, 23/258, 23/322, 33/57, wills of individuals with the surname Staniforth.

until the end of the sample. Tinsley and Hooton Roberts are not neighbours, and in fact lie several miles apart, so if families overlapped between these two manors there would also have been families which held land in other manors outside the case study. As well as the proliferation of names which appear as jurors at only one court, it is difficult to point out who, from the lists of jurors, might have been part of a stable core of established families. The probability is that one did not exist, or not in the same way as in some of the other case study manors. There is only one family name with three members who served as jurors, and there is no jury on which two members of the family appear at once – John Jubbe was a Hooton Roberts juror between 1534 and 1556, George Jubbe in 1560-61, and Thomas Jubbe from 1564 until the end of the sample. The same goes for the two Thomas Shepards, father and son, who between them appeared at most courts in the sample but were on the jury together only once. The most long-serving jurors, John Bussell and John Fairburn, who were jurors at thirteen court sessions apiece, did not have any other jurors of the same name.

Tinsley was a manor containing four settlements, and unsurprisingly has the highest number of individual jurors of all five manors in this study, at 81. In the first few courts of the sample period there was extreme instability in who served as jurors. Seven of the jurors from the first court in the sample, in 1529, were not jurors at any subsequent court, and none of the twelve served any later than 1537. But from the late 1540s onwards, a stable core of jurors started to develop. In 1547 three jurors, Henry Grym, George Berdsell and William Hawke, appeared for the first time, each of whom would go on to be a juror in at least fifteen Tinsley manor courts. Subsequently, William Pennyston in 1550, Henry Staniforth in 1554, Richard Burrows (who was always either first or second on the list) in 1556 and John Smith in 1559 all joined the jury and served for at least fifteen courts, while Robert Dower and Seth Shepley first appeared in 1560 and 1561 respectively, and then at most court sessions until the end of the sample. At the last seven courts in the sample, while some new jurors appeared, they all bore family names which had already appeared in previous juries. This more stable set of jurors derived members from each of the four settlements. According to a 1545 rental of the manor, George Berdsell was a tenant at will holding land in Brinsworth, as was John Ingle who appeared as a juror ten times from 1550. Robert Cudworth and Charles Turton from Catcliffe made multiple appearances on

the jury. Many jurors, like John Staniforth and Henry Grym, appear to have resided in Tinsley village. Orgreave was predominantly owned by free tenants who lived elsewhere and whose subtenants were not eligible to be jurors, but Robert Harrison of Orgreave was a juror at two courts in the 1570s.¹⁸⁹

This body did not, however, represent a large slice of the population of the manor, which is estimated to have been between 50 and 60 households by the late sixteenth century. The 1545 rental notes the names of several people who held land from free tenants and were thus largely outside the manorial system. A court roll in 1554 lists sixteen free tenants of Tinsley, none of whom appeared at the manor court. They included the Earl and Countess of Shrewsbury, along with the master of Rotherham College and the fief of the chantry of Thrybergh, both institutions which had in fact been shut down for several years.¹⁹⁰ It does not record who actually lived and worked on these lands. The same court roll lists 28 tenants at will, of whom only half served as jurors. In Tinsley more than at any of the other case study manors, it seems that the manorial jury from the 1540s was a self-selecting body with little penetration into the community as a whole – if the manor of Tinsley can even be said to have been a community. At Hooton Roberts, by contrast, the average jury size of twelve to fifteen represents a majority of the tenants at will, who were usually numbered in the high teens when they were listed in court rolls of the late sixteenth century. Though many of these tenants seem to have held land in the manor only for a few years, if the high turnover in the names of jurors is anything to go by, they seem to have lived in the manor and contributed to the deliberations of the manor court along with the longer-standing tenants.

2.6.2.2 *The Norfolk case study: Hunstanton and Docking*

Hunstanton possessed two juries. The headboroughs of the leet had a larger and more varied membership in the sample period 1531-76. The presentment jury or questmen usually numbered between five and eight at each court, but could be as small as two or three. It

¹⁸⁹ Barnsley Archives NBC 17/1, rental of the manor of Tinsley dated 8th June 37 Henry VIII (1545).

¹⁹⁰ Sheffield Archives WWM C/1/33, Tinsley manor court roll dated 19th April 1 Mary (1554).

featured only 44 individual names compared to the 74 headboroughs who are named in the court book. Furthermore, the number of 44 is inflated by five tenants who only appeared as jurors at the atypical court session of 1558, which was not a leet court and was held under the temporary lordship of a feoffee outside the Lestrangle family, and several who made one appearance in the early 1530s, immediately after the Hunstanton court became a leet, and when the new relationship between the two juries was being worked out. Outside these dates, the questmen were an extremely stable body, frequently remaining exactly the same for three or four courts in succession. John Banyard was a questman at 58 court sessions between 1534 and 1573, during which the qualification after his name changed from 'jun.' to 'sen.', while Roger Pedder served at 39 courts in succession between 1545 and 1570. John Makemayde missed only one of the 40 courts between 1550 and 1575.

74 tenants served as headboroughs during the sample period. Certain families contributed several jurors. Six were named Gybson, four each Pedder and Brown, and ten or eleven were from the Banyard family (it is not certain how many John Banyards there were). On the other hand, several of the most long-serving jurors had surnames that only appear once or twice, like William Bretton who was a headborough at 34 courts between 1541 and 1567, and Henry Deynes, at 26 courts between 1531 and 1552.

Except in the early 1530s, there was no overlap between the headboroughs and questmen at any court session – a tenant was either one or the other. There were, however, tenants who started out as headboroughs but then switched to become questmen. John Banyard was a headborough at the first few leet courts before his long spell as a questman. Roger Pedder was a headborough for thirteen years up to 1544, before being part of the presentment jury until 1570. Thomas Holdenby followed a similar trajectory, though his appearances on both juries were sporadic as he repeatedly fell foul of the court's rules (see chapter 3 below).

Considering the two juries together, the nature of the village 'core' of Hunstanton becomes clearer. The Pedder family had long been one of the more prominent in the immediate area. As chapter 3 shows, they had previously held one of the small manors that made up Hunstanton before they were amalgamated under the Lestranges. Although the family was no longer considered gentry (none of its members are classed as 'gentleman' in any Hunstanton manorial

documents), they retained a privileged role in the community, heading lists of jurors and serving as constables. For such an indisputably core family, it is interesting to note that there was by no means always a Pedder serving as headborough, though Roger Pedder consistently headed the list of questmen. The Banyard family had numerous male members. They were not landholders on the scale of some of the other core families, but they were omnipresent as both headboroughs and questmen, and served repeatedly in the manorial offices of constable and ale-taster. Besides these two, a few other core families can be identified – the Makemayde family had one exceptionally long-serving headborough (Henry, 1534-76) and two questmen (William, 1531-44 and John, 1550-75), who also held manorial offices. Similar things could be said of the Gybson and Brown families. It seems that the manor court of Hunstanton was to a great extent controlled and directed by this inner group of five tenant families. There was a certain amount of input from others, but chapter 3 shows that two of the most substantial landholders outside this core, Henry Deynes and Thomas Holdenby, appear in the court book as serial offenders, not just against manorial bylaws but also on more serious charges. It is difficult to judge whether this is a coincidence and the two happened to be the most troublesome inhabitants of the village, or whether the core members of the community consciously or unconsciously singled them out.

Meanwhile, Docking, though it was also a leet court and unlike Hunstanton, had been one since before 1531, had only one jury, with a total of 65 individuals as jurors between 1531 and 1571. It was a few miles inland from Hunstanton and did not come into the possession of the Lestrangle family until 1531, so there was no gentry family resident in the village. Thus its position and social makeup gave it less connection with the outer world than Hunstanton had. It was inaccessible by water transport and there was no great household to import goods and employ skilled craftspeople. This may explain the lack of ephemeral members of the jury. Only 13 of the 65 named jurors served at five or fewer courts, and of these, four made their first appearance in the last few courts of the sample and were jurors at every subsequent court. Docking was not a place to invest in a short-term tenancy – its physical isolation and the lack of leasehold land available may partly account for the unusual stability in its body of jurors.

Nor was it a place where participation in manorial institutions was limited to a chosen handful. The office of ale-taster was routinely given to tenants who did not serve on the jury, and were not members of families who did. A total of 30 of the surnames of ale-tasters between 1531 and 1571 do not occur on the list of jurors. Even for a large manor like Docking, the cumulative number of people who can be demonstrated to have been involved with the manor court in some respect must have been a majority of the tenants. This does not mean that some tenant families were not in a more influential position than others. The office of constable was always filled by a juror, and of the 65 jurors seven belonged to the Alen/Aleyn family. Jurors with the surnames Crispe, Houghton, Wyseman and Carter were found at nearly every court and could expect to be elected constable every few years. As at Hunstanton, the phenomenon of a tenant outside the core with a sporadic attendance at the manor court being presented for an unusually large number and wide range of offences occurs. In this case the offender, or target, is John Wandham, whose case is discussed in chapter 3. He served as a juror at only eight of 33 possible courts between 1533 and his death in 1552.

At both Hunstanton and Docking there seems to be a clear separation between the lord's officials and the people who ran the manor court. The bailiff at Hunstanton in the 1530s, John Smyth, was not a tenant or at least did not serve as a juror. The bailiff of Docking at the same time, Thomas Warner, only appeared as a juror nine times out of a possible sixteen between 1539 and 1547.¹⁹¹

2.6.2.3 *The Nottinghamshire case study: Willoughby on the Wolds*

The manor court at Willoughby was a court baron, like those of Tinsley and Hooton Roberts. Willoughby was another relatively isolated place. Chapter 5 describes how far it was from its owners' thoughts in the late sixteenth and early seventeenth centuries, and no other gentry family occupied the manor house or farm in their place. This resulted in a smaller total of individual jurors than on the other case study manors, with only 55 over the 46 years in the sample. The distribution of appearances per juror is somewhat skewed towards the top and

¹⁹¹ Norfolk Archives LEST P3/2, household accounts of Anne Lestrangle, 1536-37.

bottom. Fourteen tenants served as jurors at only one court, while six were jurors at twenty or more of the 29 court sessions in the sample period. The proportion of jurors coming from a few families was also higher than the other case study manors. Nine jurors came from the Garton family. None of these were among the most long-serving jurors, the most frequent attendee being the younger Thomas Garton with thirteen appearances on the jury – but there were enough Gartons among the tenants of Willoughby that one or more of them could have a say at every session of the court. Six jurors were named Cowper, but two of them attended the vast majority of court sessions – Robert and Thomas Cowper were jurors at 23 and 21 respectively of the 24 courts between 1561 and 1591. Other heavily-represented surnames are Welch (four jurors covering the whole sample period between them, including Peter Welch who appeared at all eighteen sessions from 1570 onwards), Screyton (three jurors) and Rolenson/Rawlinson (three jurors). These core families were joined by a few tenants from other families who were regular jurors, like William Baxster (20 courts between 1547 and 1592, assuming this is the same individual all the way through), Robert Henson (22 courts, representing 100% attendance between 1547 and 1580), and Oliver Hycklyng (22 courts from 1561 to 1592).

On the whole, Willoughby seems the clearest example of a manor court that was chiefly in the hands of a small group of the more substantial tenants. This may be a by-product of lack of information. Willoughby's was a court baron which did not elect officials, and no rentals or account books survive for the manor. An indication that the picture might have been more complicated is the presence of Nicholas and William Assheby/Ashbie at three courts in 1566-67 and 1589 respectively. These two were classed as gentleman, and as such took their position at the head of the list of jurors, and a court roll of 1576 names Nicholas Ashbie as bailiff of the manor, while presenting and amercing him 4d for letting his foal into the corn field.¹⁹² Chapter 5 notes evidence that their very occasional presence on the jury may have been enough to twist manorial by-laws a little out of shape, as in 1589 when a pain stated that no tenant was to gather more than a sackful of grass a day from the Balkes 'except W^m Ashbie,' or, presumably,

¹⁹² Nottingham University Special Collection, Mi 6/177/27, Willoughby manor court roll dated 4th October 18 Elizabeth (1576).

whoever William Ashbie was paying to gather grass on his tenement.¹⁹³ However, this gentry interference with the manor court was peripheral at most.

This reading of the lists of jurors from each of the case studies suggests that a recognisable set of core families was present at each of the case study manors except the two in Yorkshire. Even there, a core group did emerge at Tinsley after about 1550. This did not mean that its effect on the functioning of the manorial court was the same everywhere. Hunstanton, with its two separate juries with a combined membership often reaching twenty-five or more, would not have been an easy place to monopolise power. Chapter 3 illustrates how the Lestrangle family, with their residence in the manor, seemed to go out of their way to make sure the majority of Hunstanton's inhabitants were manorial tenants with a landholding big enough to make a living from. This would in turn have made them eligible to serve as jurors and take part in creating the pains and by-laws by which they were governed. Nonetheless, inequalities remained present, giving long-established families a greater role than those passing through. Docking and Willoughby were comparable in being isolated from their lords and from towns of any size. They differ in the number of people who were given a role in governing the manor. At Docking jury sizes were large, most jurors served at enough courts to give them an informed understanding of how they worked, and tenants who were not jurors were often elected to manorial office. The larger tenants of Docking also served as jurors and constables for the hundred of Smithdon at the Walsingham quarter sessions (see Chapter 3 below). At Willoughby, by contrast, the manor court jury was dominated by a few names from a few families, and, as chapter 5 describes, the business of the manor court was dominated by reiterating and tinkering with an established set of customs and by-laws. Meanwhile, in the Yorkshire case study, the manor court of Tinsley was a body with little claim to be representative of the community of the manor, in so far as one existed, while at Hooton Roberts the handful of long-serving jurors were joined by a large number who only served at a

¹⁹³ Nottingham University Special Collections, Mi 6/177/44, Willoughby manor court roll dated 4th October 31 Elizabeth (1589).

few courts. Of the five case studies, Willoughby seems to match up best, Docking, Hunstanton and Hooton Roberts reasonably well, and Tinsley barely at all, to the requirements outlined earlier in the chapter which would need to be in place for a manor court to be an effective tool for a community to govern itself and its common resources.

2.7 Conclusion

The English manor by the sixteenth century had a markedly different function from its incarnation of three hundred years before. The end of personal unfreedom meant that the lord and his employees no longer had any control over the daily lives of the tenants, who were largely free to move from one manor to another and to buy and sell land. Demesne land was mostly leased out. Lords' involvement with the manors they owned, except perhaps where they were personally resident, was separated from that of their tenants by a stratum of stewards, bailiffs and farmers. Their interest in the manor court, except as a useful legal record, had dwindled accordingly. It was thus left to the tenants to take control and keep the court's business going.

This chapter has argued that the nature of power and lordship in English society was such that manorial lords did not, in any case, have the sustained leverage to force tenants into doing things against their will. Tenants were the ones who inhabited their manors full-time and could physically order things as they chose whenever higher authority turned its back. Tenants, including (or especially) the more substantial ones who held positions of responsibility at the village level, frequently had recourse to open defiance and were able to take legal action against lords. Moreover, they were able to wield the considerable legal and moral force of custom to legitimate their actions.

That the manor court persisted as an active part of the governance of many small communities across England thus calls for explanation. This chapter has explored the reasons why tenants found the court useful, noting a similarity between the way it worked and the principles identified by Elinor Ostrom for the creation of effective institutions for governing common resources. On the whole, analysis of the juries of each of the case study courts suggests that

most, and in some cases nearly all, of the households in the manor were represented from time to time on the jury, except in large scattered manors like Tinsley. This fact, along with Ostrom's common-governance model, explains why the manor court seems to have remained so relevant, despite the loss of its original purpose in the exercise of seigniorial power.

Chapter 3

Norfolk case study: Hunstanton and Docking

3.1: Introduction

The case study area is a small group of manors in north-west Norfolk. Chiefly this chapter focuses on the manors of Hunstanton with Holme and Docking. Both manors were owned by the Lestrange family (otherwise spelt Le Strange or L'Estrange), but they differed in many respects. Hunstanton Hall had been the main residence of the family for more than two centuries, while Docking belonged to a secondary branch of the family, which came to inherit the Hunstanton estate, and was sold later in the sixteenth century, the last recorded court session from Docking that remained in the possession of the Lestrange family dating from 1571.¹⁹⁴ Hunstanton and Holme were coastal villages in the north-western corner of Norfolk, while Docking was a large, sparsely-populated area a little further inland. This resulted in the two manors having different social and economic structures, a point which is expanded on in the following sections of this chapter. The main source of evidence for the place of the manor court in these societies is the court records themselves, but supporting evidence is drawn from rentals, maps and wills; the records of the Norfolk quarter sessions; and, briefly, the court rolls of Great Ringstead with Holme, another manor which came into the possession of the Lestrange family in the mid-sixteenth century.

Before discussing where the social and economic contexts of Hunstanton and Docking diverged, it is worth establishing what the two manors had in common. Lying close together in north-west Norfolk, both Hunstanton and Docking practised a 'sheep-corn' pattern of agriculture. Barley, rye and wheat were grown in spring and summer, while carefully husbanded flocks of sheep ranged the open fields in autumn and winter. Shepherds were skilled professionals, commanding a higher wage in sixteenth-century Norfolk than most other hired labourers.¹⁹⁵ By the sixteenth

¹⁹⁴ Elizabeth Griffiths, *Managing for Posterity: the Norfolk Gentry and their Estates c. 1450-1700*, Studies in Regional and Local History vol. 21 (Hatfield, 2022), p. 20.

¹⁹⁵ A. Hassell Smith, 'Labourers in late sixteenth-century England: a case study from North Norfolk [Part I]', *Continuity and Change* 4 (1989), pp. 19-20. Hassell Smith notes that shepherds hired long-term were paid in

century this way of life had been institutionalised into the 'foldcourse' system, by which the manorial lord held the right to graze their flock anywhere within the boundaries of the foldcourse during the 'shack' period after harvest and before spring sowing. The lord could lease out part or all of this right of foldcourse to others. By the mid-sixteenth century this practice was causing tension in areas of Norfolk between lords and tenants, who felt that the land was being overgrazed and attempted to enclose their holdings with fences, inverting the sixteenth-century trope of commoners protesting against enclosing landowners.¹⁹⁶ Moreton has noted that wealthier peasants were more affected by the exploitation of foldcourse than the poor, since they were more likely to have sheep of their own which were being squeezed out by their social superiors; this created a 'bitter anti-gentry animus' which found outlet in the abortive 'Walsingham Conspiracy' in 1537 and Kett's Rebellion in 1549.¹⁹⁷ The Lestranges were not sheep-farming magnates on the scale of other Norfolk gentry like the Townshends and the Heydons, but they nonetheless exploited their foldcourse rights, both by keeping their own flocks and by leasing to other sheep farmers.¹⁹⁸

Another distinctive aspect of the Norfolk study area is its relative isolation. North-west Norfolk was about a day's journey overland from the large and wealthy port of Lynn, but was not on or near a major route between significant places. In any case, legal disputes from the two villages were taken not to Lynn but to the sessions at Walsingham, along the coast to the east. Both Hunstanton and Docking sent jurors to these sessions, as is discussed in more detail below. This isolation applies doubly to inland villages like Docking, but rather less to Hunstanton, which every ship travelling between Lynn and the continent must have passed, and whose inhabitants routinely took to the sea to fish. This study considers whether relative isolation, and reduced outside influence, would have strengthened or weakened the community's ability to govern itself. It also takes into account the effect of having the manorial lord's longstanding primary residence

the form of both a quarterly salary and an 'agistment' allowing them to keep sheep of their own alongside the flocks of their employers.

¹⁹⁶ Nicola Whyte, 'Contested Pasts: Custom, Conflict and Landscape Change in West Norfolk, c. 1550-1650', in Richard W. Hoyle (ed.), *Custom, Improvement and the Landscape in Early Modern Britain* (Farnham, 2011), pp. 105-09.

¹⁹⁷ C. Moreton, 'The Walsingham Conspiracy of 1537,' *Historical Research* 63 (1990), pp. 34-35; *The Townshends and their World: Gentry, Law and Land in Norfolk c.1450-1551* (Oxford, 1992), p. 71.

¹⁹⁸ Oestmann, *Lordship and Community*, pp. 138-44.

in the village (as at Hunstanton), as opposed to that of a new lord taking over a manor previously owned by another long-established gentry family (as at Docking).

3.1.1 Sources and historiography

The court records of manors of Hunstanton with Holme and Docking are found in the Lestrange of Hunstanton collection (LEST) in Norfolk Record Office. This study relies chiefly on sixteenth-century court books, into which the records of court sessions of a number of nearby manors (Hunstanton, Docking, Heacham Caley, Anmer and Fring), held one or two days apart, usually twice a year, were written directly. The chapter also draws on rentals of both manors, though Docking lacks a sixteenth-century rental.

The Lestrange court books are in Latin, but the English language is not entirely absent from them. A single court session from Hunstanton in 1535 records the pains and ameracements in English, while another from two years earlier has a slip of parchment sewn onto it with English presentments.¹⁹⁹ Short sections were frequently translated into English. This most often occurred when the scribe used what they considered an obscure Latin term and added the English for clarity, as at Docking in 1539, when Andrew Bircham was presented for keeping '*unum equ[u]m scabios[um] voc' a mangey horse*' to the detriment of his neighbours.²⁰⁰ When the jurors passed new by-laws or placed pains, there were also frequently entered in both Latin and English. In this way the exact phrase used by the jury would be preserved along with the legal Latin. A good example comes from a Hunstanton court in 1562, with the use of the word 'owner' a valuable insight into how sixteenth-century manorial tenants perceived their relationship with their land:

¹⁹⁹ Norfolk Record Office LEST Q1 and Q2, Hunstanton with Holme court sessions dated Monday after Dominica in Albis 24 Henry VIII (April 1533) and Monday before the feast of St George 26 Henry VIII (April 1535).

²⁰⁰ Norfolk Record Office LEST Q2, Docking court session dated Tuesday before the feast of St Ambrose the Bishop 31 Henry VIII (December 1539).

Et q'd Inh[ab]itantes ville de Hunstanton no' rastabit sup[er] aliq' tr' vic' s' sine licen' vz they shall neither Rake nor Glene upon their Neighbors londes without lycence of the owner sub pe[na] cuiusli[be]t eorum in contrariu' agent' [on pain for each of them acting to the contrary] 3s 4d.²⁰¹

Hunstanton and the resident Lestrangle family have already been the subject of considerable historical research. This began with the Lestranges themselves; older documents in their family archive were carefully preserved, rebound and annotated as part of what Elizabeth Griffiths called the 'prototype knowledge economy' that the Lestranges from the seventeenth century onwards created for the management of their estates.²⁰² Griffiths, along with Jane Whittle, drew on the Lestrangle household accounts, while Cord Oestmann used a range of sources from the family archive, including the court rolls, to write a village study of Hunstanton in the early sixteenth century.²⁰³ Docking is less well-documented and consequently less studied, but the forty-year run of court rolls analysed in this chapter are comparable in detail and content to those of Hunstanton.

²⁰¹ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated 2nd May 4 Elizabeth (1562).

²⁰² Griffiths, *Managing for Posterity*, p. 1.

²⁰³ Oestmann, *Lordship and Community*; Jane Whittle and Elizabeth Griffiths, *Consumption and Gender in the Early Seventeenth-Century Household: The World of Alice Le Strange*, (Oxford, 2012). In keeping the family accounts, Alice Lestrangle was following a tradition begun by Anne Lestrangle in the early sixteenth century, whose accounts are briefly referenced in this chapter.

3.2: Hunstanton with Holme

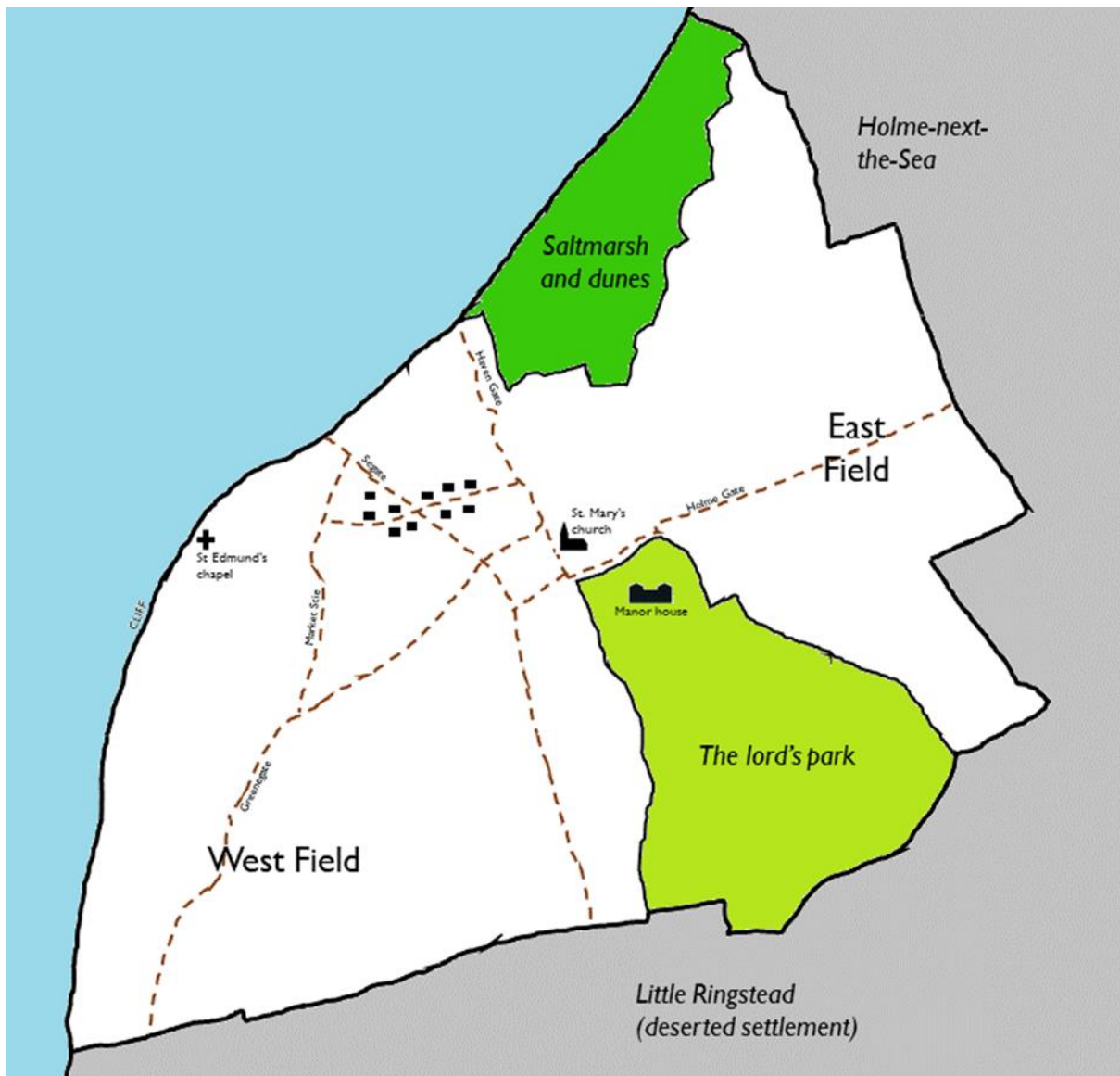


Figure 3.1: A map of Hunstanton in the sixteenth century, adapted from a 1615 map in the Lestrangle archive.²⁰⁴

3.2.1 Geography

The types of presentments that came before the Hunstanton manor court reflected the manor's location and the nature of the land and lifestyle that went with it. The North Sea formed the northern and western boundaries of the manor. Except for the southern part of the

²⁰⁴ Norfolk Record Office LEST/OA1, map of the manor of Hunstanton, 1615.

Hunstanton seashore, where the land ends abruptly at a distinctive red-and-white striped cliff, the boundary between land and sea was shifting and uncertain. Low tide exposed a vast expanse of sand. Above the tide line lay sand dunes, followed by an area of salt-marsh and finally dry land. The lord of the manor possessed the right of sea-wreck, meaning that flotsam and jetsam washed up on the beach were his perquisite. An official called the 'water bayly' walked the seashore apparently every morning to find anything that might have washed ashore, and it was an offence presentable at the manor court to walk on the beach before the bayly had made his rounds.²⁰⁵ This official was probably the same as the one elected, under the title *custos maris* or 'see kepe', by the leet court of the neighbouring manor of Ringstead with Holme, who was entitled to half the value of whatever was found on the beach.²⁰⁶ In 1556 the court amerced numerous tenants for making off with iron and other goods from the wreck of an 'Esterlyng', probably a vessel from the Low Countries or the Baltic wrecked on its way to or from either Lynn or Boston.²⁰⁷ Less dramatically, in 1534 a tenant of Heacham (the village along the coast to the south of Hunstanton, part of which was another Lestrange manor) was amerced for taking away and selling a porpoise he had found on the beach and which he should have presented to the lord.²⁰⁸ The beach and the coastal waters also served as a resource for the tenants of Hunstanton and Holme, who used the ebbing tide to catch fish in nets called 'lawers' staked out along the sand. 'Lawer' was a local term for a hedge, cited in enclosure disputes from Norfolk.²⁰⁹ These sea-lawers were held by their owners as freehold, with no restrictions on inheritance, sale or purchase.²¹⁰ The court kept watch over who was entitled to set up lawers and where, amercing four tenants in 1560 for placing them 'without the lord's licence and the agreement of

²⁰⁵ For example Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated 13th November 2 & 3 Philip and Mary (1555).

²⁰⁶ Norfolk Record Office LEST Q16, Ringstead with Holme court session dated 1st June 8 Eliz. (1566), and elsewhere.

²⁰⁷ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated the Tuesday after the feast of St Matthew the Apostle 3 & 4 Philip and Mary (September 1556).

²⁰⁸ Norfolk Record Office LEST Q1, Hunstanton with Holme court session dated Monday in the Vigil of St Edward 26 Henry VIII (October 1534).

²⁰⁹ Manning, *Village Revolts*, pp. 41-42.

²¹⁰ According to Norfolk Record Office LEST B2/1, a 1606 copy made by John Pedder of a 1554 'dragge' of all the lawers off the coast of Hunstanton, each owner 'doe & have peaceably possessed allwaies before tyme & tymes out of mynd to them & to their heires as free land is howlden.' The system of sea lawers is described in more detail in Griffiths, *Managing for Posterity*, pp. 26-27.

the inhabitants of the vill of Hunstanton.²¹¹ The manor court placed restrictions on the sale of fish caught in the lawers and on seaborne expeditions. A by-law passed for Hunstanton in 1573 forbade any fish to be sold before they had been brought to the customary 'market place' at the top of the cliff.²¹² A presentment which appeared a few times in the Hunstanton rolls amerced tenants for casting dead fish on the common or around the flock-pits of their neighbours.²¹³ On a macabre note, the manor court in 1532 also recorded the appearance of a unknown corpse on the beach at Holme and its burial in the churchyard of Hunstanton.²¹⁴ Hunstanton's coastal position brought greater contact with the outside world than the inland setting of Docketing and some of the other Lestrange manors, which could (at least when the visitors were alive) lead to friction. In 1518 John Thymbyll, the master of a vessel from Lynn, was amerced for throwing ballast ashore, while in 1548 a tenant called Edward Taylour 'made insult & affray upon certain men called maryners at Robert Banyard's house & a London merchant.'²¹⁵

The rest of the manor had a more typical agricultural aspect. Hunstanton was less dry and infertile than its inland neighbours, so much of the land was given over to arable farming, with livestock permitted to graze certain fields at the appropriate time of year. Hunstanton operated an open-field system in the West Field, strips of demesne land interspersed with those held by the tenants, while the East Field was enclosed and leased to a group of farmers. A version of the foldcourse system operated here, as suggested at various points in the court rolls, and seems to have been comparatively well organised. Presentments for allowing sheep to stray either onto the common or the lands of neighbouring tenants were rare, only 69 ameracements being recorded over the 1517-76 sample period. In any case, the foldcourse system was system run

²¹¹ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated Thursday 7th November 2 Elizabeth (1560).

²¹² Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated Tuesday 7th April 15 Elizabeth (1573). One of the roads on the 1615 map, labelled 'Market Stie', leads out of the village towards the cliffs to the south.

²¹³ For example Norfolk Record Office LEST Q2, Hunstanton with Holme court session dated Thursday after the feast of St Edward the King 31 Henry VIII (October 1539). C.f. an order in the Upper Broughton leet court (Nottingham University Special Collections CI M 016, Upper Broughton court roll dated 20th April 4 & 5 Philip and Mary, 1558) that called on 'every man to pytte that caryen he hathe imedyatly after yt chance.'

²¹⁴ Norfolk Record Office LEST Q1, Hunstanton with Holme court session dated Monday before the feast of St George 23 Henry VIII (April 1532).

²¹⁵ Norfolk Record Office LEST Q1 and Q3, Hunstanton with Holme court sessions dated Friday after the feast of Mary Magdalene 10 Henry VIII (July 1518) and Monday on the Vigil of the Apostles Philip and James 2 Edward VI (1548).

by the manorial lord or their farmers, who guarded their rights assiduously with the help of professional shepherds. The most common livestock-related presentment was for pigs, with more than three times as many tenants being amerced or put under pain for letting them go astray, 224 in total. This is likely to reflect not only the inherently more wilful nature of pigs as opposed to sheep, but also the fact that nearly every household would have kept one or two pigs, and that sheep were carefully regulated under the foldcourse system. Owners of cattle were also regularly presented for causing damage, either by straying into growing crops or trampling the banks and verges of roads. 178 tenants were amerced for cattle causing damage to their neighbours' land or to the common, and 61 for cattle causing damage in the lord's land, most commonly his pasture on the North Meadow or on the salt-marsh.²¹⁶ The election of pinders to round up stray animals was only irregularly noted in the court rolls, though on one occasion separate pinders were elected for the East and West fields.²¹⁷

The manor house of Hunstanton stood (and still stands) in the eastern part of the manor, and a park stretched out from it to the south and east as far as the parish boundaries. The Hunstanton court sporadically punished trespassers who came to collect wood in the form of young shoots or what a 1565 court referred to as 'Wyndfallyngs.' The typical amercement for doing so was at such a low level (3d) that it could have served less as a punishment and more as a licence to collect firewood, or just as a reminder that the lord possessed the right to forbid them from doing so if he chose. The same applies to the occasional presentment of a group of tenants for collecting rushes (*cirpos*) on the lord's marsh. Poaching from the lord's park came to the court's attention only once before 1552, but more regularly from then on. In 1557 seven tenants from villages to the south of Hunstanton (Castle Rising, Snettisham, Bawsey and Ingoldisthorpe) were presented for coming into the park with 'Duckstalls & Dere Hayes' and taking the lord's deer.²¹⁸ This kind of organised poaching expedition is unique in the sample, but Hunstanton tenants

²¹⁶ These numbers have been arrived at by counting the names of the tenants amerced at each court session. On the occasions where a tenant was presented for trespassing and causing damage to 'the lord *and* his tenants', or with 'cattle *and* pigs', it was counted as one presentment in each applicable column.

²¹⁷ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated 23rd April 13 Elizabeth (1571).

²¹⁸ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated Monday 24th May 3 & 4 Philip and Mary (1557).

were occasionally fined for breaching the lord's right of free warren by trapping rabbits and hares.

3.2.2 Manorial structure, land tenure and population

While the manor court's jurisdiction extended over part of the parish of Holme next the Sea, most of the activity at the court related to Hunstanton. All the manorial officials and the most important jurors came from Hunstanton, though inhabitants of Holme often leased land in the East Field of Hunstanton.²¹⁹ For this reason the manor is referred to simply as 'Hunstanton' throughout most of this chapter. The other half of the parish of Holme belonged to the manor of Great Ringstead, which the Lestranges were to acquire from the estates of Ramsey Abbey during the dissolution of the monasteries.²²⁰

Hunstanton parish also contained the manor of Mustrells, acquired by the Lestrangle family in 1496. By the mid-sixteenth century this manor barely existed as a separate institution; the landholders of Mustrells were listed alongside those of Hunstanton manor in a rental of 1536-37, though within that document the distinction between the manors was preserved, along with the different forms of land tenure discussed below.²²¹ The manors of Snettertons and Kempes were acquired by the Lestranges about the same time from their lords, the Pedder family, who remained resident in Hunstanton thereafter as prominent tenants. These manors seem to have been abolished and absorbed into Hunstanton, rentals speaking of land 'late Snettertons' or 'late Kempys.' The manor also contained small amounts of land in the neighbouring settlements of Holme and Ringstead.

Rentals of the manor show that several forms of land tenure were practised at Hunstanton, but that, in reality, there was only one significant distinction. Some land was held freehold, some by 'fee farm,' a form of tenure specific to East Anglia, which differed little from freehold as it was fully heritable and rents were fixed, and some land remained bond, subject to a service called

²¹⁹ Norfolk Record Office LEST BI/29 and BK/1, rentals of Hunstanton, 1537-38 and 1575.

²²⁰ Griffiths, *Managing for Posterity*, p. 19.

²²¹ Norfolk Record Office LEST BI/29, "Rentall & Fermall" of Hunstanton, 28 Henry VIII (1536-37).

‘cover bynd day’ and quarterly rent payments.²²² However, it does not appear that these three forms of tenure differed much from one another in any sense other than the legal. The rents listed for them are nominal, a few shillings at most except for large holdings like the ‘land late Snytertons’ held by Roger Pedder in 1536-37, for which he paid 16s 6d and two capons in rent.²²³ Given that this land likely comprised the demesne of the former manor, it was far short of the market rate. The Lestranges’ rentals did not concern themselves much with the exact position and size of these free, fee farm and bond holdings, writing them off as ‘certain lands’ and at most listing their former owners.

The rentals pay much more attention to the demesne land of the manor, now leased out to tenants for ‘londferme,’ or a lease for a term of seven years. The rate was 1s an acre in the 1536-37 and 1575 rentals, which must have represented a substantial drop in real income for the lord, given the extent of inflation between these dates. In 1584 it was increased to 2s, ‘breaking a custom that dated from the 1490s.’²²⁴ The farmland of the West Field, where strips of arable landed extended right up to the edge of the cliff, was leased by tenants living in Hunstanton. Given the increasing polarisation of landholding observed elsewhere in England in the late sixteenth century, discussed in Chapter 1, and the potential flexibility of leasehold tenure, it is striking that the pattern of landholding in the West Field remained stable between the 1530s and the 1610s. As illustrated in the table below, the total number of lessees barely changed, while the size of the mean landholding only slightly exceeded that of the median, an indication of the lack of dominant large farmers.²²⁵

²²² Davenport, *Norfolk Manor*, pp. 76-78.

²²³ Norfolk Record Office LEST BI/29, “Rental & Fermall” of Hunstanton, 28 Henry VIII (1536-37).

²²⁴ Griffiths, *Managing for Posterity*, p. 36.

²²⁵ Norfolk Record Office LEST BK/3, Hunstanton rental, 1611.

Rental	1536-37	1575	1611
Total acreage listed	416	419	398
Number of lessees	31	29	31
Mean holding size (acres)	13.4	14.5	12.9
Median holding size	11a 2.5r	12a 2r	9a 2r
Tenants holding >20a	6	9	7
Tenants holding <10a	14	10	17
Size of largest holding	52a 1r	39a 2.5r	45a 3r

Table 3.2: Landholding pattern for demesne land in the West Field of Hunstanton.²²⁶

The only discernible change in the pattern is a slight drop in the size of the median holding by 1611, representing an increased number of landholders with very small acreages, but this is a modest change given the pressures exerted on small- and medium-sized landholders elsewhere in England. A notable feature of the 1536-37 and 1575 rentals is that most lessees of land in the west field also held free or fee-farm land, which, added to the 11-15 acre holding of the average leaseholder, represented an acreage able to support a relatively comfortable existence.

Oestmann was inclined to explain this stability as a deliberate policy on the part of the lords, who wanted to help established tenant families keep enough land to support themselves.²²⁷ This is not an implausible suggestion, but an alternative (or perhaps complementary) explanation may lie in the ecological context of Hunstanton. As a seaside manor, it offered alternative means to earn a living than just handholding. As described above, fishing provided a means to raise cash, especially since the Lestrange household regularly purchased fish from Hunstanton tenants.²²⁸ This income, in turn, would have made it possible for fishermen to keep up the lease payments on their West Field land while coping with sixteenth-century price inflation. The coastal salt-marshes served as pasture for tenants' livestock and as a source of thatch, fuel, and wildfowl.

²²⁶ Norfolk Record Office, LEST BI/29, BK/1, BK/3: rentals of Hunstanton dated 1536-37, 1575, 1611.

²²⁷ Oestmann, *Lordship and Community*, pp. 85-86.

²²⁸ Oestmann, *Lordship and Community*, p. 124.

Marram (or 'Marham', according to the Ringstead with Holme court book) grass grew on the dunes and was husbanded carefully; the servant of an inhabitant of Thornham was presented for taking it illicitly from the shoreline of Holme in 1566.²²⁹

The importance of the resources of the sea-shore to the tenants of Hunstanton may be inferred from the reaction of their neighbours in Holme in 1559, when their lord, William Aslack, attempted to drain and enclose the marshes there. A quarter sessions for that year lists 22 inhabitants of Holme, ranging in social status from yeoman to labourer, along with about twenty more unknown persons, who 'riotously and in a warlike manner by force of arms broke & entered the close of William Aslack gent at Holme, also broke & entered the dikes [*fossata*] of the said William to the length of 46 yards, and riotously cast down and overturned them.'²³⁰ The battle continued in the leet court of Ringstead with Holme over the next few years, in spite of an arbitration between Aslack and the inhabitants. Aslack was amerced sums up to 40s for failing to remove his 'great new dike' from what the court insisted were the common marshes of Holme, and presented for fighting with tenants and chasing their cattle off the marshes with his dogs.²³¹ The dispute dies down after 1562, and it may be at this time when Aslack decided to cut his losses and sell the manor to the Lestranges.²³² Hassell Smith, in his study of Stiffkey, another manor on the north Norfolk coast, noted how rights to common resources from the marshes, sea-shore and common heathland (only the last of which Hunstanton lacked) could sustain smallholders with only a few acres.²³³ This tallies well with Margaret Spufford's research into Cambridgeshire villages, discussed in Chapter 1, where smallholders in and around the edges of the Fens, who likewise had access to extensive wetland commons, were able to survive while their counterparts on higher ground further inland went under.²³⁴

²²⁹ Norfolk Record Office LEST Q16, Ringstead with Holme court session dated 1st June 8 Eliz. (1566).

²³⁰ Norfolk Record Office C/S 3/5A, quarter sessions at East Dereham, dated Friday in the Week of the Pentecost 1 Elizabeth (1559).

²³¹ Norfolk Record Office LEST Q16, various Ringstead with Holme court sessions, 1559-62.

²³² The exact date of the sale is unclear, but Ringstead with Holme was certainly in Lestrangle hands by 1580. Griffiths, *Managing for Posterity*, p. 20; Francis Blomefield, *An Essay Towards A Topographical History of the County of Norfolk: Volume 10* (London, 1809), pp. 328-334. *British History Online* <http://www.british-history.ac.uk/topographical-hist-norfolk/vol10/>, accessed 23rd August 2022.

²³³ A. Hassell Smith, 'Labourers in late sixteenth-century England: a case study from north Norfolk [Part II]', *Continuity and Change* 4 (1989), pp. 367-68.

²³⁴ Spufford, *Contrasting Communities*, p. 165; see Chapter 1 above.

Whatever the reason, Hunstanton in the sixteenth century did not undergo a polarisation in land ownership as did many other communities; the number of tenants and the size of their landholdings remained stable. The rental of 1536-37 names 40 separate landholders. That of 1575 names 53, but of these, six were almost certainly residents of Holme who held free, fee-farm or bond land in Hunstanton. Applying a multiplier of 4.75 (a conventional measure for estimating population, as discussed in Chapter 1) to these figures would make Hunstanton's population approximately 190 in the 1530s and 225 in the 1570s.

3.3 Docking

3.3.1 Geography

Docking is a large parish lying about five miles south-east, and inland, from Hunstanton. It was thus deprived of the resources of sea and marsh which the inhabitants of Hunstanton enjoyed. Fresh water, too, was hard to come by above ground. The light chalk soil of northwest Norfolk did not retain it, which made the kind of intensive arable farming practised in the northeast of the county Norfolk – and at Hunstanton – impossible. The antiquarian Francis Blomefield described it as 'ill cultivated, destitute of wood, and spring water, and proverbially called *Dry Docking*,' a name also bestowed on it in the record of the administration of the will of John Crispe in 1568.²³⁵ Though no contemporary map survives, it is certain from references in the court records and elsewhere that substantial areas of the manor were uncultivated heathland. Inhabitants were frequently presented in the manor court for cutting furze or turves (*terricidias*, or 'flagges' in the local usage according to a court record from 1553) belonging to the lord or to another tenant.²³⁶ The ecology of the manor thus biased it towards the 'sheep' side of sheep-corn agriculture. As is seen below, the court rolls of Docking in particular show evidence of the

²³⁵ Blomefield, *Topographical History*, pp. 362-370; Norfolk Record Office NCC administration act book 1563-1570, fo. 158, will of John Crispe of Dry Docking, 1568.

²³⁶ Norfolk Record Office LEST Q3, Docking court session dated 2nd November 1 Mary I (1553).

constant efforts of manorial juries to prevent the growing flocks of sheep from damaging the arable fields.

	Sheep	Cattle	Pigs	Horses
Hunstanton with Holme	69 (13% of trespass cases)	173 (33%)	224 (42%)	60 (11%)
Docking	65 (24%)	53 (20%)	104 (38%)	49 (18%)

Table 3.3: Breakdown of livestock-related presentments at the Hunstanton and Docking courts.

The different landscapes of the two manors are reflected in the proportions in which livestock animals occur in manor court presentments. The lack of rich pasture seems to have made cattle ownership less widespread at Docking; this would have been a serious matter for smallholders, as owning a cow or two could be the difference between survival and being forced off the land. The wide acres of arable and heathland in Docking, however, meant larger flocks of sheep and a more difficult task for shepherds in keeping track of them, a fact reflected in the higher frequency of sheep-related presentments here. Shepherds employed by foldcourse lessees are sometimes mentioned by name, as in 1533, when Thomas Kyrby, the shepherd (*pastor*) of David John and Roger Houghton ‘for the lord’s course at Lugdon Hill’ illegally pastured his sheep on the lands of various tenants in Roklond.²³⁷

Less intensive arable farming meant that more land would need to be ploughed in less time, perhaps explaining the relative frequency of horses being mentioned in presentments. Bruce Campbell has demonstrated that by the late medieval period in the east of England, especially Norfolk, and especially north-west Norfolk, the horse had largely replaced the ox as the preferred beast for plough-teams. This was already the case at Holme-next-the-Sea, part of which fell within the manor of Hunstanton, as early as the twelfth century.²³⁸ Presentments for failure to maintain fences, between two tenants’ land and especially between the fields and the main roads, were far more common at Docking than Hunstanton (58 compared to 28). The

²³⁷ Norfolk Record Office LEST Q1, Docking court session dated Tuesday after the feast of the Invention of the Cross, 25 Henry VIII (1533).

²³⁸ Bruce Campbell, *English Seigneurial Agriculture* (Cambridge, 2000), pp. 129-31.

court also regularly amerced tenants for encroaching on or blocking the public roads, again far more often than that of Hunstanton (55 presentments compared to 22). This may simply be a consequence of Docking having more roads, more fields, and fewer hands to keep them maintained, but discussion, later in this chapter, of the court records and social structure of Docking suggests that it was a community not subject to much control from above. This made the leet court the main local governing body, while at the same time it allowed personal animosities among its inhabitants to fester, as is seen later in this chapter.

3.3.2 Manorial structure, land tenure and population

The manor of Docking or Docking Hall, formerly Zouches, was one of two in the parish of Docking. It was bought by Thomas Lestrangle in 1529 from the Zouch family (or ‘Sowche’ in the spelling used in the court rolls).²³⁹ Docking seems to have become a leet court in 1531 at the same time as Hunstanton did, as part of a grant from the Duchy of Lancaster. The first Docking court session which appears in the Lestrangle court books is headed ‘First leet of Sir Thomas le Straunge by virtue of letters patent of the King...’²⁴⁰ The other manor, Southmere, belonged in the sixteenth century to the Earls of Sussex, who also held free land in Docking Hall.

Apart from a comprehensive run of court rolls dating from 1531-71, Docking is less documented than Hunstanton. No contemporary map or terrier survives showing which parts of Docking belonged to which manor, and there is no rental from any earlier than 1618. The 1618 rental shows that, by this time, nearly all the land in Docking was freehold, with a few pieces of copyhold.²⁴¹ Records of land transfers from the mid-sixteenth century manor court do not speak of copyhold, with land tenure described as free, socage or native (i.e. bond or customary).

The later rentals do not give the acreage held by each tenant. Nonetheless, it is possible to establish the status of the leading tenant families, named Houghton, Alen or Aleyn, and Crispe. In

²³⁹ Blomefield, ‘Southmere and Docking.’

²⁴⁰ Norfolk Record Office LEST Q1, Docking court session dated Tuesday after Dominica in Albis, Henry VIII (1531).

²⁴¹ Norfolk Record Office NRS 9252, 22B3, Docking Hall rental, 1618.

1541 Roger Houghton inherited 100 acres of socage land from his brother Thomas, named as a clerk.²⁴² The same Roger was a wealthy sheep-farmer with connections to the gentry, naming Sir Nicholas Lestrange supervisor of his will.²⁴³ William Aleyn, who died in 1544, was vicar of Docking, and an Edmund Aleyn is elsewhere described as a clerk.²⁴⁴ These families thus approached gentry status in terms of landholding and education. The 1618 rental shows that William Crispe (not considered a gentleman as his name lacked an honorific 'M') held £1 2s 1½d of freehold land, which must have represented a large area given that the entire sum in rent from the manor was less than £8.

Estimating the population of Docking is difficult given the lack of documentation, but it is possible to give a lower bound for the beginning of the study period by noting all the names of tenants listed in the court records. Excluding absent suitors of court, who are likely to have been absent because they were not resident in Docking, the two Docking court sessions from 1531 name 29 separate tenants either as jurors or in presentments. Three of these were women, presented as landowners, and it is likely that these were widows heading their own households. Thus 29 seems a reasonable minimum figure for the number of households in Docking at this time. A register of attendees taken on Nicholas Lestrange's inheritance of the estate in 1545 gives the names of 21 tenants, all men.²⁴⁵ Assuming that some widows still also held land that a few tenants were absent or only held land in Southmere manor, this indicates a similar minimum number of households. Thus the population of the manor in the mid-sixteenth century was likely in the region of 150-200, slightly smaller than Hunstanton. The 1618 rental, meanwhile, lists 38 tenants of Docking, but these were nearly all freeholders, as likely to live far from the manor as to reside in it. Without any information on their subtenants, it would be unwise to use the rental to estimate population.

It is difficult to say for certain whether land distribution in Docking was more polarised than at Hunstanton, which is what might be expected by the end of the study period given their relative

²⁴² Norfolk Record Office LEST Q2, Docking court session dated 12th May 33 Henry VIII (1541).

²⁴³ Jane Whittle, 'Lords and Tenants in Kett's Rebellion,' *Past and Present* 207 (2010), pp. 26-27.

²⁴⁴ Norfolk Record Office LEST Q2, Docking court session dated Monday before the feast of St Luke the Evangelist 36 Henry VIII (1544).

²⁴⁵ Norfolk Record Office LEST Q2, Docking court session dated Saturday after the feast of St Faith, 37 Henry VIII (1545).

locations; Hunstanton too had wealthy tenants, especially the Pedder family. A few pieces of evidence exist which suggest greater polarisation, which is discussed below in the context of Docking's involvement in the affairs of the quarter sessions.

3.3.3 *The manor court as arbitrator*

Starting from 1551, the Docking court rolls began to feature considerable numbers of pleas between tenants. These usually concerned debts, tort, or the detention of property. A plea entered in the Docking court rolls usually appeared in the format 'x makes complaint against y in a plea of debt/tort/detention,' sometimes followed by details of the goods or money in dispute. In the 1560s these entries became more detailed and began, in some cases, to record a verdict reached during the court session itself, or to state that the case had been put in the arbitration of a third party. For example, one of several plea notices in a 1567 court roll reads

Robert Benwell makes complaint against John Bervell alias Wandham in a plea of trespass when [Wandham's] dog bit a cow coloured red and white valued at 26s 8d.²⁴⁶

Later in the court roll, the same John Bervell or Wandham was amerced 3d for keeping an illicit dog, and the presentment noted that the dog had fatally bitten one of his neighbours' cattle. The court therefore distinguished Wandham's offence against the community and the laws of the manor from his personal offence against Benwell. This suggests an intention to keep 'civil' and 'criminal' justice separate, and to give offended parties the chance to seek redress at a local and accessible level. The civil/criminal distinction is underlined by a court roll from a few years earlier, which states that the pleas heard at the court were judged by 'twelve honest and legal men' chosen by the bailiff. This was a separate body from the manorial jury, and the pleas were listed at the head of the court roll, separate from the other business of the court.²⁴⁷ The names of the twelve are not given, though it seems reasonable to assume some overlap with the sixteen men who formed the leet jury. The settlement of complaints between tenants at the manor court was an

²⁴⁶ Norfolk Archives LEST Q3, Docking court roll dated 13th October 9 Elizabeth (1567). The original text reads: '*Rob'tus Benwell q' v's Joh'em Bervell al' Wand'm in pl'ito t's cu' Cane momordit unam Vacc' color Redd cu' albo in fac' p'c xxvis viiid'*

²⁴⁷ Norfolk Archives LEST Q3, Docking court roll dated 15th October 7 Elizabeth (1565).

ancient practice, found in court rolls from their origins in the thirteenth century.²⁴⁸ However, it does not seem to have been a widespread one in the sixteenth. The occasional plea of debt appears in the Hunstanton court rolls, but very rarely and without the details of facts and verdict found in the Docking rolls.

3.4 *The Lestrange family*

The Lestrange family could trace its descent with plausibility at least as far as the twelfth century, and its residence in its chief manor of Hunstanton as far as the early fourteenth.²⁴⁹ The earliest series of court rolls and accounts from Hunstanton date from this period. Successive generations in the late fifteenth and sixteenth centuries served as sheriff of Norfolk and Suffolk. The family estate reached its greatest extent under Sir Thomas Lestrange (d. 1545), a courtier who served as esquire of the body to Henry VIII and profited from the distribution of former monastic properties following the dissolution, not least in acquiring the manor of Ringstead with Holme, formerly belonging to Ramsey Abbey.²⁵⁰ Thomas also acquired the site of the deserted village of Barrett or Little Ringstead, immediately south of Hunstanton, two small manors in Holme, and, further afield, the manors of Felsham and Thorpe Morieux in Suffolk.

Thomas' death left his successor with no fewer than twelve siblings to provide for. This fact, combined with the political eclipse of the Howard dukes of Norfolk, the Lestranges' chief local patrons, left Nicholas Lestrange little choice but to retrench to the area immediately surrounding the family seat, selling off estates including the manor of Docking Hall in 1569. Nonetheless the core of the estate remained intact, and Sir Nicholas Lestrange (d. 1580) was a long-serving MP, initially as Knight of the Shire for the whole of Norfolk and later as one of the two MPs for the boroughs of Lynn and Castle Rising. He served under the command of his local patron, the Duke of Norfolk, in the English military intervention in Scotland in 1560.²⁵¹ He was sheriff of

²⁴⁸ Mark Bailey, *The English Manor, c.1200-c.1500* (Manchester, 2002), p. 168.

²⁴⁹ Walter Rye, *Norfolk Families* (Norwich, 1911), pp. 477-79.

²⁵⁰ Griffiths, *Managing for Posterity*, pp. 18-20.

²⁵¹ *Calendar of State Papers Foreign: Elizabeth, Volume 3, 1560-1561* (London, 1865), pp. 24-42; *British History Online*, <https://www.british-history.ac.uk/cal-state-papers/foreign/vol3/pp24-42>, accessed 5th September 2022.

Norfolk and Suffolk when Kett's Rebellion broke out in 1549, which seems to have led to local rivals seeking to discredit him or even to implicate him in the uprising. A letter he wrote in the aftermath of the rebellion to the courtier William Cecil suggests as much, alleging that some of his Norfolk neighbours, 'who hertofor hathe sought att my hands to purchasse severall pecys of my lends whyche lythe nere them, wherwith I wyll nott depart,' who tried 'to make me the begynnare of the commocions in Norff[olk].' This accusation caused him some distress; as Lestrangle plaintively concluded, 'my poor Ancestors for thys thre hundryd yeres hath nott [been] towchyd with any suche.' He assured Cecil that his actions at the beginning of the rebellion, getting into a 'cocke boot' and crossing the Wash to Lincolnshire, were in fact aimed at raising forces to quell the rebellion. After this, by his own account, he went to London where the regency council of Edward VI gave him a letter to take to the rebels demanding they surrender.²⁵² Towards the end of the sixteenth century, the estate faced a period in wardship before the majority of Hamon Lestrangle (d. 1654), whose labours to restore the family fortunes are the focus of Elizabeth Griffiths' recently-published work.²⁵³

As has been outlined above, the Lestranges' impact as manorial lords in Hunstanton was largely a stabilising one, and one in which they functioned as a key component of the local economy. The demesne land in the west field was let in medium-sized parcels, which, combined with a similar-sized area of free, fee-farm or bond land, would have been enough to allow a family a comfortable standard of living. Oestmann suggested that this was a deliberate policy on the lords' part to maintain an amenable core of long-standing families in their home village.²⁵⁴ Hunstanton Hall's frequent and widely-distributed purchases of fish from the tenants might have been another element of such a policy, if one existed. Meanwhile, Jane Whittle and Elizabeth Griffiths, in their study of the household accounts of the early seventeenth-century lady of the manor Alice Lestrangle, found that this pattern of local patronage continued into their period, stating that 'almost every household in the village had economic and social connections with the

²⁵² Letter from Nicholas Lestrangle to William Cecil, dated Lynn, 15th September 1549, quoted in Frederic William Russell, *Kett's Rebellion in Norfolk* (London, 1859), pp. 210-12, accessed at <https://archive.org/details/kettsrebellioni01russgoog/>, 12th December 2020.

²⁵³ Griffiths, *Managing for Posterity*, p. 34, notes that despite having inherited an estate in debt in 1605, Hamon and Alice Lestrangle were completely clear of debt by 1634.

²⁵⁴ Oestmann, *Lordship and Community*, p. 65.

Le Stranges other than paying rent.²⁵⁵ While accepting gifts of food from their wealthier tenants, they employed poorer inhabitants as day labourers. This included tenants of neighbouring manors as well as Hunstanton itself. Whittle and Griffiths also noted their habit of settling live-in servants on parcels of land in Hunstanton and turning them into tenants, further deepening the ties between village and manor.²⁵⁶

The Lestranges seem to have had a more transactional attitude to their landholdings away from the core around Hunstanton. Their more outlying estates were the ones which were sold in the late sixteenth century. These included Docking Hall, which they held from 1531 until 1569; Anmer, Fring and Snettisham in north-west Norfolk; and, further afield, Felsham, Gressenhall and Thorpe Morieux. The distinction between core and temporary manors is traceable in the way the Lestranges chose their personnel. A set of bailiffs' accounts for all the manors survives from the 1530s, and shows that the bailiffs of the outlying manors were chosen from among the most prominent tenants of those manors.²⁵⁷ For example, the bailiff of Docking Hall, Thomas Warner, is also found at the head of the list of jurors in Docking in 1539.²⁵⁸ The bailiff of the two small neighbouring manors of Anmer and Fring, John Ferrour, appeared consistently as one of the jurors for Fring, while Nicholas 'Farrou', also of Fring, served as a quarter sessions juror for the hundred of Smithdon in the 1540s.²⁵⁹ By contrast, the manors of Hunstanton with Holme, Little Ringstead and Heacham Caley were all under a bailiff named John Smythe, whose name does not appear as a juror at the manor court in any of them. This implies the lords applying a more hands-on approach to running the manors in which they lived and which they had a longer-term investment in, compared to a more ad hoc set of arrangements in newly-acquired and more distant manors. While making this distinction, however, it is important to remember that individual members of the Lestrangle family may not have had a long-term vision of the future of their family's estate – Thomas Lestrangle, for instance, may have envisaged Docking remaining

²⁵⁵ Jane Whittle and Elizabeth Griffiths, *Consumption and Gender in the Early Seventeenth-Century Household: The World of Alice le Strange* (Oxford, 2012), pp. 230-31.

²⁵⁶ Whittle and Griffiths, *Consumption and Gender*, p. 230.

²⁵⁷ Norfolk Record Office LEST R4, Lestrangle bailiffs' accounts, 1534-35.

²⁵⁸ Norfolk Record Office LEST Q2, Docking court session dated Thursday at the Feast of Sts Philip and James, 31 Henry VIII (1539).

²⁵⁹ Norfolk Record Office LEST Q1 and Q2, various Fring court rolls (1521-1540); and, for example, C/S 3/7, Norfolk quarter sessions rolls 1 Edward VI (1547-48).

part of the estate permanently, or that one of his several younger sons should inherit it. The extent to which manorial lords took an active role in how their manors were run depended on the consent and co-operation of their tenants, which may have been easier to secure in a manor like Hunstanton where they had long-standing ties with many of the important tenants. In less familiar places like Docking, it may have been necessary to appoint a local as bailiff to keep the consent of the rest of the tenants, or because no-one with closer links to the family possessed the local knowledge required to do the job effectively.

3.5 Comparing the manor courts of Hunstanton and Docking

Hunstanton and Docking both became leet courts in 1531, granting them the additional criminal jurisdiction described in Chapter 1. The royal grant of November 1530 is preserved in the Lestranges' own archive.²⁶⁰ Holding a leet court at Hunstanton also brought the benefit of being able to govern the manors of Hunstanton with Holme and Mustrells at a single session. The tenants of both manors made use of the extended jurisdiction. Inhabitants of both manors were presented for common-law offences like slander, playing illicit card games and harbouring suspicious persons or vagabonds. On one occasion, tenants were amerced for failing to exercise with bows and arrows as the law required.²⁶¹ It also added two minor sources of income for the lord – a payment of 'headsilver' at each session of the leet, 4s at Hunstanton and 2s 4d at Docking, and a small amount for enforcing the ancient Assizes of Bread and Ale, by which anyone selling these products in the manor had to pay a small fine. At Hunstanton, the number of sellers of bread and ale presented in the autumn session of the leet ranged from ten or more in the 1530s to five or six by the 1570s, and the majority seem to have been itinerant sellers from outside the manor. The leet jurisdiction also allowed the manors to elect ale-tasters, and, most importantly, constables, who were invested with the power to uphold common and statute law, where in a court baron only manorial custom could be enforced.

²⁶⁰ Norfolk Record Office LEST B1, grant of view of frankpledge at Hunstanton and Docking to Sir Thomas Lestrange, 24th November 32 Henry VIII (1530).

²⁶¹ Norfolk Record Office LEST Q2, Hunstanton with Holme court session dated Thursday at the Feast of the Apostles Philip and James 36 Henry VIII (May 1544).

3.5.1 *The leet court as a means of social control*

Both Hunstanton and Docking were relatively unusual in a national context for the variety of presentments they made. Many leet courts had, by the second half of the sixteenth century, ceased to operate at a level much beyond the usual round of agricultural infringements. In her sample of 267 leet, hundred and borough courts, Marjorie McIntosh found that only 6-7% recorded what she called a 'broad response' to social problems after 1540. By 'broad response' she meant presentments arising from disharmony, disorder and poverty.²⁶² Neither Hunstanton nor Docking formed part of McIntosh's sample, as neither have enough surviving court rolls from the fourteenth and fifteenth centuries. If they had, Hunstanton with Holme would certainly have qualified as a 'broad response' court, as might the somewhat less active Docking court. Both courts presented inhabitants for the 'disharmony' related offence of scolding. 'Nightwalking' is another of McIntosh's 'disharmony' offences. At Docking in 1558 there were two presentments in which those amerced were said to have been walking about in the house and close of a tenant called Anthony Alen.²⁶³ The 'disorder' group of offences included sexual misconduct and the keeping of unruly alehouses, like the 'blynd ale house' that George Hardcastell was presented for keeping at Hunstanton in 1569, and where he had apparently been harbouring suspect individuals.²⁶⁴ The categories of presentment that continued to increase included those for illicit gaming, which appear at both Hunstanton and Docking. The Hunstanton court in 1536 mentioned the specific game, 'Makyng & Marryng', that was being played, while at other times it only notes that those amerced were playing at cards.²⁶⁵ The tenant hosting the card games was usually amerced at a higher rate than the other players.

The picture that emerges of the two manors, but especially of Hunstanton, is that of a manor court which continued and tried to expand its role as the guardian of peace and social order

²⁶² McIntosh, *Controlling Misbehaviour*, p. 139.

²⁶³ Norfolk Record Office LEST Q3, Docking manor court session dated Feast of the Invention of the Cross 4 and 5 Philip & Mary (May 1558)

²⁶⁴ Norfolk Record Office LEST Q3, Hunstanton with Holme manor court session dated 2nd June 11 Elizabeth (1569).

²⁶⁵ Norfolk Record Office LEST Q2, Hunstanton with Holme court sessions dated Tuesday after the Feast of St Edward the King 28 Henry VIII (October 1536) and

within the community. This remained the case at a time when comparable courts across England were slowly winding down much of this kind of business. McIntosh explained this general decline in social order presentments at local courts by noting how little their decisions were taken into account at higher levels: 'because no higher courts cared whether they were active or not, there was no pressure on them to continue in the public sphere.'²⁶⁶ Martin Ingram, meanwhile, has noted that the increasing prominence of parish churchwardens and more frequent visitations from deans and bishops in the second half of the sixteenth century meant that the enforcement of morality became even more the province of church courts than it had already been.²⁶⁷ Thus the continued presentments for scolding and slander at Hunstanton and Docking do not fit the national trend that was emerging in the mid-to-late sixteenth century.

3.5.2 *Office-holders, headboroughs and questmen*

This sub-section focuses primarily on Hunstanton with Holme, where the most supplementary evidence is available and some comparisons can be made with Cord Oestmann's work on a similar theme. As well as the court rolls and their lists of headboroughs and questmen, and their election of manorial officers, it draws on rentals of the manor from 1536-37 and 1575, and a book of bailiffs' accounts for several Lestrange manors from 1533-41.²⁶⁸

The office of subconstable brought a degree of power and a lot of responsibility. It also laid its holder open to clashes with various members of the community, not least with those who had held the office previously or would do so in future. John Grave, who in 1548 called the constable Robert Banyard a 'false knave' (as described below), had himself served as constable in 1532-33, 1537-38 and 1541-42, and would do so again in 1550-51. In 1541-42 his partner in the office had been the same Robert Banyard, perhaps giving Grave the chance to observe Banyard's knavery at first hand. Henry Deynes, who made frequent appearances in the court rolls for a range of infractions, was constable in 1534-35 and 1546-47. Being elected two at a

²⁶⁶ McIntosh, *Controlling Misbehaviour*, p. 43.

²⁶⁷ Ingram, *Carnal Knowledge*, p. 317.

²⁶⁸ Norfolk Archives, LEST BI 29, Hunstanton rental 28 Henry VIII; LEST R4, Lestrange bailiffs' account book 1533-41; LEST BK 1, Hunstanton rental 1575.

time perhaps served to lessen the potential for personal score-settling among these high-profile individuals. Still, there is a suggestion that the jurors would avoid electing constables at all if they felt they could get away with it. In manorial leet courts like Hunstanton and Docking, the office was an uneasy hybrid, with little clarity (not least to the historian) as to where the holder's responsibilities primarily lay – to the other tenants, to the lord of the manor, or to the royal law as embodied at the quarter sessions. Constables were only elected in four of the ten years during the turbulent period from 1548 to 1558. No constables are mentioned in 1570-71 or 1571-72 either, before their election was resumed when the new lord Hamon Lestrangle took over the manor from the ageing Nicholas. In these years, the headboroughs could collectively fulfil many of the constables' duties, and do so without the pressure of individual responsibility.

The men who held the office of constable were among the wealthiest people in the village. Given the amount of travel that the role would have entailed, to hundred courts, quarter sessions and potentially further afield, this was probably a practical necessity. Between 1531 and 1577, members of the Pedder family served as constable fourteen times, almost a quarter of the total number of constables (57) elected during the sample period. The Pedders, as noted above, were on the boundary between wealthy yeomen and minor gentry. The will of John Pedder, who died in 1511, bequeaths his 'maner' of Kempes in Hunstanton to his widow, but the 1536-37 rental refers to land 'late Kempys' and 'late Snyterton,' owned by Thomas (constable 1539-40) and Roger (constable 1534-35, 1538-39 and 1545-46) Pedder.²⁶⁹ The same Roger was also one of the six farmers of the lord's land in the East Field of Hunstanton. Thomas Goode (constable 1536-37) held 52 acres in 'landferme' at a shilling an acre, Henry Deynes (constable 1534-35 and 1546-47) held 27 acres, and John Grave held 20 acres. Meanwhile, the 1575 rental records that the troublesome Thomas Holdenby (constable 1552-53, 1565-66, and 1572-73) held numerous pieces of free and bond land, though only one acre of West Field demesne; in his will, he disposed of £10 to a younger son, £5 each to his two daughters and possessions including sheep, silver spoons and a cushion of 'Turkey work.'²⁷⁰ The Banyard family, which

²⁶⁹ Norfolk Archives, ANF will register Liber 5 (Sparhawk) fo. 39. Oestmann, *Lordship and Community* p. 41 suggests that Roger Pedder still classed as a manorial lord within Hunstanton as late as the 1530s, but the wording of the rental and Pedder's willingness to serve as a manorial officer make this doubtful.

²⁷⁰ Norfolk Record Office DN/INV 11/38, inventory of the goods of Thomas Holdenby of Hunstanton, 1594.

provided nine of the 57 subconstables, do not seem to have been major landholders, but Hunstanton offered other paths to prosperity, not least fishing and trade by sea. Robert Banyard junior, the 'false knave' (constable 1536-37, 1541-42, and 1547-48), farmed fifteen acres in 1536-37, Robert Banyard senior and Richard Banyard eight each. Members of five families (Pedder, Banyard, Grave, Gibson and Brown) provided 40 of the 57 constables. Selecting the constables from such a limited pool of families partly contradicts the principle that those monitoring the rules by which a common resource is governed should be drawn from among all those using the resource.²⁷¹ But this must be set against the apparent reluctance the constables felt towards doing the job, and the role the rest of the headboroughs played in presenting offences and setting fines.

These headboroughs usually comprised members of the same five leading families who provided most of the village constables. The number would be made up to the usual 12-15 by the addition of other long-serving headboroughs like the father and son both named Henry Makemayde, who were headboroughs at 53 courts between 1537 and 1577. Henry Deynes was a headborough at 26 courts before his death in 1552, and Thomas Holdenby at seven, the first in 1553. All the headboroughs came from Hunstanton and none from the part of Holme that belonged to the manor. The rest of Holme belonged to the manor of Ringstead with Holme, which had a leet court of its own. The responsibility of being a headborough seems to have resided in pieces of land rather than individuals. Thomas Holdenby does not appear in the 1537-38 rental, except in a couple of marginal notes in a less formal secretary hand. The marginal notes probably date from the compiling of a rental later in the sixteenth century, and indicate who owned the landholdings at the time the annotations were made. William Yonge (constable 1531-32) held a dwelling house with 'certen londs' paying 5s 2d and a capon in free rent.²⁷² He was a headborough at twelve leet courts, the last in spring 1538. According to the marginal note, Thomas Holdenby now held these lands, and, very likely, the obligation to serve as a headborough and manorial office-holder that went with them. As noted above, his performance in these roles was chequered, but there was apparently no means by which the lord or the

²⁷¹ Ostrom, *Governing the Commons*, p. 90.

²⁷² Norfolk Record Office LEST BI 29, Hunstanton rental 28 Henry VIII.

other headboroughs could or would sack him. Eventually, in what may have been a compromise solution, Holdenby stopped appearing as a headborough after 1562, and instead was the first or second name on the list of jurors for Hunstanton.

The other officers elected at the autumn leet court were the ale-tasters, whose duties were discussed in chapter 1. The Hunstanton court regularly presented sellers of bread and ale, amercing them a few pence as a licence to carry on their business. Some of these sellers lived within the manor, while others came from surrounding villages. It is unclear whether the ale-tasters received any perks from the job, or whether it involved any duties beyond taking the names of sellers. At every court where ale-tasters were elected, in both Hunstanton and Docking, the previous year's ale-tasters were amerced 3d for not doing their job. The holders of this office were more diverse than the constables. Between 1531 and 1576, men with 31 different surnames were elected ale-taster, while only sixteen surnames shared the office of constable – and of these sixteen families, as noted above, only five held it regularly. The only surname which appears regularly as both constable and ale-taster is Banyard, but even within this family it does not seem that any individual served in both offices. The heads of the Banyard clan were the ones who served as constable, while younger family members became ale-taster. The borderline gentry Pedder family never held the office of ale-taster, suggesting it was associated with a lower social status than that of constable.

The court records occasionally note the election of a pinder or parker. This office did not rotate, but seems to have been held by single individuals for long periods. Thomas Locke was elected pinder or parker in 1536, 1550 and 1552, while Barnaby Brese, elected by the court baron in 1525, was mentioned as pinder in several other courts. The pinder or parker appears to be halfway between an elected officer of the manor court and an employee of the lord's household, with responsibilities to both. In a manor with a more acrimonious relationship between lord and tenants this would not have been a sustainable situation, but at Hunstanton there was little recorded trouble except the occasional presentment for 'rescue' (when a tenant retrieved their impounded animals without licence). Overall, the Hunstanton manor court elected its officers from a fairly deep cross-section of the tenants. Only the wealthier and longer-

established tenants, however, were deemed fit to carry out the duties of constable, with the authority and potential liabilities that came with it.

3.5.3 Dealing with disagreement, conflict and anti-social behaviour

At a Hunstanton with Holme court session in 1548, John Grave was presented for allowing his pigs into his neighbours' crops and for ploughing up metes or meres (stones marking boundaries between tenants' strips in an open field) at Milkhill and Stump Cross, which the 1615 map shows to lie in the West Field of Hunstanton. The former offence cost him 3d, and for the latter he was not penalised but ordered to put the boundary-stones back by Easter on pain of 3s 4d. Neither presentment was unusual – there were 41 presentments of Hunstanton tenants for ploughing up metes in the sample period, and 224 for letting pigs go astray. But John Grave felt that he had been wronged, as the following entry shows:

*And that the same John Grave unjustly scolded the headboroughs & called out unjustly in these words, viz. [the text switches to English] that Rob't Banyard jun' on of the headburroughs of the lete & the forman of the same quest was a false knave & that all the Residew of the same quest wer false men & false harlotts.*²⁷³

This outburst was, in the court's opinion, a far more serious matter than the agricultural offences Grave had originally been presented for, and it amerced him 3s 4d. It is one of a few occasions in the Hunstanton and Docking court records where the exact words of one presented for scolding or slander are written down. In keeping with the terse style of manor court records, there are no details of exactly where and when the offending remarks were made, but it is likely that the incident took place during the court session, in the presence of the scribe who reproduced the words. Had the remarks been anywhere else, problems of memory and reliability of witnesses would have arisen. The entry for John Grave's slander might have read, as Thomas Robynson's presentment before the Docking leet in 1538 did, only that he 'did

²⁷³ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated Tuesday on the feast of Sts Philip and James, 2 Edward VII (1st May 1548). The Latin text of the first part of the presentment reads: '*Et q'd id'm Joh'es Grave iniuste iurgavit cu' Capp'l lete & iniuste vocaverit in hec verba...*'

not well govern his tongue in speaking to the constable.²⁷⁴ Besides, it is doubtful that Robert Banyard and the rest of the questmen would have let the description of them as false knaves and harlots be repeated in an open court if they could avoid it. A court roll from Docking in 1546, presenting John Wandham for calling the jury 'false knaves' states explicitly that it was done during the court, while in 1558 William Hansell was presented for slander after telling the jury that 'they wer no honest men'.²⁷⁵ An entry in the Ringstead with Holme court book from 1561 gives an idea of the relative seriousness of different types of insulting words: Ralph Millerson was amerced 12d for calling the questmen 'knaves and churles'; John Person was amerced the same amount for stating 'that they war all fooles y^t wer of the Quest,' but Robert Chaut's addition of 'cawerd' to 'churles and knaves' cost him an additional shilling.²⁷⁶

These glimpses of dissent and disagreement at the manor court are rare but telling. Firstly, they show that the courts were not moribund, as sixteenth-century manorial institutions are sometimes assumed to be. Tenants cared about what went on there, and tensions could run high enough for uncontrolled outbursts like those quoted above, even though those who spoke up must have expected to be penalised for doing so. Moreover, it shows that there must have been a basic expectation of honesty and fair dealing at the court, at least between the more established tenants, otherwise its perceived absence would not rouse such strong emotions. John Grave was named as one of the headboroughs of the leet at 35 court session between 1531 and 1556, so he would have had an insider's knowledge of how the court went about its business. Sixteenth-century justice, as Andy Wood has noted in his study of the aftermath of the 1549 rebellions in Norfolk, had a strong auditory dimension which paid great attention to seditious or out-of-place words.²⁷⁷ The considerable penalties that Grave and other open dissenters incurred demonstrate that the rest of the headboroughs were similarly concerned

²⁷⁴ Norfolk Record Office LEST Q2, Docking court session dated Thursday after the feast of St Edward, 30 Henry VIII (October 1538).

²⁷⁵ Norfolk Record Office LEST Q3, Docking court sessions dated 11th May 38 Henry VIII (1546) and the feast of the Invention of the Cross, 5 Mary I (May 1558).

²⁷⁶ Norfolk Record Office LEST Q16, Ringstead with Holme court session dated the day after the feast of St Andrew, 4 Elizabeth (1561).

²⁷⁷ Wood, *1549 Rebellions*, p. 111.

with the court's good name and reputation, and were not willing to let remarks like these go unpunished.

Grave's case, in particular, highlights one of the major threats to the credibility of the court as an impartial governing body. The account book of Anne Lestrangle, wife of the lord of the manor, mentions a payment of 16d as a reward for 'my uncle Banyard.'²⁷⁸ It is clear that 'uncle' is not meant in a literal sense here, since Anne came from an aristocratic family, but it implies, as suggested above, a possible relationship of some kind between the lord's household and the family of the most senior of the headboroughs. In an institution that was meant to govern the common resources of the manor fairly and by the consent of all the tenants, any suspicion that there was one law for those with ties to the lord and another for the rest could undermine the participants' trust. Without trust, the free-rider problem would begin to apply, the infrastructural power of the manor would be lost, and inhabitants may start to practice the arts of resistance and non-cooperation.

The tenants would have been aware of these problems to an extent, and being presented in the manor court was no bar to future participation, either on the jury or as a manorial official. It was possible to be elected as ale-taster or constable soon after quite drastic infringements of customary or common law. Close reading of the presentments at the Hunstanton and Docking courts reveals the existence of 'problem families', repeatedly presented for offences beyond the minor matters of stray animals or gorse-gathering. These tenants nonetheless reappeared on the jury and even as officers in subsequent courts. Henry Deynes of Hunstanton is named as one of the headboroughs at many courts between 1531 and 1552. But in 1538 he was presented for breaching the lord's right of sea wreck by taking sailcloth, tack and sheets from other tenants by force (*vi & armis*); in 1542 his wife Elizabeth was presented for being a common scold (*obiurgatrix*) and for stealing her neighbour's ducks; while in 1545, Henry was presented for keeping a 'grett mastiff' which attacked his neighbours' animals, for harbouring a thief (presumably other than Elizabeth), and for hosting illicit card games.²⁷⁹

²⁷⁸ Norfolk Record Office LEST P3-2, household accounts of Anne Lestrangle 1536-37.

²⁷⁹ Norfolk Record Office LEST Q2 and Q3, various Hunstanton with Holme manor court sessions.

Henry and Elizabeth Deynes' transgressions pale in comparison to those of the Wandham family of Docking. The name of John Wandham (alias Bervell) has appeared in this chapter already for slandering the jury and for causing the death of a neighbour's cow. There seem to have been two John Wandhams, perhaps cousins or an uncle and nephew, as a person of that name appears in the court rolls both before and after the will of a John Wandham which was administered in 1556.²⁸⁰ Besides the offences already mentioned, one John Wandham or another was presented between 1532 and 1571 for bullying a widow of Docking, for 'not obeying the precepts of the court'; repeatedly for blocking a footpath called a 'beresty' next to his property, incurring pains of up to 10s; twice for being a common scold; once for being a barrator (troublemaker) against his neighbours; for keeping another tenant's cart wheels and other gear without their consent; for accroaching on the lord's land (the only Docking tenant to be amerced for doing so); and for hitting a neighbour with a 'grett pleyn staff' so that their life was despaired of.²⁸¹ A relative, Thomas Wandham, was also presented for slander in 1558 when he claimed that George Houghton had told him he was 'marcyed but 3d.' Houghton swore before the court that he had said nothing of the kind to him or to anyone else, and Thomas Wandham was duly amerced a shilling, four times what he claimed George had told him he was worth.²⁸² Despite this exasperating pattern of behaviour, John Wandham's name appears at several courts as a juror between 1533 and 1552, and as ale-taster in 1557. The years where he did not appear as a juror, he may have been living elsewhere in Norfolk. A quarter sessions writ from 1532 relates that a John Wandham, smith, *formerly* of Docking, dispossessed a widow of Rignstead of an acre of land.²⁸³

Most incongruous of all was the election of Thomas Holdenby as constable of Hunstanton and Holme for 1572-73. He had already held the office in 1565-66, despite previous presentments for hosting illicit card games and for failing to attend and give verdict as a headborough. In 1569 he was once more amerced for stealing poultry from Hamon Lestrangle (shortly to become lord of the manor) and from the bailiff, John Pedder. At Hamon Lestrangle's first leet court as lord, in

²⁸⁰ Norfolk Record Office, ANF will register, Liber 16 (Beales), fo. 16.

²⁸¹ Norfolk Record Office LEST Q1, Q2 and Q3, various Docking manor court sessions.

²⁸² Norfolk Record Office LEST Q3, Docking manor court session dated the feast of the Invention of the Cross 5 Mary I (May 1558).

²⁸³ Norfolk Record Office C/S 3/1, Norfolk quarter sessions records 24 Henry VIII.

October 1571, Thomas Holdenby was presented for permitting lechery between 'his boy Thomas' and a certain (*blank*); for committing insult and affray upon the bailiff John Pedder; and for 'making rescue' (i.e. recovering impounded livestock) along with his son Thomas against the same John Pedder. Meanwhile, his wife Joan was presented for scolding Elizabeth Lestrangle, the new lady of the manor. His two daughters and a third woman were presented for bearing bastard children conceived at his house and leaving them in the 'yate hous de Hunston', committing 'hamsok' (breaking and entering) against Elizabeth Lestrangle in the process. Yet the following autumn he was elected to the office of constable, apparently in his absence, as his name does not appear as a juror.²⁸⁴ In this instance the election may be interpreted as a kind of punishment. Cord Oestmann suggests that being constable was an 'odious responsibility... which brought its holder no immediate monetary rewards.'²⁸⁵ The demands on the time and attention of a constable were increasing throughout the sixteenth century as the number of government duties imposed on them multiplied. Oestmann believed that the job was passed around the wealthier families in the village as a kind of civic duty, but in this case at least the court seems to have made the poacher turn gamekeeper to dissuade him from offending again. If so, it failed, as the following autumn neither Thomas Holdenby nor his son Thomas showed up to the court, nor to the two 'menuryng dayes' they owed as service to the queen.²⁸⁶

The cases above demonstrate that the manor courts at Hunstanton and Docking both tried to keep all their tenants participating in the governance of the community through the manor court, whatever their character and conduct. This is not as illogical as it may appear. The manor courts at Hunstanton with Holme and Docking had little coercive force at their disposal. The constables charged with keeping order had little to back them up in their thankless task, and the amercements levied by the court depended firstly on the culprit appearing at court to pay it, and in the last resort on enforcement by the lord, through the bailiff and steward. Even then, in times of trouble like 1549, the lord's lack of immediate despotic power could be exposed. The manor court, if it was to function at all, had to preserve the consent of those with a stake in the

²⁸⁴ Norfolk Record Office LEST Q3, Hunstanton with Holme manor court sessions dated 18th October 13 Elizabeth (1571) and 20th October 14 Elizabeth (1572).

²⁸⁵ Oestmann, *Lordship and Community*, p. 229.

²⁸⁶ Norfolk Record Office LEST Q3, Hunstanton with Holme court session dated 22nd October 15 Elizabeth (1573).

community. This meant all the resident tenants were expected to attend the court and be co-opted onto one of the juries. Those running the village through the manor court could not afford to have sections of the community existing effectively outside their jurisdiction, lest others follow the example and their authority quickly crumble to nothing. With this in mind they blended sanctions for anti-social behaviour with an effort to keep difficult neighbours on board.

3.6 The leet court and the quarter sessions

In between their various misdemeanours, Henry Deynes, John Wandham (or at least, the younger of the two men of that name who appear in the Docking records) and Thomas Holdenby served not only as jurors and manorial officers in their home manors, but also as jurors for the hundred of Smithdon at the quarter sessions. They did so alongside other prominent inhabitants of the two manors. The table below lists the individuals listed as quarter sessions jurors or constables who can be identified as inhabitants of Hunstanton or Docking.

Ref (NRO)	Date	Hunstanton	Docking
C/S 3/1	1532-33		Robert Crispe Thomas Warner* Humfrey Borell*
C/S 3/2	1539-40	John Grave Richard Brown	Thomas Warner ^a
C/S 3, roll 4	1542-43	Henry Deynes	Thomas Warner ^a Roger Houghton† John Crispe sen. Robert Fynne
C/S 3/6	1545-46	Richard Brown	Thomas Warner* Robert Fynne Nicholas Starcken

C/S 3/7	1547-48	Robert Grome	Edmund Aleyn
C/S 3/8	1549-50	Edmund Gybson William Bretton	Robert Wiseman
C/S 3/5	1556-57	Thomas Brown	George Houghton gent† Edmund Aleyn Richard Myddlebroke
C/S 3/5A	1558-59	Thomas Holdenby Thomas Brown	Roger Carter Robert Wiseman Richard Myddlebroke
C/S 3, box 6	1561-62		Richard Myddlebroke* Robert Crispe John Wandham Robert Fynne
C/S 3, box 6	1562-63	John Gybson William Bretton	Roger Crispe Edmund Aleyn
C/S 3, box 7	1564-66	John Banyard John Makemead	Roger Carter John Wandham Anthony Aleyn
C/S 3, box 8	1569-70		George Houghton Robert Wiseman

Table 3.4 Men identifiably from Hunstanton or Docking who served as quarter sessions jurors or constables, c.1532-70. All served as jurors for Smithdon Hundred, except where indicated as below:

*denotes a juror listed as serving for the county of Norfolk at large

†denotes a juror listed as serving for the Duchy of Lancaster estates in Norfolk at large

^adenotes when Thomas Warner was one of the two chief constables of Smithdon Hundred

The survival of the Norfolk quarter sessions records from the mid-sixteenth century is patchy, and it is possible that some other inhabitants of the case study manors also served as jurors. At least twelve separate Hunstanton men and eighteen from Docking all fulfilled some function at the sessions, mostly as jurors representing the hundred of Smithdon. They sat alongside representatives from the other villages in the hundred; other jurors can be identified as coming from Holme, Ringstead, Anmer, Fring or Sedgeford. The quarter sessions they attended were usually held at Walsingham, but occasionally at East Dereham. Petty sessions, whose records do not survive, were held in other places, including one at Docking in August 1539.²⁸⁷

The involvement of Docking and its inhabitants in the business of the quarter sessions far exceeded that of Hunstanton. As well as providing more jurors to represent the hundred, incidents taking place in Docking appear sporadically in the among the court writs. A session held in 1532 reveals that in February 1531 Robert Watson broke into an enclosure belonging to Humfrey Borell in Docking, and cut down and carried off gorse growing there.²⁸⁸ If this appears a trivial matter to bring before a higher court, it may be explained by the presence of Borell as a juror for the county at the same sessions. In the same year, it was reported that Robert Cokkyford, a tailor of Docking, 'excited and procured' Henry Wraske, a servant of the widow Alice Sneth, away from his duties. Perhaps her difficulty in finding reliable servants explains the incident recorded in the Docking leet court in 1532, when Alice Sneth's dog 'badly bit various of the lord king's liegemen crossing or travelling along the road.'²⁸⁹

Further references to inhabitants of Docking recur throughout the quarter sessions records. In 1554 Humfrey Aleyne was required to stand bail for William Aleyne, a thatcher, and John Warde, a husbandman; in 1556, George Houghton (described as a gentleman) and Richard Myddlebroke did the same for Robert Wiseman, a husbandman, and, as the table above shows, an occasional quarter sessions juror himself; at the Lynn session in January 1559 it was reported that John Warde of Docking had broken into the close of John Wandham and wounded him 'so that his life was despaired of.' In October 1562 the same John Wandham was himself bailed under pain

²⁸⁷ Norfolk Record Office C/S 3/2, quarter sessions rolls 31 Henry VIII.

²⁸⁸ Norfolk Record Office C/S 3/1, quarter sessions rolls 24 Henry VIII.

²⁸⁹ Norfolk Record Office LEST Q1, Docking court session dated St. George's Day, 24 Henry VIII (1532).

of forty marks and bound over to keep the peace, but meanwhile Wandham obtained a writ forcing Richard Myddlebroke to provide security for his conduct towards Wandham, who (in a standard legal formula) claimed to fear for 'life and limb and the burning of his houses.'²⁹⁰ The kind of disputes that ended up at the sessions seem to have been those between the most prominent inhabitants of the village, and often those who had experience of attending the sessions as jurors.

In this context it is notable that the leet court of Docking twice presented tenants as 'barrators,' those who stirred up unnecessary disputes between neighbours; the two men presented were John Wandham (the elder, d. 1556) in 1539 and Robert Wiseman in 1545.²⁹¹ These two, along with the younger Wandham, George Houghton and Richard Myddlebroke, were part of a small group of inhabitants at Docking whose disagreements could not be contained by the leet court of Docking Hall, but required the attention of the Justices of the Peace and the coercive power they could command.

The same was not the case at Hunstanton. Although, as the section above indicates, the village did not lack relatively wealthy and unruly inhabitants, no whisper of disturbance there appears in the quarter sessions records. John Grave, Henry Deynes and Thomas Holdenby all served as sessions jurors, and all became involved in colourful altercations with their neighbours, but they did not bring their disputes to the sessions. Three potential reasons can be put forward to explain the different relationship the two case study communities had with the quarter sessions.

The first reason concerns the presence or absence of the manorial lord. Docking lacked a dominant figure like Thomas or Nicholas Lestrangle, whose wealth, power and connections greatly exceeded everyone else in the village. The influence of the Lestranges on one side or the other in a dispute in Hunstanton would likely prove decisive, even if the losing party felt themselves hard done by. Alternatively, they might put pressure on the parties in any dispute to

²⁹⁰ Norfolk Record Office: C/S 5, quarter sessions rolls 1 & 2 and 3 & 4 Philip & Mary (1554-56); C/S 3/5A, quarter sessions rolls 1 Eliz.; C/S 3, box 6, quarter sessions rolls 4 Eliz.

²⁹¹ Norfolk Record Office LEST Q2, Docking court sessions dated Monday, feast of St Edward the King, 31 Henry VIII (1539); Saturday after the feast of St Faith, 37 Henry VIII (1545). The common-law offence of 'being a common barrator' was defined by the twentieth-century legislation which abolished it as 'persistently stirring up quarrels in the Courts or out of them.' The Law Commission, 'PROPOSALS TO ABOLISH CERTAIN ANCIENT CRIMINAL OFFENCES: Laid before Parliament by the Lord High Chancellor pursuant to section 3(2) of the Law Commissions Act 1965', <http://www.bailii.org/ew/other/EWLC/1966/3.html>, accessed 17/04/2020.

reach a settlement outside the courts. At Docking, however, though the Houghton family seem to have been the wealthiest, they lacked seigneurial authority and their gentry status is inconsistently attested in the documents. With no authority to control clashes of personality or interest, disputes could spiral into litigation or violence.

The second potential explanation lies in the degree of polarisation of wealth in the two communities. In the absence of better documentation from Docking, it is not possible to say for certain that land ownership and wealth were more polarised here, but there are suggestions this was the case. Roger Houghton's hundred-acre inheritance in 1541 and his family's claim to gentry status have been mentioned already, while the will of Robert Fynne, made in 1565, bequeathed a flock of 45 sheep to his wife, and high-status goods including latten candlesticks to his daughters.²⁹² Docking's inland position and landscape suited to sheep-farming would also suggest that it was a likely candidate for the engrossment of landholdings and gradual extinction of medium-sized tenants described in Chapter 1. By the mid-to-late sixteenth century, it may be that Docking's wealthiest tenants were beyond being restrained by the modest sanctions that the leet court could impose on them. By contrast, the relatively equitable distribution of land at Hunstanton has been discussed above, with the exception of the minor-gentry Pedder family, who appear to have preserved an amicable relationship with those above and below them in the social scale.

Finally, Hunstanton and Docking seem to have been affected differently by the social tensions which prevailed in mid-sixteenth century England. Widespread unrest occurred across England in 1549, perhaps triggered by the hopes raised by the government's appointment of commissions of inquiry into the enclosure of land. Rebellions flared in several places, including a major uprising in the south-west between June and August.²⁹³ However, the greatest disturbances took place in Norfolk, culminating in the last great peasant uprising in English history, known as Kett's Rebellion. The shock and revulsion of the Norfolk gentry at the rebellion find voice in the

²⁹² Norfolk Record Office, ANF will register Liber 21 (Waterladde) fo. 282, will of Robert Fynne of Docking, dated 7th April 1565.

²⁹³ Wood, *1549 Rebellions*, pp. 44-53; Mark Stoye, "'Kill all the gentlemen'? (Mis)representing the western rebels of 1549,' *Historical Research* 92 (2018), pp. 53-54.

language used in a quarter sessions writ in its aftermath, which claimed that the rebels (contrary to their own petitions) aimed for the 'final destruction of the said lord king and his power,' and estimated the size of eventual rebel camp at Mussold (Mousehold) Heath at six thousand men, armed with 'swords, clubs, glaives, bows, arrows, harnesses, bombards, cannon and other armatures.'²⁹⁴

Jane Whittle linked the rebellion to the growing polarisation of wealth in Norfolk at this time, identifying two social classes especially prone to become involved: 'wealthier men with large landholdings who competed with the gentry in the rural economy, and smallholders and the landless who were suffering from falling real wages and the rising price of land.'²⁹⁵ George Houghton of Docking was one of the former. He was pardoned for his part in the rebellion, and Whittle speculates that he may have been intimidated, presumably by the his poorer neighbours, into joining it.²⁹⁶ Alternatively, he may have been motivated by jealous rivalry with local gentry like the overbearing Townshends, or by the opportunity to gain revenge for grievances that do not appear in any record, but which, given the numerous examples of personal animosity from sixteenth-century Docking, probably existed.

²⁹⁴ Norfolk Record Office C/S 3/8, Norfolk quarter sessions rolls, 3 Edward VI (1549-50).

²⁹⁵ Whittle, 'Lords and Tenants,' p. 5.

²⁹⁶ Whittle, 'Lords and Tenants,' pp. 25-26.

3.7 Conclusion

The decision to make the Hunstanton and Docking courts into courts leet suggests a commitment, at least on the lords' part, to keeping the manorial court relevant and functioning. As noted above, this occurred at a time when local courts around England were losing their importance in comparison with parochial institutions and courts with a wider jurisdiction. Both courts made use of their expanded powers, enforcing statute law and punishing what they regarded as immorality and anti-social behaviour.

Both also undertook the usual business of a manorial court in governing the shared agricultural life of their communities. This took the form of punishing nuisance and trespass on the inhabitants' landholdings and trying to ensure that animals stayed under control, and also of policing the upkeep of common resources and utilities: the network of roads, paths and waterways, and the common pasture. The courts also tried to police the physical boundaries of the manor. The testimony of manorial tenants was often accepted in boundary disputes up to the highest level, and at a Docking court in 1531 there was a statement on the right of the lord of Southmere to pasture his sheep in the fields of Docking made by 'old and trustworthy' (*veterum fidedignorum*) tenants.²⁹⁷ In the large area covered by the manor of Docking with land neighbours on all sides, it was sometimes difficult to keep shepherds from other manors from trespassing, the position and significance of the manor's physical borders were not in dispute.

The system by which the tenants undertook this business, with its enforcement of the boundaries of the manor against outsiders, its rotating manorial officers, its oversight by the jury (which seems usually to have represented half or more of the male householders resident in the manor), its sanctions which started small and increased in the face of continued rule-breaking, suggests that the manor court was fulfilling some of the functions of a sustainable institution for governing common resources, as suggested in Chapter 2.

The tenants' investment in the process of manorial justice is illustrated by several indicators discussed above. Attendance at court and service on one of the juries was both obligatory and

²⁹⁷ Norfolk Archives LEST Q1, Docking manor court roll dated Tuesday of the Vigil of St Faith, 23 Henry VIII (October 1531).

widely observed. Those who could not come usually made sure that one of the other jurors registered an *essoin* for them, and it was rare for any tenant living in the manor to be a regular absentee. Their efforts to govern their community through the court was sustained throughout the sample period, showing no sign of slackening before the end of the series in the 1570s. In both courts, but especially at Docking, the manor court settled private disputes between tenants using the plea system, with their neighbours serving as arbitrators. The occasional virulent disagreements that broke out during the court sessions, their verbatim recording in English, and the large amercements imposed on such open dissenters all suggest that fair dealing and sober conduct were expected to be the norm at manor courts, and that perceived deviation from them was taken seriously. The manor court offered some advantages over other means of settling disputes. The court was free to use and decisions were quick and final. Given that those judging any dispute would have known both parties, impartiality would have been difficult to ensure, but higher courts in sixteenth-century England were by no means immune from vested interests and personal relationships. Especially at Docking, it seems that tenants were willing to bring their disputes before their peers at the manor court for arbitration before taking them to a higher court – although, as the evidence from the quarter sessions records shows, some cases could not be settled at a village level.

Not all the tenants were of equal status. Some were considerably wealthier than others, with Docking displaying greater inequality than Hunstanton. This fact seems to have dictated which tenants were elected to serve as constable, an office which required a substantial time commitment from its holder, as well as, presumably, some degree of social standing within the community if it were to be carried out effectively. The social and economic changes at work in sixteenth-century East Anglia accentuated wealth inequality among the peasantry, and at Docking a small group of families emerged who held more land (though exactly how much is difficult to say given the lack of sixteenth-century rentals and the number of absentee owners of free land), kept flocks of sheep which they maintained by leasing the right of *foldcourse*, and had contacts beyond the village through service to the local gentry or on juries at the quarter sessions.

Docking was, moreover, not closely governed by any higher authority. No gentry family was resident in the manor, and the early seventeenth-century rentals suggest that it brought in a

modest income to its lords, who therefore had little incentive to keep a careful watch over its affairs. Nor was any individual who did live there of sufficient prominence to dominate. This may be reflected in how often disagreements spilled over into violence. Though the Hunstanton court recorded more instances of affray than that of Docking, no violence at Hunstanton matched the stabbing of Robert Wiseman by Richard Athill in 1534, or when John Wandham beat Christopher Walpole with a 'grett pleyn staff' in 1556, both of which led to the victim's life being 'despaired of.'²⁹⁸ As discussed above, disputes from Docking also reached the Norfolk quarter sessions every few years, while those from Hunstanton did not. At the same time, Docking's lack of a powerful local leader seems to have spurred the tenants to use their initiative to gain a measure of stability. Tenants put their disputes before the manor court for arbitration in a way that did not occur in Hunstanton, and this led, on at least one occasion, to the empanelling of a separate jury (not named in the court record) to decide the merits of pleas before the court.²⁹⁹

Hunstanton's manor court, meanwhile, was very active throughout the study period, each court containing numerous presentments for animal trespass and many requiring tenants to replace metes and boundary stones which they had moved, whether deliberately or by accident. Moral laxity, especially illicit gaming and alehouse-keeping, was reported and punished. Physical violence was also reported assiduously, with 117 presentments for affray or other violent disputes recorded between 1531 and 1576. The expectation that tenants, especially the more prominent among them, should attend every session of the court was taken seriously. The total number of jurors from Hunstanton vill was usually around 20 of the approximately 30 tenants living there. Tenants who could not attend were either amerced or essoined, with the essoin sometimes giving the reason for absence, as in 1562, when Henry Makemayde and William Gibson were noted to be 'upon the sea' [*sup' mare*].³⁰⁰ Most tenants could probably expect to hold an elected office at some point, the wealthier tenants as constables and the rest as ale-tasters. The reach and thoroughness of the Hunstanton court could not prevent occasional outbreaks of dissent

²⁹⁸ Norfolk Record Office LEST Q1 and Q3, Docking court sessions dated Monday after the feast of Sts Philip and James, 26 Henry VIII (1534) and 22nd April 2 & 3 Philip and Mary (1556).

²⁹⁹ Norfolk Record Office LEST Q3, Docking court session dated 15th October 7 Elizabeth (1565).

³⁰⁰ Norfolk Record Office LEST Q3, Hunstanton court session dated 2nd May 4 Elizabeth (1562).

and disagreement between prominent tenants, as discussed above; but unlike at Docking, or indeed at the neighbouring village of Holme, these did not break out into disorder sufficient to involve the quarter sessions or other higher courts. Nor is there any evidence, as there is at Docking, for any disturbance at Hunstanton during Kett's Rebellion, suggesting that the social conflict endemic to Norfolk in the mid-sixteenth century was less prevalent here.

Though both the leet courts in this case study were more active than was usual at this time, that of Hunstanton appears to have been more successful in maintaining order and harmony. It is argued here that the main explanation for this combines ecological and societal factors. From an ecological point of view, Hunstanton's coastal position and more fertile soils afforded its inhabitants flexible means of subsistence, more ways of raising much-needed cash, and thus more opportunity to weather sixteenth-century inflation. The presence of the Lestrange family in the manor, meanwhile, assisted in limiting inequality. The Lestranges bought from and employed many locals, and they may have had a deliberate policy of leasing land in relatively equal portions. Their presence may also have encouraged tenants to settle their differences without recourse to courts above the village level, either by acting as an impartial arbiter or by throwing their powerful influence on one side of a dispute.

Docking possessed little fertile soil, no coastal marshes and no surface fresh water, meaning its inhabitants lived almost purely by sheep-corn agriculture. This was, by the study period, becoming increasingly dominated by the gentry and by those among the peasantry who could command the means to farm a share of the foldcourse. The polarisation that ensued brought about the ill-feeling that plagued mid-sixteenth century Norfolk. Docking was no exception to this trend. A handful of families dominated to the extent that the leet court did not have sufficient authority or sanctioning power to control their rivalries, and the quarter sessions were obliged to bind them to good behaviour; while a regular offender like the elder John Wandham could apparently ignore repeated ameracements and commands from the jurors. Nonetheless, the Docking court by no means failed entirely. It remained active and well-attended until the end of the study period, and remained in use as a forum for settling minor disputes.

Chapter 4

Yorkshire case study: Tinsley and Hooton Roberts

4.1 Introduction

The next case study focuses on the manors of Tinsley and Hooton Roberts in the West Riding of Yorkshire, which formed part of the estates of the Wentworth family of Wentworth Woodhouse. Both manors possess sporadic court records dating as far back as the late fourteenth century, but court sessions (or their surviving records) did not become more regular until the sixteenth. Land tenure is also recorded in two sixteenth-century rentals from Tinsley and one from Hooton Roberts. Other evidence is drawn on where it contains relevant information, especially correspondence, property deeds and other archival material from the Wentworth family archives, and the wills of some of the people named in this chapter.

4.2 The Wentworths and their estates

By the seventeenth century, the Wentworths, with their seat at Wentworth Woodhouse northeast of Rotherham, had developed into one of the leading gentry families in Yorkshire. The most famous, and penultimate, head of the family was Thomas Wentworth, later Earl of Strafford (1593-1641), who became one of the two parliamentary knights of the shire for Yorkshire in the 1620s, then Lord Deputy of Ireland, and eventually chief minister to Charles I. Previous Wentworths had served as Justices of the Peace and as High Sheriff of Yorkshire. By the mid-sixteenth century the family had acquired extensive lands in and around Yorkshire by virtue of a fortuitous unbroken chain of direct male descent stretching back to the early fourteenth century, when the earliest reliable evidence for them is found.

This string of fathers and sons, alternately named Thomas and William, meant that any land acquired by the family either in marriage or by purchase, or by inheritance from more distant relatives, remained in the family's possession. Younger sons and daughters of the Wentworths were provided with education, apprenticeships, or marriage portions, but the integrity of the

estate which passed to the eldest son was preserved. Already by the 1520s, a plaintiff named Thomas Meryng wrote a petition to the Court of Chancery for his claim to the tithe corn of the 'Townes and hamlytts of Sandall Walton Chapilthorp & Mylle Thorpe', which he claimed had been let to him by Thomas Wentworth of Wentworth Woodhouse (d. 1549). He justified resorting to Chancery by stating that 'the seid Thomas Wentworth is so ryche in Substance so gretely kynd & alyed in the seid County of Yorke so as your said Orator ayenst hym hathe no remedy by the Course of the Comyn Lawe.'³⁰¹ This may perhaps be dismissed as the conventional opening to a petition to the Chancery court, but the inquisition *post mortem* of the same Thomas reports that he held in Yorkshire the manors of Wentworth Woodhouse, Pollington, Hooton Roberts, Barbot Hall in Greasbrough, moieties of the manors of Tinsley and Wath upon Dearne, and extensive properties in other manors.³⁰² This estate was then almost doubled on the marriage of his grandson Thomas (d. 1587) to the heiress Margaret Gascoigne. This Thomas was admitted as a fellow of Lincoln's Inn in 1549, later serving as High Sheriff of Yorkshire.³⁰³ His son William Wentworth (d. 1614), who was appointed, albeit reluctantly, to the same office in 1601, purchased Harewood Castle and its estates north of Leeds.³⁰⁴ William was also the recipient of one of the first batch of baronetcies (hereditary knighthood) created by James I in 1611, by which time he was one of the wealthiest gentlemen in the county.³⁰⁵

As noted with the Lestranges in Norfolk, the sixteenth- and seventeenth-century Wentworths preserved and curated their archive of manorial records. Their usefulness to the Wentworths was far from merely symbolic or theoretical; their own attitude to them was practical. A rental of Hooton Roberts from 1511 was endorsed, likely by William Wentworth (d. 1614) himself, 'Many litle old Evidences of Lands in Gresbrook Moreby Halgh &c. Useless.'³⁰⁶ A slightly earlier court roll is endorsed 'for Hunt & Hooton against Mr Reresby.'³⁰⁷ These endorsements can be dated with near-certainty to the late 1590s, when William Wentworth became embroiled in a

³⁰¹ The National Archives, C1/543/24, Meryng v Wentworth.

³⁰² The National Archives, WARD 7/22/90, *inquisitio post mortem* of Thomas Wentworth, 1549.

³⁰³ Sheffield Archives, WWM add 1986/25, drawer E, 30, attesting to Thomas Wentworth's admission to Lincoln's Inn on payment of a hogshead of wine.

³⁰⁴ *Wentworth Papers 1597-1628*, ed. J. P. Cooper, Camden Fourth Series vol. 12, London (1973), pp. 30-35.

³⁰⁵ J. T. Cliffe, *The Yorkshire Gentry: From the Reformation to the Civil War* (London, 1969), p. 111.

³⁰⁶ Sheffield Archives, WWM C/6/27, rental of Hooton Roberts (1511).

³⁰⁷ Sheffield Archives, WWM C/6/22, Hooton Roberts court roll (1492).

legal dispute with the head of the neighbouring Reresby family over grazing rights in Hooton Roberts, a dispute which spilled over into open violence in Hooton itself, where an employee of the Wentworths was stabbed and injured, at a quarter sessions where both Wentworth and Reresby served as Justices of the Peace, and which demanded the attention of the local magnate, the Earl of Shrewsbury.³⁰⁸ The dispute is discussed in more detail in the section on Hooton Roberts. A little later, William Wentworth described how he had deployed ‘a verie ancient charter and dyuers ancient rentals and court roolles’ in a separate dispute with Shrewsbury himself over eight acres of land in Orgreave, part of the manor of Tinsley, in which Wentworth successfully sued two of the earl’s men for trespass.³⁰⁹ William Wentworth seems to have become embittered with his dealings with neighbouring gentry and nobles. In his letter of advice to his son Thomas, he warned him that ‘whosoever comes to speak with yow, comes premeditate for his advantage,’ and cautioned him against making friends with gentry with estates anywhere near the Wentworths’ own.³¹⁰

Besides the practical legal value of keeping and consulting manorial records, a number of documents in the Wentworth archive attest to a conscious effort to boost the family’s contemporary prestige using the authority of the past. By the late sixteenth century the Wentworths were one of the most powerful families in Yorkshire, and they set about using their archive to project this standing back onto previous generations. Their possession of much of the relevant documentation helped them achieve this effect, even if the medieval deeds in the collection do not always entirely support the Wentworths’ self-presentation. The gap between reality and the Wentworths’ back-projections is clearest in a draft pedigree which is undated but is probably from the late sixteenth century. This traces the direct male line of the family back to the fourteenth century in reasonable detail, noting the marriage and William Wentworth to

³⁰⁸ The National Archives STAC 5/A13/4 gives an account of the skirmish at Rotherham Quarter Sessions in 1599, at which William Wentworth and Thomas Reresby ‘rayled one another with most despightfull uncomely and undecent speeches not fit herein to be rehearsed... ‘standing uppon the benche stroke another with their fists... pulled each other by the eares and Beard and in the end drewe out their Weapons... and thereby drewe bloud one of thother.’ This occurred more than two years after the Earl of Shrewsbury described in a letter to Wentworth how he had tried to smooth over the quarrel: ‘he [Thomas Reresby] will be contented (uppon my direction) to acknowledge y^t the wordes y^t he used to y^r men of you were rashe & callouse, & herafter will give you no cause of offense...’ WWM StrP 2/4, Wentworth letter book vol. 20, no. 81, letter dated 21st January 1596 [1597 n.s.].

³⁰⁹ *Wentworth Papers*, pp. 43-45.

³¹⁰ *Wentworth Papers*, pp. 12-14.

Lucy de Tynneslawe, the heiress to Hooton Roberts and half of Tinsley. Further into the past there is a string of names stretching back to a 'Reynold Wyntword', an Anglo-Saxon lord who had held the manor of Wentworth at the time of the Norman Conquest. A few generations later the Wentworths supposedly married into the 'Woodhouse' family, after which the family manor became known as Wentworth Woodhouse.³¹¹ This and other pedigrees and genealogies became the officially accepted version of the past. A visitation of Yorkshire by a royal herald in 1563-64 recorded the same details.³¹² The visitation notes the existence of gentlemen such as 'Mychaell Wentworth Esquyer' and 'Hugh Wyntworth Esquyer' who, if real, must have lived no later than the twelfth century – some time before the general use of surnames or of 'esquire' as a social rank. It seems clear that these people are fictional, especially since there is no reliable evidence even in their own archive for a gentry Wentworth family having existed before the fourteenth century. The manor of Wentworth is noted in Domesday Book to have been held by a Rethar in 1066 and by Roger de Bully in 1086.³¹³

A similar appreciation of manorial antiquity appears in the court documents of Tinsley. The court rolls grow longer and more detailed by the sixteenth century, as though the lords were more conscious of the privilege of holding a manor court and the social status that went with it. The size of the jury or homage at each court grew from six or eight in the fifteenth century to as many as sixteen. Fines for suit of court rose, especially those levied on high-profile free tenants like the Earl of Shrewsbury, from a few pence to 3s 4d. Some of the later rolls add details on where within the manor each of the free tenants held their land.³¹⁴ Fewer abbreviations are found in the sixteenth-century rolls, as though the clerk was under specific instructions to be thorough and produce as physically impressive a document as possible. Examples of these elaborate mid-sixteenth-century court rolls are displayed in the sections on the Tinsley and Hooton Roberts manor courts. The court carefully preserved records of the

³¹¹ Sheffield Archives, WWM add 1986/25, Drawer E, 11, draft pedigree of the Wentworth family.

³¹² *The Visitation of Yorkshire in the Years 1563 and 1564, made by William Flower, Esquire, Norroy King of Arms*, ed. C. B. Norcliffe (London, 1881), pp. 344-45.

³¹³ <http://opendomesday.org/place/SK3898/wentworth/>, accessed 18/07/2018.

³¹⁴ For instance Barnsley Archives NBC 15, Tinsley Manor court roll (10 September 1545).

services by which free tenants held their land, however antiquated and economically irrelevant these may be (as is shown in the section on Tinsley below).

The late-sixteenth and early seventeenth-century Wentworths' attitude towards their manorial holdings and the safekeeping of the records was thus both practical, in the sense of increasing incomes and defending legal title to land, and symbolic, in that it helped to support the family's social status at a period when they were rising rapidly from middling local gentry to the political leadership of the county. These two motives are unlikely to have seemed as distinct to the Wentworths and their contemporaries as they do today.

4.3 *Tinsley*

The reason for choosing Tinsley as a case study derived from the initial aims and scope of the PhD studentship, which was to investigate the Tinsley court rolls and use them to contribute to scholarly debates on late medieval England.³¹⁵ On closer inspection of the records, they proved not to be sufficient in themselves to support a doctoral thesis. The other case study areas were therefore chosen to provide comparators to Tinsley and the Wentworth estates. The Tinsley court rolls and other parts of the Wentworth Woodhouse Muniments nonetheless provide an illuminating insight into the workings of a sixteenth-century manor owned by a rising gentry family, in an area of England largely neglected by historians of any period before the industrial era.³¹⁶ They provide a counterpoint to most manorial studies, the case studies for which are chosen specifically (and understandably) for having long, unbroken series of court records and may thus be unrepresentative of the average manor. The lack of this useful attribute has inevitably led to some uncertainty about aspects of manorial governance at Tinsley, but what survives, especially from the mid-sixteenth century, is enough to provide a number of insights.

³¹⁵ The text of the original project description can be found at <https://www.sheffield.ac.uk/history/phd/funding-tinsley>, accessed 28/01/2020.

³¹⁶ with the exception of Hunter, mentioned above, and the work of David Hey especially on seventeenth-century Sheffield and Hallamshire.

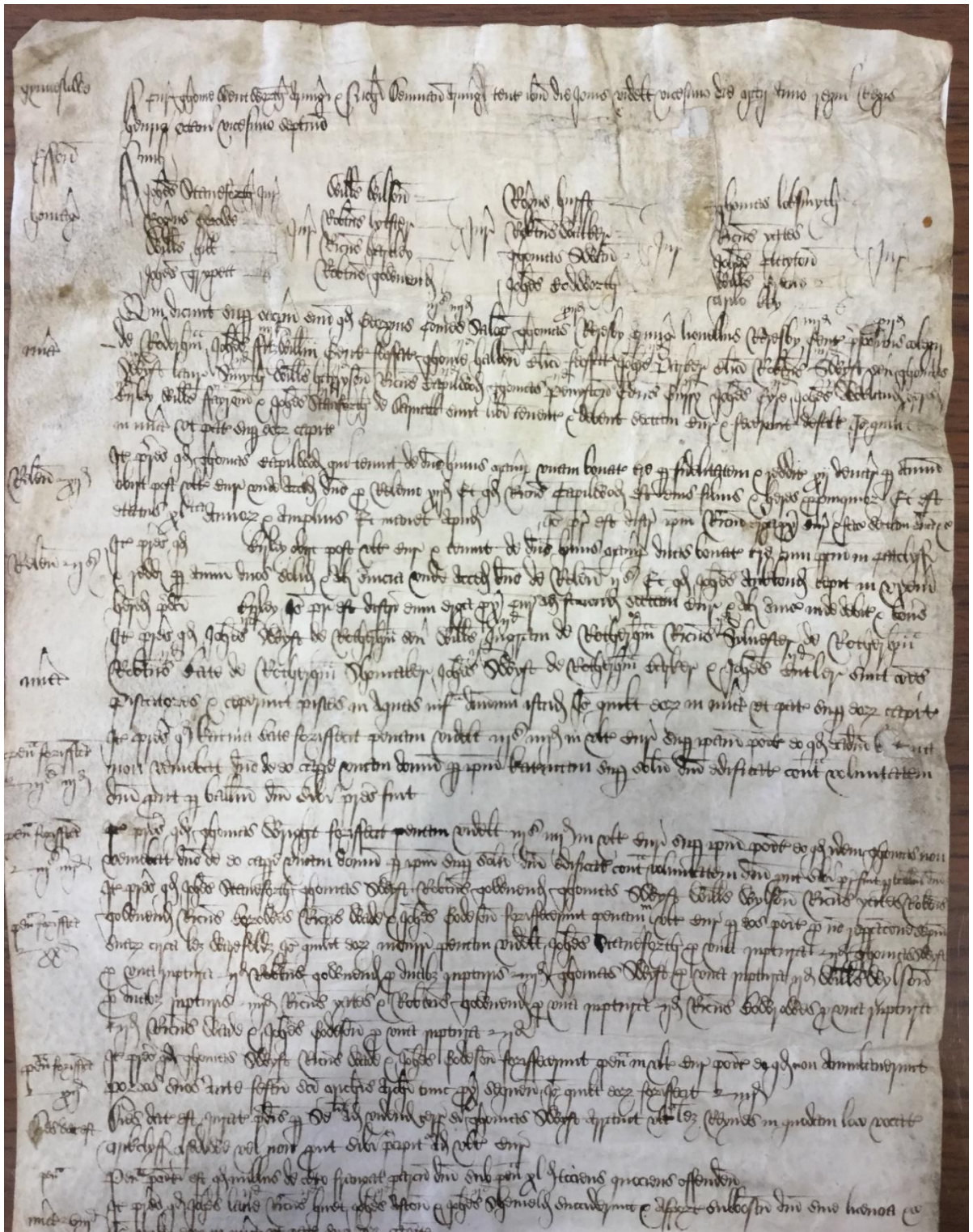


Figure 4.1: Sheffield Archives WWM C-1-27, Tinsley court roll dated 20th May 27 Henry VIII (1535)

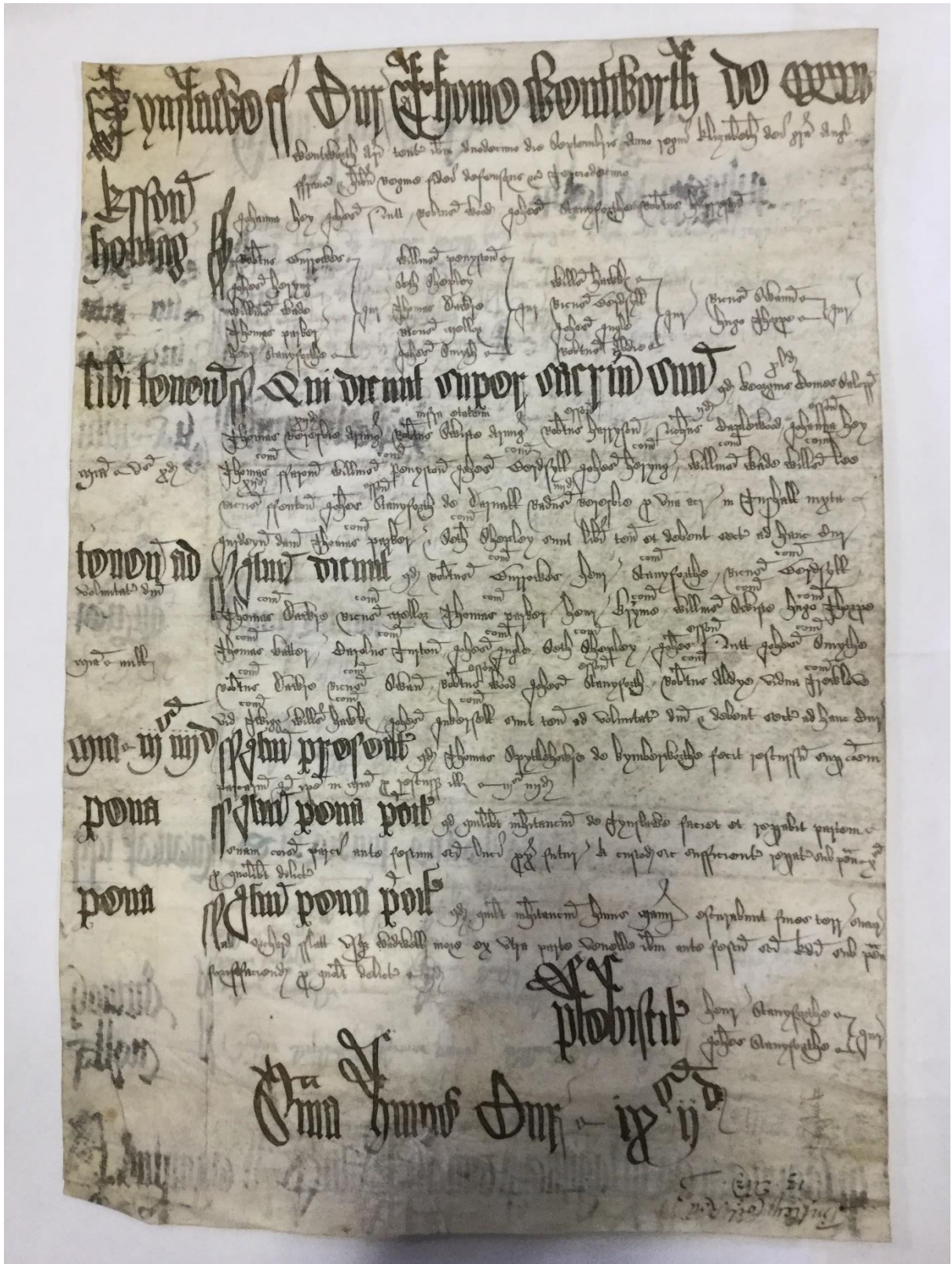


Figure 4.2: Sheffield Archives WWM C-1-46, Tinsley court roll dated 12th September 13 Elizabeth (1571)

4.3.1 Geography and economy

The manor of Tinsley covered an area of land, with Tinsley at its north-western end, extending eastwards to Brinsworth and Catcliffe, and then south along the river Rother to Orgreave. In most of the documents up to the end of the sixteenth century, the name of Tinsley is written 'Tynneslowe', 'Tynneslawe' or a variant. The latter was its original Old English name, referring to the small hill or burial mound (*-hlaw*) of a person named *Tynni.³¹⁷ In a few places in the sixteenth century it was written 'Tynsleye', suggesting the name was already being pronounced as it is today and that the old name was preserved in legal documents as a deliberate archaism. It is not clear if all of Brinsworth formed part of the manor; there were two other small manors within the bounds of the settlement called Brinsworth and Ickles, both of which comprised only a few houses and enclosures in the low-lying land around the confluence of the Don and Rother.³¹⁸ In 1559 both were held by Lionel Reresby of Thrybergh.³¹⁹ However, a Tinsley court roll of 1554 lists Lionel Reresby as a free tenant of Tinsley 'for his lands and tenements in Brynforth, Siddall and Ykkells,' suggesting that these manors did not exist as separate institutions.³²⁰ The situation is analogous to that at Hunstanton, where the manors of Mustrells and Snettertons maintained a shadowy half-existence within the larger manor.

³¹⁷ English Place-Name Society (University of Nottingham), 'Key to English Place-Names' (kepn.nottingham.ac.uk), accessed 31/01/20.

³¹⁸ The name 'Brinsworth', like Tinsley, has been altered since the study period; in the fourteenth- to sixteenth-century documents the name is always 'Brynforth' or some variant of the same.

³¹⁹ Joseph Hunter, *South Yorkshire* vol. 2 (1831, Sheffield, 1974), p. 40, quoting the *inquisitio post mortem* of Lionel Reresby, states that Ickles contained forty acres of arable land, ten of meadow and twenty of pasture, and Brinsworth five messuages, two cottages, sixty acres of arable, thirty of meadow, and twenty of pasture.

³²⁰ Sheffield Archives WWM C/1/33, Tinsley court roll dated 19th April 1 Mary (1554).

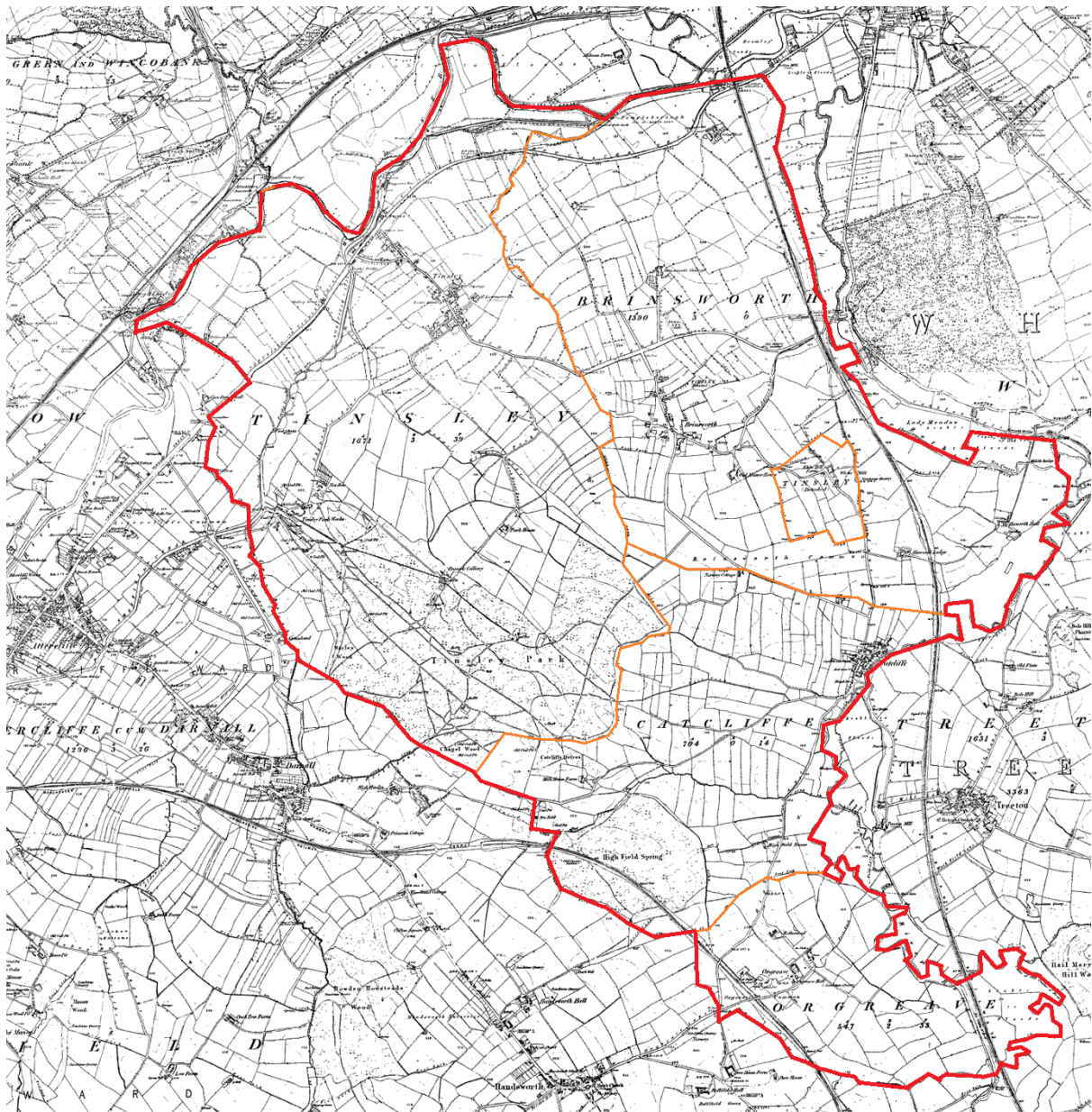


Figure 4.3: a map of the manor of Tinsley, adapted from an 1880s Ordnance Survey map. The orange lines denote (approximate) boundaries between the four townships of Tinsley, Brinsworth, Catcliffe and Orgeave. The northern and eastern boundaries of the manor are formed mainly by the rivers Don and Rother, and much of the land immediately adjacent to the rivers was prone to flooding and used for pasture. As the map shows, the manor remained primarily agricultural until well into the industrial period, barring the existence of a few coal pits in Tinsley Park and the eighteenth-century canal. Little remains of the medieval landscape today, as the area is almost entirely built-up and crossed by the M1 motorway.

The manor included a large amount of moorland, in the sense of low-lying, frequently flooded pasture, in the valleys of the Don and Rother. Minor place-names related to these wetlands occur throughout the late medieval and sixteenth-century Tinsley documents. Examples include Bradmarsh (north of Brinsworth, around the confluence of the Don and Rother), Wadehilleflatt or Waddell Moor, and Tussall Holme.³²¹

On higher ground in the south-western part of the manor there were extensive woodlands, mostly belonging to the lord's park. There is evidence of these woods, at separate times or concurrently, being used as a deer-park and for the digging of coal pits (in this part of Yorkshire the coal seams could be found immediately under the topsoil, as opposed to further east where deep mining was necessary and the seams were not exploited until the industrial era).³²² It seems likely that some of the woodland in Tinsley was assarted into arable land during the twelfth and thirteenth centuries, from the appearance of the place-name ending *-stubbyngs*, signifying a piece of land where a wood has been grubbed up and turned into farmland. A 1771 survey, with its accompanying land apportionments, shows a great deal of woodland surviving. There was enough of it left by the early nineteenth century for the local historian Joseph Hunter to wax lyrical about it, believing it to be

*a remnant of the antient forest vesture of Brigantia... the paths through the wood to neighbouring villages have the air of native tracks. There are points in them at which we have vistas of forest scenery of great beauty; and there are recesses in these woods where the depth and grandeur of solitude may be felt.*³²³

Hunter's Romantic imagination notwithstanding, in the medieval and early modern period these were working woods. The metalworking industry in the Sheffield and Rotherham area had been of importance on a national scale since at least the late medieval period, and demanded large quantities of charcoal for fuel. Thus manorial lords' ownership of woodlands in the surrounding

³²¹ These place-names can be found throughout the manor court rolls and rentals, but especially useful are: Sheffield Archives WWM C/1/4, an account of the division of the manor in 1336; Barnsley Archives NBC 17-2, an account of the bounds of the manor dating from 1676.

³²² Borthwick Institute PROB/REG 23-786, will of Thomas Wentworth (1587) refers to coal pits in Tinsley Park and Wentworth.

³²³ Joseph Hunter, *South Yorkshire: Volume II* (1831, Sheffield, 1974), p. 31.

areas could be highly profitable.³²⁴ Evidence from the Tinsley court rolls suggests that the oak and ash trees there were coppiced and pollarded, and that collecting underwood for fuel was an everyday occurrence too, only forbidden to tenants when it was done excessively or without licence. In a court roll from 1536, John Staniforth was amerced for cutting 40 oaks growing on the lord's land. These oaks were valued at only 2d each, suggesting they were coppice saplings rather than full-grown trees.³²⁵

These resources of water-meadows and woodlands, as well as fishing-rights in the river Don, would have been extremely useful for the tenants of Tinsley. The manor of Tinsley jealously guarded its jurisdiction over the 'whole stream of the Don', and could and did amerce people from Rotherham and Attercliffe even if they were fishing from the far bank, sometimes even noting what fish they caught.³²⁶ Given reasonable access to common resources like these, it would have been possible for tenants of small landholdings to supplement their incomes. There was also plenty of opportunity for alternative sources of income in the neighbourhood of Tinsley. The town of Rotherham lay immediately to the north across the river, with its range of specialist trades and market for primary produce, while Attercliffe, Tinsley's western neighbour, contained, at least by 1637, 'more cutlers than any of the other rural townships of Hallamshire.'³²⁷ In his 1551 will, John Staniforth of Tinsley described himself as a 'sheresmythe.'³²⁸ Nonetheless, the most important part of the manor to its inhabitants remained the arable fields which lay between the moor and the wood. These were divided, according to the terminology used in the manor court rolls, into 'Hardcorne' and 'Ware' fields. These names were not fixed to specific fields but referred to the use to which they were being put at various stages of the agricultural cycle. The 'Hardcorne' field seems to have been the one used for winter-sown crops, wheat or rye, judging from the court's order that all the hedges and gates around it

³²⁴ David Hey, *The Fiery Blades of Hallamshire: Sheffield and its Neighbourhood, 1660-1740* (Leicester, 1991), p. 25.

³²⁵ Sheffield Archives WWM C/1/28, Tinsley court roll dated 7 October 1536.

³²⁶ For example, Sheffield Archives WWM C/1/40, Tinsley court roll dated 12th April 5 Elizabeth (1563), which presents Christopher Byllam, draper, Robert Wilson, butcher, Thomas Rawson, tanner, George Guyves, yeoman, [] Shawe, smith, William Parker senior and junior, pewterers, and Hugh Clayton and Hugh Watts, occupation illegible, all of Rotherham, for fishing within the lordship, stating that they caught three pike, two tench and other fish.

³²⁷ Hey, *Fiery Blades*, p. 45.

³²⁸ Borthwick Institute PROB REG 13-916, will of John Staniforth of Tinsley, dated 15th July 1551.

should be repaired by the feast of Simon and Jude (28th October).³²⁹ A similar order required the hedges and gates around the 'Ware' field to be repaired by the feast of the Purification of Mary (2nd February), the Annunciation (Lady Day, 25th March) or a feast called the 'Sede Halydays', suggesting that this field was sown with barley or another spring crop.³³⁰ As is seen below, this usage was a regional one, also occurring at Hooton Roberts on the other side of Rotherham. The manor court was much concerned with keeping animals from straying onto the fields and damaging the crops. Horses and cattle were not to be allowed in, and pigs had to be 'ringed', meaning that a ring was to be put through their noses to prevent them grubbing up buried seeds and tubers.

4.3.2 Manorial history, land tenure and population

The manor of Tinsley is at least as old as the Norman Conquest; as noted above, it was mentioned in Domesday Book. By the early thirteenth century the manor belonged to the eponymous de Tynneslowe family, which the Wentworths married into. A 1336 document, termed a *participatio*, divided the manor into moieties held by William de Wynteworth and Hugh de Totill and described Totill's half in meticulous detail.³³¹ The list of witnesses contains two surnames, Sweft and Heryng, which would still be represented among the tenants of Tinsley more than two centuries later. The earliest court roll from Tinsley dates to 1382, and uniquely among all the surviving Tinsley records, refers to an act of violence, in fact a homicide: 'Item they present that Hugh Swift held a messuage & four acres of land in Brinford & committed a felony, that is he killed [*occidit*] Hugh Brake for which felony he abjured the realm,' at which the bailiff was ordered to seize his landholding into the lord's hands.³³²

The Wentworths' half of the manor stayed in the family's hands continually until the study period of this chapter, though it seems to have been temporarily mortgaged or enfeoffed in the

³²⁹ Sheffield Archives, WWM C/1/27, Tinsley court roll, 20th May 1535.

³³⁰ various places in the Tinsley rolls, including Barnsley Archives NBC 15, Tinsley court roll, 4th August 1495, and NBC 15, Tinsley court roll, 10th September 1545.

³³¹ Sheffield Archives WWM C/1/4, Participation of the manor of Tynneslowe, Friday before the Feast of Holy Trinity 10 Edward III (May-June 1336).

³³² Sheffield Archives WWM C/1/8, Tinsley court roll dated Tuesday before the feast of Philip and James, 5 Richard II (May 1382).

1520s and 30s. In 1523 the court was held in the name of Thomas Woderove esquire, and in 1529 in the names of the same Woderove and Robert Skops.³³³ There followed a period in which the Wentworths and the then owners of the other half of Tinsley, the Denmans, appear to have taken the manor back under full control, but in 1557 Thomas Wentworth bought out Nicholas Denman and became lord of the entire manor.³³⁴ This fact was trumpeted at the head of the next court roll of Tinsley, naming Thomas Wentworth esquire as lord of the 'whole manor (*totius man[er]ii*) of Tynslowe'.³³⁵ Tinsley lacked its own church, being part of the parish of Rotherham, but there was a chapel of ease with a chantry dedicated to St Lawrence. A deed of 1525 transfers the chapel to John More or Moer, who was also named, as cantarist of the chantry, as witness to Thomas Swyft's sale of his land in Tinsley to the lord in 1544.³³⁶ The chantry was dissolved in 1548 along with all other such establishments, but the building was occasionally used for services thereafter and continued to exist until Joseph Hunter's time.³³⁷

Land in the manor of Tinsley was either held freely by charter or leased at the lord's will for a fixed term, and had been so since at least 1374, according to a rental of that date.³³⁸ Rentals also survive from 1336, 1514 and 1545, without much detail as to the size and location of each tenant's holding but preserving their names, the legal status of their land, and the lord's rental income.

4.3.2.1 *Tenure at will*

The terms of tenure at the lord's will were more flexible than those of freehold, and they changed over the course of the study period, reflecting how the economic initiative switched from the tenant to the landlord from the fifteenth to the late sixteenth centuries. Court rolls from the second half of the fifteenth century record transfers of land between tenants at will.

³³³ Sheffield Archives WWM C/1/25 and Barnsley Archives NBC 15, Tinsley court rolls dated 8th September 1523 and 29th July 1529.

³³⁴ Sheffield Archives WWM 1986/25, box 36, deed no. 32: property deed transferring half of the manor of Tinsley from Denman to Wentworth in return for the manor of Pollington.

³³⁵ Sheffield Archives WWM C/1/35, Tinsley court roll dated 27th January 4 & 5 Philip and Mary (1558).

³³⁶ Sheffield Archives WWM 1986/25, box 36, deeds nos 31 and 20.

³³⁷ Hunter, *South Yorkshire* vol. 2, p. 33.

³³⁸ Sheffield Archives WWM C/1/6, rental of Tinsley dated the first week of Lent 48 Edward III (1374).

Land was leased for terms of nine, ten, twelve or twenty years. The sample size of these land transfers is small, but seem to show that the usual rent for an oxgang of land was 5s 6d in Tinsley. For example in 1454 William Swyft leased a messuage and two oxgangs of land in Tinsley for rent of 11s a year; while in 1462 the same land passed to William Heryng on the same terms.³³⁹ If an oxgang is estimated to contain 15 acres of land, this would mean that land was let at 4-5d per acre, considerably lower than the rates in the following century for demesne land at Hunstanton or, as shown below, tenancies at will in Hooton Roberts.

After 1480 the Tinsley court rolls ceased to record transfers of tenancies at will, but rentals dating from 1514 and 1545, as well as lists of all tenants which began to be recorded at every court session from 1542, help to fill the gap.³⁴⁰ It is noticeable that most of the names of tenants at will in the 1545 rental are new, not appearing in that of 1514; Swyft and Cudworth are the only surnames that occur in both.³⁴¹ Meanwhile, the lord's total income from the manor increased between the two dates by nearly 50%, from £12 17s 1d in 1514 to £18 19s 10d in 1545. The rent on free land was fixed and the sum paid for the farm of the manor had increased only slightly, from eight marks (£5 6s 8d) to £6. The difference seems to have been in the rent on tenancies at will. In 1514, William Knolls paid 44s in rent for seven and a half oxgangs, which works out at roughly 4-5d an acre, the same rate as in the fifteenth century. Unfortunately the 1545 rental does not give the size of landholdings, but the overall total increased by such a large degree that it must be concluded that the rate per acre had risen substantially, probably more than doubling. This fits the nationwide trend of rising prices which set in from the second quarter of the sixteenth century. It also suggests a precocious degree of polarisation in landholding. Of the twelve tenants at will named for Tinsley and Brinsworth in 1545, five paid 16s 8d or more in rent, including John Staniforth's £6 for the demesne, George Berdsell's £4 7s 8d, and Richard Fenton's £2 'for hall,' presumably the manor house. None of the other seven tenants at will paid more than 7s in rent. Even allowing for the fact that they might

³³⁹ Sheffield Archives WWM C/1/13 and Barnsley Archives NBC 15, Tinsley court rolls dated 15th May 32 Henry VI (1452) and 18th September 2 Edward IV (1465).

³⁴⁰ The first court session listing all the tenants at will is NBC 15, dated 16th January 34 Henry VIII (1542). Court records had already been listing all free tenants for a few years preceding.

³⁴¹ This information and the rest of the paragraph draw on Sheffield Archives WWM C/1/22 and Barnsley Archives NBC 17, rentals of Tinsley dated 6 Henry VIII (between April 1514 and April 1515) and 8th June 37 Henry VIII (1545).

have held some land in the other half of the manor, they were unlikely to have had enough for subsistence. Besides, the number of tenants at will seems to have risen quickly in the years following 1545. Tinsley courts from the 1530s contained a register of all the tenants who were expected to attend, and that of November 1555 lists 29 tenants 'at will and by indenture'.³⁴² Unlike in Norfolk, it was very unusual for a tenant to hold freehold land and a tenancy at will at the same time. It is possible that some sublet land from the free tenants, but from the limited detail found in the court rolls this does not appear to have been the case either; the subtenants who are named in transfers of free land do not appear on the lists of tenants at will. For instance, Simon Dawson, named in 1560 as the subtenant of the land of the Earl of Shrewsbury in Tinsley, was not a juror or a tenant at will, though he was elected to supervise the pains passed at the same court.³⁴³ The earl had separate subtenants for his lands in Catcliffe and Orgreave, neither of whom were jurors or tenants at will. The smaller tenants-at-will likely required other forms of income to supplement what they could get from their land, whether working for wages on larger holdings, or in the cutlery and metalwork industry of the area or the trades that supported it such as charcoal-burning or carrying.

4.3.2.2 *Free tenure*

The free tenants of Tinsley were mostly gentry or wealthy inhabitants of the settlements surrounding the manor. Both the Earl and Countess of Shrewsbury held free land in Tinsley in 1545 and for many years subsequently. Other free tenants included various members of the minor gentry Swyft family of Rotherham, the Gurry family, also of Rotherham, Richard Wade of Over Whiston, Richard Fenton (senior and junior) of Sheffield, and Lionel and Thomas Reresby, lords of the manor of Thrybergh. All these settlements lay within a few miles of Tinsley, but it is unlikely that the tenants resided there for long if at all. Possibly Richard Fenton (d. 1547-50) did so when, as noted above, he rented the 'hall' at Tinsley. The Harrison family of Orgreave were resident in the manor, and, according to Hunter, eventually rose to the status of gentry.³⁴⁴ Free

³⁴² Sheffield Archives WWM C/1/34, Tinsley court roll dated 27th November 2 & 3 Philip and Mary (1555).

³⁴³ Barnsley Archives NBC 15, Tinsley court roll dated 4th October 2 Elizabeth (1560).

³⁴⁴ Hunter, *South Yorkshire* vol. 2, p. 34.

land predominated in Catcliffe and Orgreave. Monetary rent, as was typical for freeholders, was nominal. The 1514 rental listed 'The fre Rent off Catclyff of ox ganges belongyng to the man[er] of Tynnslowe,' naming nine tenants paying rent of only 1s per oxgang. When Margery Harrison, the widow of John Harrison, inherited two and a half oxgangs in Orgreave in 1563, the transfer named no monetary rent at all.³⁴⁵ A court roll of 1550 noted that Thomas Feram had inherited a holding of fourteen acres of arable and some meadow in Brinsworth, for which he notionally paid fourpence and a pound of cumin, adding resentfully that the value of the land was 16s yearly.³⁴⁶

The free tenants did, however, have to swear to a range of services, which varied depending on the land being held. The most unusual was connected with Capilwood Field in Tinsley, whose tenant was obliged to grind the lord's corn for three days in autumn and to perform a service recorded as follows:

Necnon equitare cum d[omi]no in loco armigeri sup[er] equum p[ro]prium si h[ab]eat & si non h[ab]eat d[omin]us inveniet sibi equi & veniet ad voluntatem d[omi]ni cum sibi mandav[er]it.

And also to ride with the lord in the place of a squire upon his own horse, if he has one, and if he does not have one the lord shall find him a horse; and he shall come at the lord's will whenever he shall command.³⁴⁷

The jury presented that the former tenant, Thomas Swyft, had performed this service in his own person in the twenty-seventh year of the reign of Henry VIII (April 1535-April 1536), and that the new tenant Richard Fenton had withdrawn the services associated with the holding for the last five years. Free tenants in Brinsworth, Catcliffe and Orgreave were also subject to services in return for their land. In 1555 the free tenants of Orgreave were presented to the manor court for having neglected for the last eighteen years their service of ploughing on the lord's land for one day in spring and reaping for one day in autumn, for which the court ordered that they be

³⁴⁵ Sheffield Archives WWM C/1/40, Tinsley court roll dated 12th April 5 Elizabeth (1563).

³⁴⁶ Sheffield Archives WWM C/1/32, Tinsley court roll dated 10th July 4 Edward VI (1550).

³⁴⁷ Sheffield Archives WWM C/1/31, Tinsley court roll dated 22nd September 1 Edward VI (1547); but repeated elsewhere in the Wentworth archive from the fourteenth to the sixteenth century.

distrained of their land until they should agree to perform it.³⁴⁸ The 1545 rental lists free tenants, including the Earl of Shrewsbury, owing similar 'sickill boone and plough boone' for lands in Brinsworth. The fact that Thomas Swyft performed his riding service in 1535-36, and the tenants of Orgreave (or, presumably, their subtenants) their day's work around 1537, if the information presented by the jurors is accurate, hints at an unusual peak in seigneurial activity in the mid-late 1530s. This suggestion is supported by a curious set of entries in the manor courts at exactly this period, discussed below.

4.3.3 *Population*

Nothing in the Tinsley manorial records allows for an easy estimate of the population of the manor in the mid-sixteenth century. The cast of tenants at will seems to have been highly changeable. Few of the freehold tenants lived in the manor, and the names of their subtenants are rarely visible. The manor's four settlements had different structures of land tenure, with tenure at will dominant in Tinsley proper and free tenure in Brinsworth, Catcliffe and Orgreave. Of the documents which provide lists of tenants (the 1514 and 1545 rentals and various court rolls from 1543 onwards), most do not list all categories of tenant; for instance, the 1514 rental lists the free tenants of Catcliffe while that of 1545 does not. Taking all this into account, the estimated population of Tinsley manor at this time is even more approximate than most calculations of this nature, and can only be reconstructed by combining information from different documents.

³⁴⁸ Sheffield Archives WWM C/1/33, Tinsley court roll dated 16th May 1 & 2 Philip and Mary (1555).

	Free tenants	Tenants at will	Subtenants
1514 rental	36		
1543 court roll ³⁴⁹	20	17	6
1545 rental	14	17	
1555 court roll	18	28	

Table 4.4: The number of tenants listed in Tinsley manorial documents, 1514-45

The land belonging to the free tenants would have been mostly in the hands of subtenants; the 1543 court roll makes this explicit for freehold land in Brinsworth, listing the names of the tenants followed by ‘in the tenure of...’ and then the subtenant’s name.³⁵⁰ It is impossible to know whether the free tenants sublet their holdings mainly to single individuals or split them up; but given the effort to preserve the old oxgangs, apparent both at Tinsley and Hooton Roberts, the former is more likely. Thus the true number of households present in the manor probably exceeded the numbers of tenants listed in the manorial documents, but not by much. A figure of 40-50 households in the early sixteenth century is thus the most plausible, which had risen and was still rising by mid-century to perhaps 50-60 in 1555. Applying the multiplier of 4.75 people per household, discussed in Chapter 1 and used in the Norfolk case study, thus gives approximate populations of 190-240 in the early sixteenth century and 240-290 a generation later. Given the invisibility of most subtenants, these figures are more likely to be under- than overestimates. The population was unevenly distributed, Tinsley and Brinsworth having larger populations, while Orgreave was home to a handful of households.

4.3.4 The business of the Tinsley manor court

At five of the eight court sessions between 1532 and 1550, the list of jurors is headed by the name of John Staniforth. Tinsley at this time had two tenants named John Staniforth, occasionally distinguished in the court rolls by one being ‘de Tynneslowe’ and the other ‘de Darnall’ (Darnall is and was a township of Sheffield immediately to the south of Tinsley), the former a tenant at

³⁴⁹ The six inhabitants listed here as subtenants are those for oxgangs in Brinsworth, the owners of which are not listed elsewhere in the court roll.

³⁵⁰ Barnsley Archives NBC 15, Tinsley court roll dated 16th January 34 Henry VIII (1543).

will and the latter a free tenant. The two were very likely related, as the surname Staniforth originated in the fifteenth century in the vicinity of Tinsley and Darnall, referring to a location in the parish of Ecclesfield. David Hey suggested that the majority of locational surnames such as this derived from a single individual taking on the name at the time when surnames began to be universally adopted, around the early fifteenth century for the north of England.³⁵¹ It is unclear which of these was the head juror, but it is more likely to have been the John Staniforth who was a native of Darnall; the one who lived in Tinsley was, according to his will of 1551 cited above, a shearsmith, and unlikely to have been able to raise the capital to lease the demesne farm, which a man of that name is recorded to have been doing in 1545.

But in the courts of autumn 1536 and spring 1537, a different order was in place. Neither John Staniforth was present at court, both being amerced for non-attendance. Instead, the list of jurors is headed by a Thomas Swyft, qualified as a gentleman.³⁵² The same Thomas Swyft was one of the affeerors at both of these courts. He came from a wealthy Rotherham merchant family and held lands in Tinsley, having appeared on the jury there once before, in 1529.

Property deeds in the Wentworth Woodhouse Muniments name him as 'Thomas Swyft of Tynneslowe', and later, in 1544, 'Thomas Swifte *once* of Tynslawe' [emphasis my own].³⁵³ At the 1536 court, John Staniforth of Tinsley was targeted personally with a number of expensive pains and ameracements. He was named in a by-law which ordered him to repair his hedges around the Hardcorne and Ware fields (see above), threatening him with the unheard-of pain of 6s 8d for each rupture in the hedge. A more general pain placed at the same time on 'each tenant of this lordship' to repair their hedges only came with a penalty of 4d. The same 4d penalty applies to an order not to tie up mares and their foals in the sown fields, while a vast 20s penalty was placed on anyone not repairing their hedges 'in the time of sowing.' Another personalised pain ordering John Staniforth of Tinsley to repair hedges elsewhere in the manor came with a 6s 8d penalty, while a pain to all tenants to ring their pigs was only set at 2d.

³⁵¹ David Hey, *Family Names and Family History* (London, 2000), pp. 53-54.

³⁵² Sheffield Archives WWM C/1/28 and 29, Tinsley court rolls dated 7th October 1536 and 6th April 1537.

³⁵³ Sheffield Archives WWM 1986/25, box 21, bundle 1, deed 66, and box 36, deeds 16, 18-21.

At the court the following spring, with Thomas Swyft once again the head juror and affeemor, John Staniforth was presented for having left two ruptures in his hedges, and amerced 13s 4d for breaching the pain put on him in the last court. He was also put under pain of 13s 4d per rupture to repair hedges in yet another part of the manor, this time between the common and a piece of land called 'les Holmes,' and amerced 6s 8d for 'devastating' the lord's underwood with his animals. Interestingly, Thomas Swyft's fellow affeemor from the previous court, a man called Richard Borowes/Burrows, was put under a similarly harsh pain at this court, and was replaced as affeemor by a Richard Hartley. Richard Burrows was himself to be the lead juror at the Tinsley courts of 1554 and 1555.

After the April 1537 court, no court rolls survive in the Wentworth archive until 1543. It is possible that no court took place during these years, but there is no evidence either way. By 1543, John Staniforth was back at the head of the list of jurors. Thomas Swyft was amerced for non-attendance, and had sold some of his land in Tinsley. He was to sell more land to the lord in 1544, as noted above. The level of penalties was back at the usual 2d or 4d for a first offence.³⁵⁴ At no other point in the surviving Tinsley court rolls were tenants threatened with such harsh financial penalties as in 1536-37. It is tempting to speculate on what might have been going on at this time. Late 1536 was a period of intense political unrest in the north of England, with many local gentry and commons becoming involved with the Pilgrimage of Grace, but there is no direct evidence of Tinsley's involvement in the rebellion. It was very close to Sheffield Castle, the headquarters of the Earl of Shrewsbury who was serving as one of the government's senior commanders.

Whatever the case, something motivated a wealthy gentleman of Rotherham to appear at and take a leading role in the manor court of Tinsley which in other circumstances he rarely deigned to attend. Once there, he aimed a series of exemplary penalties at the most prominent local tenant. This kind of thing would not have been conducive to the smooth running of a village community. It breaks several of Elinor Ostrom's tests for sustainable governance of common resources, which stipulate (as discussed in Chapter 2) that there should be a lack of interference

³⁵⁴ Barnsley Archives NBC 15, Tinsley court roll dated 16th January 1543.

from outsiders who do not personally use the resources, and that penalties for breaking the rules should start low and gradually increase.³⁵⁵

Outside this incident, the court at was used for governing the agricultural life of the settlements within it, especially Tinsley proper, where most of the tenants-at-will lived. The repeated by-laws and presentments against animals straying into the sown fields indicate an open-field regime, with fallow land used for grazing. The sown areas of the fields would, however, have been enclosed with hedges or fences around the 'Hardcorne' and 'Ware' fields. Most court sessions either ordered tenants to make sure there were no gaps in these hedges or presented them for having failed to do so, with ten separate tenants presented for the latter offence in 1535.³⁵⁶ Further hedges, called in 1537 'Ryng Leyes' or 'Ryng Segges', more permanently separated the open fields from the meadows by the river and from the lord's wooded park.³⁵⁷ Those running the court were preoccupied with excluding outsiders, or their property, from access to the common resources of the manor. A court session in 1532 forbade any Tinsley tenant from bringing pigs, sheep or horses other than their own into the lordship from outside.³⁵⁸ This concern with exclusivity prevailed within the manor too; in 1545 a pain forbade any inhabitant of Brinsworth from putting their pigs into the fields or woods of Tinsley and Catcliffe.³⁵⁹

Other presentments concerned the lord's seigniorial rights, especially over the woods of Tinsley Park. Tenants were routinely presented for carrying away brushwood or green wood, as was normal in any manor court. The amercements of 2d or 4d, levied once a year or less often, represented as much a recognition of the lord's superior social position as a real attempt to prevent the practice. But when it came to rights over felling entire trees or making use of saplings, presentments could be more detailed and amercements higher. This was especially the case where the tenant being presented was one of the wealthier inhabitants. John Staniforth's presentment for felling a large number of oak saplings has been referenced above. Pains were repeatedly placed in the 1540s and 50s to ensure the hedges and fences separating the lord's

³⁵⁵ Ostrom, *Governing the Commons*, p. 90.

³⁵⁶ Sheffield Archives WWM C/1/27, Tinsley court roll dated 20th May 27 Henry VIII (1535).

³⁵⁷ Sheffield Archives WWM C/1/29b, Tinsley court roll dated 6th April 28 Henry VIII (1537).

³⁵⁸ Sheffield Archives WWM C/1/26a, Tinsley court roll dated 13th September 24 Henry VIII (1532).

³⁵⁹ Barnsley Archives NBC 15, Tinsley court roll dated 10th September 37 Henry VIII (1545).

woods in Tinsley Park and those in another wooded area called Threpewood were kept up, and these carried a larger financial threat than most such by-laws: in 1554 the responsible tenants were placed under pain of 3s 4d for every rupture found. The following year Robert Haye was presented for felling three ash trees in Catcliffe, 'which ash trees the said Robert Haye claimed but the said Jurors say on their oath that the soil on which they grew is the said Thomas Wentworth's soil and land.'³⁶⁰ The latter presentment recalls the clashes between lord and tenants over timber rights in Earls Colne in Essex, where 'lords instinctively believed that timber growing on copyhold was theirs and not the tenants'.³⁶¹ Copyhold did not exist as a form of tenure in the manor of Tinsley, but lords in the Sheffield and Rotherham area, where demand for fuel was perhaps stronger than anywhere else in England, had even more reason to keep their woodlands under strict control.

4.4 Hooton Roberts

4.4.1 Geography

Hooton Roberts was a nucleated village about five miles north-east of the town of Rotherham. It differed from Tinsley in having its own parish, shared with no other settlements, and its own parish church. A short section of the parish boundary, in the far west of the parish, was formed by the river Don, downstream from Tinsley. The village itself, however, was separated from the river by a spur of higher ground, and lay on the west-facing slope of a dry hollow between that spur and 'Hooton Cliff,' a wooded sandstone outcrop which formed part of the western boundary of the parish. A court roll of 1522 prohibits any tenant from cutting wood in 'the wood called Stancliff,' almost certainly referring to this feature.³⁶² The topography of the parish was not especially pronounced, however, the highest point of Hooton Cliff reaching only 100m above sea level. The south-eastern boundary, between the Don and the cliff, was formed by Hooton Brook, a small waterway which separated the village from its neighbours Thrybergh and

³⁶⁰ Sheffield Archives WWM C/1/33, Tinsley court rolls dated 19th April 1 Mary (1554) and 16th May 1 & 2 Philip and Mary (1555).

³⁶¹ French and Hoyle, *Earls Colne*, pp. 147-48.

³⁶² Sheffield Archives WWM C/6/31, Hooton Roberts court roll dated 10th April 13 Henry VIII (1522).

Ravenfield. Conisbrough bordered Hooton to the west and Denaby to the north. Both the latter settlements became industrialised in the nineteenth and twentieth centuries with the sinking of coal mines. Hooton, by contrast, has remained a small rural village to the present day, even though a 1581 court roll referred to a piece of land called 'les Cole Pyttes', where tenants seem to have held enclosed pieces of land for grazing.³⁶³ The manor also contained an exclave in Swinton, across the Don, which was usually in the hands of a free tenant and returning a nominal rent of a pound of cumin.³⁶⁴

From the minor place names recorded in the court rolls, cross-referenced with an 1850s Ordnance Survey map, it can be established that Hooton was divided into open fields, called Great, Little (or Sinderwell), and Moor Fields respectively; the Little Field to the north bordering Denaby, the Great Field around the village itself towards the south of the parish, and Moor Field on the low spur to the west overlooking the river Don. Between the Moor Field and the river lay the common (or possibly the West Field), a lower-lying but not completely flat piece of ground which was probably not susceptible to flooding except for the banks of the river itself.³⁶⁵ As at Tinsley, areas of the open fields also acquired temporary designations depending on what stage they were at in the agricultural cycle; fields sown with grain were thus called the 'Hardcorne' or 'Ware' fields.³⁶⁶ Repeated bylaws passed at the manor court prohibited any inhabitant from keeping animals in areas sown with crops or where the grass was being allowed to grow until they had been harvested or mown.

A detailed description of the village's agricultural life at the end of the sixteenth century is provided in the deposition of Alexander Strea, a long-standing inhabitant of Hooton Roberts, from a court case on behalf of William Wentworth, the then lord of the manor. He was

³⁶³ WWM C/6/54, Hooton Roberts court roll dated 13th October 23 Elizabeth (1581).

³⁶⁴ For instance Sheffield Archives WWM C/6/27, rental of Hooton Roberts dated 3 Henry VIII (1511-12), which names John Cowbrand holding 'Swynton.' This surname appears elsewhere in the Hooton records as 'Colbrand.'

³⁶⁵ Historical Ordnance Survey maps accessed through Edina Digimap (University of Edinburgh), <https://digimap.edina.ac.uk/historic>; Sheffield Archives WWM C/6/36, Hooton Roberts court roll dated 15th October 32 Henry VIII (1540), contains a brief description of the boundaries of the manor, which appear to be coterminous with those of the parish in the nineteenth-century maps.

³⁶⁶ Sheffield Archives WWM C/6/48, Hooton Roberts court roll dated 14th September 6 Elizabeth (1564): William Burneley was amerced for pasturing cows and horses in 'le Ware Corne feld' and 'le Hard Corne feld.'

referring to a specific field called Sinderwell Field, which was 'used as one field' with the Little Field:

The said feildes doe lye open and ar occupied in sev[er]altie by the owners thereof... [who] according to the quantyie whereof they ar owners have used when the same lyeth fawghe [fallow] according to the use of husbandrie there w^{ch} is everie third yere to putt there beastes into same in Comon... and such yeres as the same is plowed and sowne to putt in there beastes onelie in Averish tyme after such tyme as the Corne and hay therein growing shalbe mown Cutt downe Reaped gotten and taken awaie, and soe he hath knowne yt used these six and twentie yeres.

But, since 'there is great store of arrable grounde wthin the lordshipp of Hutton Rob't, and great want of meadowe & pasture,' a part of the field known as Sinderwell lngs was permanently enclosed, with separate pieces of pasture allotted to the owners of land in the field and separated with temporary divisions, 'except some other p[er]son do sometime neclegentlie suffer his Close to lye downe.'³⁶⁷

4.4.2 Land tenure and population

As at Tinsley, the land of Hooton Roberts was held by a mixture of free tenants and tenants at the lord's will. Unlike in Norfolk, tenants do not seem to have held both types of land. Much of the freehold land was in the hands of the gentry or the very wealthiest of the peasantry. For instance, the Reresby family, lords of the neighbouring manor of Thrybergh, the gentry Boswell family of Conisbrough, and other tenants whose names were suffixed with gentleman or esquire such as William Wordesworth and Roger Vavasor were all free tenants. So was the College of Jesus in Rotherham, until its dissolution in the 1540s; after this time, the college's lands remained in the hands of the Crown. It is not clear which sub-tenants occupied this land. Roger Vavasor, at least, seems to have been concerned enough with his holdings in Hooton to directly supervise

³⁶⁷ Sheffield Archives WWM C/6/157, depositions for a court case between William Wentworth and Thomas Reresby: deposition of Alexander Strea of Hooton Roberts, aged 36, taken 2nd May 40 Elizabeth (1598).

his servants there; a court roll of 1540 states that John Sugden (not a tenant of Hooton) cut down an oak on the lord's land 'on the precept of Roger Vavasor gent.'³⁶⁸

Tenants at will were more numerous. The first court which made a list of all free and at-will tenants (a practice which came commonplace from then on) was in 1540, when seven free tenants and seventeen tenants at the lord's will were named, while a court in 1565 named nineteen tenants at will. As may be expected given their terms of landholding, the tenants at will paid much higher rents than free tenants. A rental of 1511-12 shows that free tenants paid only a few shillings a year for sometimes extensive holdings, while the tenants at will paid market rents. Thomas Schepard, the tenant of four oxgangs, paid 58s 6d; Richard More paid exactly half as much for two oxgangs.³⁶⁹ The size of an oxgang varied depending on the manor, but is usually estimated to have been around 15 acres. If so, these tenants were paying about a shilling an acre, the same rate at which demesne land at Hunstanton was let, and considerably higher than the rate paid by tenants at will in Tinsley in 1514 (see above). The 1511-12 rental is frustratingly opaque, however. A tenant named John Mylner paid 48s 3d in rent but was listed as holding only half an oxgang; it is unclear what he was renting besides his landholding. The manor house and farm, along with six oxgangs of land, were farmed out to William Wadeluff. This is not directly stated in the rental, but he paid £6 6s 8d in total rent, and a court roll of 1522 presents him for cutting woods in 'the closes pertaining to the hall.'³⁷⁰ His name also appears first in the list of jurors at the courts at which he was present.

It is certain that some subtenants were resident in Hooton Roberts. The 1511-12 rental gives the names of John Wyles and John Schepard as tenants of John Howton and the provost of Rotherham College respectively. Both of these names appear as jurors at courts leading up to the compiling of the rental, John 'Shepard' from the 1480s up to 1509; it is likely that the 1511-12 subtenant was this John or a relative. John Wyles, meanwhile, was a juror at only a single court session in 1510. As noted above, it appears that the Vavasor and Resesby gentry families had servants working their holdings in the village, whether or not these servants lived

³⁶⁸ Sheffield Archives WWM C/6/36, Hooton Roberts court roll dated 15th October 32 Henry VIII (1540).

³⁶⁹ Sheffield Archives WWM C/6/27, Hooton Roberts rental dated 3 Henry VIII (1511-12).

³⁷⁰ Sheffield Archives WWM C/6/31, Hooton Roberts court roll dated 10th April 13 Henry VIII (1522).

there. What is not certain, however, is whether the people who sublet the free tenants' land were the tenants-at-will of the manor or a separate group.

This uncertainty makes estimating the population an approximate endeavour, though not perhaps as difficult as at Tinsley, since the manor of Hooton Roberts comprised a single village and parish. The 1565 rental names eight free tenants and nineteen tenants at will. If it is assumed that the free tenants had on average one subtenant each, and that this subtenant was not also one of the tenants at will, this gives a rough estimate of 27 households and 120-130 people in the village; as with Tinsley, this figure, if inaccurate, is probably more likely to be an underestimate.

4.4.3 The business of the Hooton Roberts manor court

As has been established, the agricultural routines in place in Tinsley and Hooton Roberts were largely the same, so the pains and presentments against animal trespass and for the maintenance of enclosures around sown fields need not be repeated here. Hooton Roberts did, however, possess an official charged with watching the tenants' animals during the day. The role seems to have been elided with that of pinder. A court in 1561 elected John Fareburne as pinder, but noted that he was to be paid 1d for every score of sheep or for every three cattle or pigs.³⁷¹ It is hard to believe that there can have been this many animals in the seigneurial pinfold at any time, and much more likely that he was being paid according to the size of the flocks and herds he was responsible for. A court three years later, moreover, amerced four tenants for failing to put their pigs in the herd's keeping.³⁷² Hooton shared with Tinsley a desire to keep animals belonging to other lordships out of its limited pastures; in 1560 Richard Masson was ordered to drive the sheep of Mexborough and other villages out of the territory of Hooton Roberts. He was placed under pain of 20d to make sure this was done, and to underline the importance the court

³⁷¹ Sheffield Archives WWM C/6/47, Hooton Roberts court roll dated 4th March 3 Elizabeth (1561).

³⁷² Sheffield Archives WWM C/6/48, Hooton Roberts court roll dated 4th April 6 Elizabeth (1564).

placed on it, the bailiff and bylawmen were threatened with 12d each if they, in turn, did not make sure Masson carried out his task.³⁷³

The Hooton Roberts court rolls place more emphasis than those of Tinsley on the maintenance of rights of way, or on preventing illicit paths from being made. On three occasions before 1540 tenants were presented for making a way through an enclosure called the 'Impyard'.³⁷⁴ An impyard was a piece of land set aside for coppice saplings of useful trees.³⁷⁵ It makes sense for there to be such a facility in Hooton Roberts, which lacked the extensive woodland present in Tinsley; the wood of young trees or 'imps' would have been in great demand for building material, especially for fences and hedges. On the other hand, the name may have remained attached to a piece of land that had long since been turned into a pasture enclosure. In 1546 the tenants were collectively ordered to repair the common way in the village itself, while in 1568 Thomas Jubbe was ordered to remove stones he had put in the road by the land of Thomas Wynter.³⁷⁶ There were also more examples of tenants being presented for encroaching on or near one another's holdings than at Tinsley, where most enforcements of boundaries related to the lord's park or other prerogatives. In 1556 Roger Wombwell was amerced three times for ploughing up balks, the thin strips of grass which separated tenant furlongs in the open fields.³⁷⁷

The manor court at Hooton also seems, from admittedly isolated examples, to have considered itself to have a somewhat wider remit than that of Tinsley. The practice of electing bylawmen (alternatively plebiscites or supervisors of the pains) began earlier at Hooton Roberts (1543) than it did at Tinsley (1559). The beating of the bounds in 1540 has been mentioned above. In 1560 there was a presentment on the state of the manor house and its outbuildings, noted that a pigsty and an 'oxhowse' were ruinous and a room at the east end of the manor house itself needed repairs to its roof.³⁷⁸ The court also took a role in passing down orders from higher

³⁷³ Sheffield Archives WWM C/6/46, Hooton Roberts court roll dated 20th September 2 Elizabeth (1560).

³⁷⁴ for example Sheffield Archives WWM C/6/31, Hooton Roberts court roll dated 10th April 13 Henry VIII (1522).

³⁷⁵ Teresa McLean, *Medieval English Gardens* (1981, New York, 2014), p. 388.

³⁷⁶ Sheffield Archives WWM C/6/41, Hooton Roberts court roll dated 19th January 37 Henry VIII (1546); C/6/51, Hooton Roberts court roll dated 18th September 10 Elizabeth (1568).

³⁷⁷ Sheffield Archives WWM C/6/45, Hooton Roberts court roll dated 26th June 2 & 3 Philip and Mary (1556).

³⁷⁸ Sheffield Archives WWM C/6/46, Hooton Roberts court roll dated 20th September 2 Elizabeth (1560). The property was evidently rebuilt soon afterward, as it served as the Wentworths' dower house in the early seventeenth century.

authorities; at the same court in 1560, it was ordered that brewers (*brasiatores*, who presumably also kept an inn or alehouse) must take in any guests or inmates (*hospites*) that the constable should bring them, and must not take any others. This sounds like an order from the wapentake court or the JPs of the West Riding, but if so it is curious that the Tinsley manor court never passed a similar order. Two entries in court rolls from the 1560s suggest a level of negotiation between the lord and his officials on the one hand, and the tenants on the other, that appears nowhere in the Tinsley records. In 1561, the lord granted tenants the right to cut thorns and brake in the More Field (the hill to the west of the village centre), both to repair fences and to 'turn to their own use.'³⁷⁹ Then in 1568, John Whittells, a free tenant, complained that the bailiff of the manor, Thomas Sheperd, was in occupation of a parcel of Whittells' land.³⁸⁰

4.5 Conclusion

Over the course of the sixteenth century, the Tinsley manor courts were held more frequently and recorded with more care and attention to appearance than they had been in the 1530s and 1540s, even as, from the 1560s onward, the amount of meaningful content in them dwindled. Its functions seem to have been more limited than those in any of the other manor courts used as case studies in this thesis. While some by-laws and presentments were passed, they were lower in frequency than those elsewhere, and many of them related to the lord's prerogatives in the manor, especially the charcoal plantations and coal pits in the park. Others were rehearsals of the antiquated services the lords were technically entitled to from their free tenants, but which, by the sixteenth century, were rarely if ever performed. Where by-laws directly relating to the agricultural life of the manor were brought up, they appear at times to have been used as a weapon in a battle between two influential tenants, as in the persecution of the farmer of the demesne, John Staniforth, by the jury headed by the Rotherham gentleman Thomas Swyft.

The manor court of Hooton Roberts, by contrast, had more relevance to the daily lives of its tenants. The manor of Hooton shared its borders with the village and the parish, giving it far

³⁷⁹ Sheffield Archives WWM C/6/47, Hooton Roberts court roll dated 4th March 3 Elizabeth (1561).

³⁸⁰ Sheffield Archives WWM C/6/51, Hooton Roberts court roll dated 20th April 10 Elizabeth (1568).

more coherence than the scattered settlements that made up Tinsley manor. The manorial jurors at Hooton were neighbours, while those at Tinsley lived in separate villages which occasionally came into disagreement over grazing rights. The Hooton Roberts jurors represented a majority of the tenants at will and probably of the households in the village. At Tinsley, a large amount of land was freehold and worked by sub-tenants outside the manorial system. The lord's interest in the resources of Tinsley was far greater than at Hooton, causing him to take a more active role in what went on there. Tinsley was located between two market towns, only a few miles from each and across the road between them, and in an area where workers in the cutlery, coal-mining and charcoal-burning industries moved and must have had numerous contacts and financial interests outside the boundaries of their own manor or township.

For all these reasons, the Tinsley manor court was never likely to have evolved into a useful institution for governing its resources in the interests of most of the people who lived there. The jury was not representative of the users of the manor's resources; the regulations governing the manor seem to have been manipulated by wealthy inhabitants, and the penalties imposed for breaking them were inconsistent; the borders of the community, internal and external, were porous.

Chapter 5

Nottinghamshire case study: Willoughby on the Wolds and Upper Broughton

5.1 Introduction

The final case study focuses on the manors of Willoughby on the Wolds and Upper Broughton in Nottinghamshire, and draws additional material from their neighbour Wymeswold. These manors lay on the southern border of Nottinghamshire, about an equal distance from Nottingham to the north and Melton Mowbray to the south-east. In each case manor, parish and village shared the same boundaries, as at Hooton Roberts in the previous chapter. The manorial records of Willoughby include court rolls dating from 1547-96, with supplementary material including rentals, manorial accounts, a survey from just after the end of the sample period, and documents relating to the sale of the land to the tenants in 1615. These additional documents help fill in details about the manor and its tenants unavailable for Upper Broughton and Wymeswold.

It was nonetheless considered helpful to include material from the manorial records of the other two manors. Both of them border directly on Willoughby, sharing a similar landscape and type of agriculture, which makes a comparison of the similarities and differences between the three manor courts especially telling. Wymeswold is touched on briefly, as only a handful of its court rolls survive along with an early fifteenth-century agreement between its lord and tenants. For Upper Broughton, there are two short but complete runs of leet court rolls dating from 1535-42 and 1558-68, which seem to come from a court run in a substantially different way, and in different interests, than that of Willoughby. These are treated at greater length.

5.2 Willoughby on the Wolds

5.2.1 Geography

As its name suggests, Willoughby is located in the broader region known as the Nottinghamshire and Leicestershire Wolds, an area of rolling hills in the heart of midland England. The soil in the area was mainly clay, with fertile boulder clay on higher ground, while valleys below the spring line were prone to become waterlogged and their soil slow to warm up in spring, resulting in a relatively short growing season. The landscape was comparable to that described by Cicely Howell at Kibworth Harcourt in Leicestershire.³⁸¹ Noting the derivation of the Old English term *wald* from a heavily wooded area, Harold Fox suggested that the villages and arable fields of the Wolds were cleared and settled later than those of surrounding areas.³⁸² By the late middle ages and early modern period, many villages in the Wolds and comparable midland areas were being deserted and their fields enclosed into sheep-pasture. Willoughby avoided succumbing to this fate, but perhaps only narrowly. A court roll from the reign of Richard II (undatable due to damage) contains the names of eleven jurors and 'Richard Roo' as the twelfth, a name frequently found in combination with 'John Doe' and 'Hugh Hunt' in fictitious legal proceedings. These jurors, or at least those who existed, presented that six houses within the manor were ruinous and that two tenants were living in Worksop, at the other end of the county, without licence.³⁸³ These entries suggest a village in danger of desertion around 1400, and as is shown below, even by the end of the sixteenth century many of tofts or messuages occupied in the high-medieval village were still uninhabited and long since turned into small enclosures.

The manor and parish of Willoughby was a roughly triangular area at the southern end of Nottinghamshire, in a relatively hilly area cut by small streams. One of these streams, the Kingston Brook, formed the western boundary of the manor, separating it from the Leicestershire village of Wymeswold. The manor boundary followed this stream south-east until

³⁸¹ Cicely Howell, *Land, Family and Inheritance in Transition: Kibworth Harcourt 1280-1700* (Cambridge, 1983), pp. 1-2.

³⁸² H. S. A. Fox, 'The People of the Wolds', in Michael Aston, David Austin and Christopher Dyer (eds), *The Rural Settlements of Medieval England: Studies Dedicated to Maurice Beresford and John Hurst* (Oxford, 1989), pp. 77-101.

³⁸³ Nottingham University Special Collections Mi 6/177/6, Willoughby court roll, reign of Richard II. An endorsement in a late sixteenth or early seventeenth-century hand reads only 'Ric. 2,' suggesting that the damage which rendered the top of the court roll unreadable had already occurred by this date.

it turned due east at the manor's southernmost point until it reached the Fosse Way, which has already acquired its present name by the sixteenth century. A court roll of 1592 contained an order 'that noe man shall keepe anie horse or kyne or other Cattell in the fosse waie but before the comon heardman uppon paine to forfaite 6s 8d.'³⁸⁴

The land at this southern tip of the manor, between the stream and the Roman road, is labelled as 'common pasture' on a 1609 map of the manor.³⁸⁵ The Fosse Way formed the whole of the eastern boundary of the manor, separating it from Dalby in Leicestershire and then, a little further north, Upper Broughton in Nottinghamshire, the other case-study for this chapter. At a place called Debdill Hill the manor boundary turned left. The northern boundary of the manor snaked across the fields between Willoughby and its neighbours Widmerpool and Wysall (spelt Wisshaw in sixteenth-century documents) until it reached the Kingston Brook again.

A smaller stream, probably dry in summer, wound through the middle of the manor, passing through the village itself. The village of Willoughby stretched east to west with the old manor house and its surrounding closes roughly in the centre. A small stream split the village in two, most of the houses on a street on an east-west alignment to the east of the stream, with a couple of back lanes, while several more lay either side of a north-south street, called 'the oulde gate or waye' according to the 1609 map, to the west of the stream.³⁸⁶ Immediately around the village centre there were several more small enclosures, many belonging to the demesne, while the rest of the c.2500 acres of the manor (according to the 1605 survey) were open fields divided into named furlongs, held in strips by the lord and the tenants.

³⁸⁴ Nottingham University Special Collections Mi 6/177/48/1, Willoughby court roll dated 4th October 34 Elizabeth (1592).

³⁸⁵ Nottingham University Special Collections Mi P 2, map of 'The Mannor or Lordshipp of Willughebie within the Countie of Nottingham', dated 1609.

³⁸⁶ 'oulde' in this case is probably 'wold' rather than a reference to the road's age – documents from Willoughby and the surrounding villages habitually refer to 'les Ouldes' or similar.

5.2.2 Manorial history, land tenure and population

'It is a pitty,' wrote an anonymous surveyor in 1605, 'that so goodlye a manno[r] shold be used so unprofitablye and in wilde manner as if it weere in Ireland.' The land in Willoughby, he said, was richer than that of any of the manors around it. If it were enclosed, even allowing the tenants a generous holding of 20 acres apiece and letting the rest out 'at verye easie rates, such as noe gent: therabout accepteth of the like,' it might be worth as much as £900 a year to its lord, with another £300 for the glebe lands. At present, though, the lord's interests in Willoughby were in a state of neglect, symbolised by the ruinous condition of the manor house, 'the tymber whereof is so broken & fallen & the boordes of the floores decayed & most of them gon, y^t a man dare not go into them.' The outbuildings of the manor house were in an even worse state, with grass growing in the wheat barn and the combined oxstall and servants' accommodation gone completely, 'not a sticke left standing of it.'³⁸⁷ How did this almost ideal situation, from the tenants' point of view, come about?

The Willoughby family who owned the manor had done so since the thirteenth century. In fact Ralph Bugge, who purchased the manor at that time, changed his own name to 'de Wilughby' to denote his new status.³⁸⁸ In this the Willoughbys matched the Wentworths in Yorkshire in being named after the manor which had founded their estate. By the mid-fourteenth century, the head of the family was a knight with a large landed estate who had an income 'somewhere between that enjoyed by the lay barons and the greater knights of the shire.' It was also from roughly this date that the family began to exploit coal mines around Wollaton.³⁸⁹ Unlike the Wentworths, the Willoughbys did not remain there permanently, settling at Wollaton, just to the west of Nottingham, in the fifteenth century. They also possessed lands in Lincolnshire and Warwickshire, in both of which counties along with Nottinghamshire Henry Willoughby (d. 1528) served as justice of the peace, as well as being sheriff of Nottinghamshire, Derbyshire and

³⁸⁷ Nottingham University Special Collections Mi 6/177/71/1, survey of Willoughby (1605). This dilapidation is comparable to, though more severe than, that of the manor house at Hooton Roberts as reported in 1560: see Chapter 4, note 78.

³⁸⁸ Alice T. Friedman, *House and Household in Elizabethan England: Wollaton Hall and the Willoughby Family* (Chicago, 1989), p. 191.

³⁸⁹ Jo Ann Hoepfner Moran Cruz (ed.), *An Account of an Elizabethan Family: The Willoughbys of Wollaton by Cassandra Willoughby 1670-1735*, (Cambridge, 2018), pp. 22-23.

Warwickshire.³⁹⁰ In the mid-sixteenth century the family's fortunes suffered from the deaths of several male heirs in quick succession, including Henry Willoughby (d. 1549) who was killed in Norwich during Kett's Rebellion. After 1549 the estate remained in wardship for some time, while Thomas and Francis, the heirs of the estate, suffered upheaval and the execution of close family members following the failed attempt to place their cousin Jane Grey on the throne in 1553.³⁹¹ The changes in the guardianship of the brothers is reflected in the headings of the Willoughby court rolls. A court roll of 1561 states that the court is being held in the name of Francis Willoughby, 'ward of the queen in the keeping of Francis Knooles [Knollys]', then in 1565 the holders of the wardship are Henry Meddley, Gabriel Berwycke and John Hawle.³⁹² Thomas died in 1559, and Francis Willoughby came of age in 1568. His activities 'were overwhelmingly directed towards estate development: coal mining, iron production, woad-growing, improved surveying techniques and rent collection,' but, as is shown below, this does not seem to have greatly affected his tenants at Willoughby on the Wolds, any more than did his remodelling of Wollaton Hall.³⁹³ On his death in 1596, the estate passed Francis' son-in-law (and cousin) Percival Willoughby, who was married to his eldest daughter Bridget. Their interest in Willoughby on the Wolds extended to the project of 1605 quoted above, and eventually to the sale of their interest in the manor in 1614-15, which is discussed below.

The tenants of Willoughby included a few free tenants. As in other manors, the free tenants included some people and institutions from outside the manor, whose land must have been in the hands of subtenants. In 1458-59 these included the Prior of Worksop, and in 1609 Gervase Clifton (lord of the neighbouring manor of Upper Broughton) and the town corporation of Loughborough.³⁹⁴ Most of the land, however, was held by another form of tenure. It is difficult to tell exactly what this was at any given time, except that it was certainly not copyhold; the late sixteenth-century manor court rolls, as at Tinsley, only recorded the transfer of freehold land.

³⁹⁰ Cruz, *Willoughbys of Wollaton*, p. 24.

³⁹¹ Cruz, *Willoughbys of Wollaton*, pp. 29-30.

³⁹² Nottingham University Special Collections Mi 6/177/20 and 6/177/23/2, Willoughby court rolls dated 2nd April 3 Elizabeth (1561) and 2nd April 7 Elizabeth (1565).

³⁹³ Friedman, *House and Household*, p. 25.

³⁹⁴ Nottingham University Special Collections Mi 6/177/61, rental of Willoughby dated 37 Henry VI (1458-69) and Mi P 2, map of 'The Mannor or Lordshipp of Willughebie within the Countie of Nottingham', dated 1609.

The 1458-59 rental does not show a standard level of rent per acre: John Graze held a messuage and 45 acres, paying 28s in rent, while Thomas Ragdall paid only 24s 6d for two messuages and three virgates (approximately 72 acres).³⁹⁵ Most of the tenants, 19 of the 31 named, held land measured in virgates/yardlands or bovates/oxgangs, showing that the land market had not yet broken down the traditional units associated with village houses. Most, at least 19 (not all the entries in the rental are legible) held land in parcels of between an oxgang (about 12 acres) and 50 acres, making Willoughby in the mid-fifteenth century a community of relatively well-off peasants with at least enough land for subsistence.

It seems to have remained so into the late sixteenth century. Whatever the exact form of tenure for land in the open fields at Willoughby, it was not subject to seigniorial rent increases. In 1458-59, when land values and food prices in England were at or near their nadir, the sums of rent from the tenants of Willoughby came to almost exactly £20. The rent from tenants according to the bailiff's accounts of 1535-36 was £28 10s, while by 1613-14 it had, if anything, slightly declined, amounting to £13 12s 9d for half a year (£27 5s 6d for a whole year).³⁹⁶ Clearly rents had become fixed between the latter two dates, and possibly long before. The lower figure for the mid-fifteenth century could well be the result of some holdings lying vacant, later to be re-tenanted at the usual fixed rents. A court roll of 1570 lists eighteen tenants 'at will', a wording usually associated with a flexible tenure where rents could be raised by the lord at the end of the term of lease, though this was clearly not the case at Willoughby.³⁹⁷ A record of the sums for which the land of the manor was sold to its tenants about 1615 describes sixteen tenants as paying 'fee farm rentes,' valued at £21 3s 9d a year.³⁹⁸ Tenure by fee farm is familiar from the Norfolk case studies, and was by the late medieval period effectively equivalent to

³⁹⁵ A virgate or yardland is assumed to be about 24 acres, as it demonstrably was at Upper Broughton (Nottingham University Special Collections Cl M 037, Upper Broughton court roll dated 10 Elizabeth (1568), where the jury stated that the bailiff's yardland comprised six acres in each field, 'contenynge in the holl xxiiii acres,' and at Kibworth Harcourt in Leicestershire (Howell, *Kibworth Harcourt*, pp. 89-90).

³⁹⁶ Nottingham University Special Collections Mi M 145, Willoughby manorial accounts 27-28 Henry VIII (1535-36); Mi 6/177/64, Willoughby rental 'for the halfeyeeres rent ended at Michaellmas 1614.'

³⁹⁷ Nottingham University Special Collections Mi 6/177/26, Willoughby court roll dated 21st March 12 Elizabeth (1570).

³⁹⁸ Nottingham University Special Collections Mi 6/177/65/1, 'A p[ar]ticuler of the Land & Rents to be sould att Willughbye,' undated (c. 1615).

freehold. If this was the predominant form of tenure at Willoughby, it would account for the tenants' rents having remained fixed for 150 years.

It would also account for the fact that nothing came of the project in 1605 by which the open fields of Willoughby would have been enclosed, except for 20 acres apiece for the tenants, and let out 'at verie easie rates, such as noe gent: therabout accepteth of the like,' which was meant to increase the lord's income from the manor to £900 a year, a vast increase from the actual income of £214, including the farm of the demesne and vicarage lands, recorded in 1614. It is little wonder that the tenants, with their nominal and apparently fixed rents, preferred the manor to continue to be run 'as if it weere in Ireland.' By 1615 the Willoughbys made up their minds to sell the manor to its tenants. The agreed sum was sixteen years' rent to be paid by each tenant, but the process nonetheless took some negotiation. In 'A note of the tenants wch wee have agreed wthall for their farm,' dated January 1615, five tenants were yet to agree to pay for their land at the values the lord assigned them. Whatever was eventually agreed, the sale of the manor raised well over £4000 for the Willoughbys. Of this sum, less than a tenth (£371) came from the tenants' holdings, the rest from the enclosed demesne land.³⁹⁹

The population of the manor can be estimated from the rentals quoted above. The 1458-59 rental named 31 tenants (though these included the prior of Worksop, who owned the site of the vicarage). That of 1614 gave 38 separate names of tenants. Further evidence for Willoughby's population comes from a map of 1609 which marks all the tofts along the streets of the village centre, and indicates the presence of tenant houses. Many of the tofts are empty and converted into pasture, reflecting the shrinkage of the village from its pre-plague size, a pattern notable today in many Midlands villages. 30 houses are indicated on the map. To partly account for the difference between the 1609 map and the 1614 rental, the four 'cheife rentes' (almost certainly absentee free tenants) from the rental could be excluded, reducing the number of tenants to 34. The latter figure is probably very close to the number of households present in the late sixteenth and early seventeenth centuries. Using the multiplier of 4.75 as applied to the other case studies, this would give Willoughby a population of approximately 160.

³⁹⁹ Nottingham University Special Collections, Mi 6/177/65/1-2, documents relating to the sale of Willoughby, the second dated 21st January 1614 (1615 n.s.).

5.2.3 *The Willoughby manor court*

The sample of Willoughby court rolls comprises 29 sessions spanning the years 1547-92. It is not clear whether these were the only manor courts held in these years, but they are the only ones which are preserved in the Middleton archive. Like the court records from the South Yorkshire study area, they were not rolls but individual documents, in a number of different shapes and sizes, and written in several different hands. Unfortunately it is impossible to provide examples here, as the owners of the archive do not permit photography of the collection.

Willoughby was a court baron, giving it a more limited jurisdiction than a leet court. The layout of the court records is familiar from the other case studies, with the list of suitors of the court at the beginning, followed by the jury's presentments. Pains and by-laws comprised the majority of business carried out at the Willoughby court. From 1570 onwards these are written in English more often than not, while the remainder of the court roll stays in Latin.⁴⁰⁰

The rather repetitive nature of much of the Willoughby manor court records allows the reconstruction of a set of customs and by-laws. The importance that was placed on each of them can be gauged to an extent by counting the number of times each was repeated in some form. The ten most frequently-repeated laws or pains are listed below (those repeated at least five times over the course of the sample).

⁴⁰⁰ Nottingham University Special Collections, Mi 6/177/26 – Willoughby court roll dated 21 March 12 Elizabeth (1570).

By-law or pain	Repetitions
Houses in disrepair in thatch or daub, to be repaired	18
Hedges to be made and ditches scoured	18
Tenants' pigs to be kept in their swincote at night	15
Farmers to keep no more than for geese, cottagers three (later reduced to three and two respectively)	11
Tenants not to take grass from the balks on horseback (later modified to no more than one sackful of grass)	9
Tenants to keep no more than three cows in the common field (later modified to four cows per farmer and three per cottager) ⁴⁰¹	9
Tenants not to surcharge the common by keeping more animals than permitted by the stint	7
No foal more than a month old to be allowed in the corn fields	7
No gleaning without the licence of the owner before the owner has carried away their corn	5
Every pain hanging in the court rolls remains in force	5

Table 5.1: Most frequent pains and by-laws attested in the Willoughby on the Wolds court rolls, 1547-92.

One of the most frequently-repeated pains required tenants to make up the hedges around their land and to scour field drains. This pain appeared in 18 of the 28 court sessions in the Willoughby sample. The frequency with which this pain appeared is not surprising given the never-ending nature of the tasks concerned, and especially given the tendency of clay soil to become waterlogged if not carefully drained. The court at Upper Broughton (see table 5.2 below) also repeated a pain for the upkeep of hedges, ditches and fences 24 times between 1535-42 and 1558-68. On the dryer soil of north-west Norfolk, drains were ordered to be

⁴⁰¹ 'Farmer' (*agricola*) is the term used in the court rolls – for example Nottingham University Special Collections, Mi 6/177/27, Willoughby court session dated 12th April 19 Elizabeth (1577): 'Noone to keep in common pastur more animals than by the old rate that is one *agricola* four and one cottager two,' on pain of 12d.

scoured only twelve times in 123 Hunstanton court sessions between 1517 and 1576, and only once at Docking.

The only other pain which appears with equal frequency is an order for either a named tenant or all tenants to repair the buildings on their holdings, which had been found to be deficient in thatch, daub (wall covering) or both. This pain also appears in eighteen of the Willoughby court rolls, compared to only six at Broughton. The pain may relate to outbuildings on the tenant's land, like the swincote which all tenants were required to keep their pigs in between sunset and sunrise (a by-law mentioned in 15 Willoughby courts), or the barn, which Richard Ufton and Richard Hirston were specifically ordered to repair in 1561 and 1563.⁴⁰²

Alternatively, given that the tenants in Willoughby were listed as tenants at will in 1570, as noted above, the insistence on upkeep of the tenements may have been due to the likelihood that these would change hands in the relatively near future and should therefore be kept in good condition. Although the village core in Willoughby was relatively stable, as established in Chapter 2, it was commonplace for families to change their dwelling-place and size of their holdings in reaction to their position in the life-cycle; a family where the adults were in the prime of life and had children to feed would require and be able to have a larger holding than an older couple whose children were working as servants or had started households of their own. The frequency of this kind of presentment at Willoughby contrasts with its rarity in the Norfolk case study manors, where presentments for a ruinous tenement occur eighteen times in the Hunstanton 123 court sessions, and never at all at Docking. The problem of dilapidated houses is one which seems to have decreased over time. Presentments for ruinous buildings become less frequent at Willoughby by the 1580s, and the 1605 survey notes that only one building in the village is in disrepair.

By-laws concerning the number of animals each tenant was allowed to keep on the common pasture were another frequent appearance in the court rolls. The exact wording of this restriction or 'stint' varies, but a court of 1589 defined the 'ould Stinte' as allowing tenants to

⁴⁰² Nottingham University Special Collections Mi 6/177/21 and 22, Willoughby court rolls dated 18th November 4 Elizabeth (1561) and 14th April 5 Elizabeth (1563).

keep two head of cattle and twenty sheep for every 6s 8d in rent they paid.⁴⁰³ Somewhat earlier, the stint was stated to mean that every 'husbond man' could keep four cows in tether while every cottager could keep two.⁴⁰⁴ The demarcation between the common rights of cottagers and larger tenants also applied to the number of geese each were entitled to keep: initially four geese for each husbandman or farmer (*agricola* in the Latin court rolls) and three for each cottager, later apparently reduced to three and two respectively. Other by-laws relating to livestock were based on experience of what habits could cause the most harm to growing crops, like the seven times repeated by-law stating that no foal over a month old should be allowed in the corn field, because of their tendency to cause 'an immense nuisance' by following their mothers who were drawing carts.⁴⁰⁵ The court was alert to the potential for the neatherd and swineherd to abuse their positions. In 1588 and 1589 the neatherd was singled out and ordered to keep his beasts in the common herd along with the rest of the tenants'.⁴⁰⁶

A further instance of flexibility in the exact provisions of by-laws, while the spirit and purpose of the law remained the same, was a prohibition against taking too much grass from the 'balkes' (the narrow grassy areas separating tenants strips in the open fields). In earlier courts, tenants could not take any more grass at a time than they could carry themselves, and were not allowed to take it away on horseback:

*Itm yt ys peyned yt noman shall gett any gresse uppon the bawke before Wennysdaye in Whytson Weke nor then to carrye yt on horseback nor mare uppon payne of ev[er]y deflt 12d.*⁴⁰⁷

⁴⁰³ Nottingham University Special Collections Mi 6/177/44, Willoughby court roll dated 4th October 31 Elizabeth (1589).

⁴⁰⁴ Nottingham University Special Collections Mi 6/177/32/1, draft Willoughby court roll dated 4th October 19 Elizabeth (1578).

⁴⁰⁵ Howell, *Kibworth Harcourt*, p. 100. c.f. a by-law in the Tinsley manor court (WWM/C/1/28, 7th October 28 Henry VIII, 1536) banning mares 'with their foal following' from the sown fields.

⁴⁰⁶ Nottingham University Special Collections Mi 6/177/42 and 44, Willoughby court rolls dated 12th April 30 Elizabeth (1588) and 4th October 31 Elizabeth (1589).

⁴⁰⁷ Nottingham University Special Collections Mi 6/177/26, Willoughby court roll dated 21st March 12 Elizabeth (1570).

This later changed, perhaps the result of justifiable protests that not everyone's carrying capacity was equal, or of a feeling of greater population pressure:

A paine that noe man shall gett above one sacke full of grasse growinge uppon the balke in the Corne Felde in one time excepte Nicholas Ashebie gente uppon paine of ev[er]ie one making defalte to forfeit 12d.⁴⁰⁸

Nicholas Ashbie was named as the bailiff of Willoughby in 1577.⁴⁰⁹ He also appeared at the top of the list of jurors in 1565 and 1566, as did William Ashbie in 1589, both with 'gent' suffixed to their names.

There was a long-standing tradition in English manors which allowed poorer tenants, especially women and especially those prevented from working by age or illness, to glean grain from the crops of more fortunate tenants.⁴¹⁰ An agreement or 'statute' dating from approximately 1425 set out the customs of the neighbouring manor of Wymeswold, with the agreement of the tenants and Hugh de Wyloughby, the lord of the manor, and other local gentry. One of its stipulations was that men and women who had no peas growing on their land could glean them, when ripe, from the land of their neighbours on Wednesdays and Fridays, albeit 'wt ye handes & wt no sykulse [sickles] ones before none [noon] & no mor.' Men and women, provided they were not 'abull to werke for is mete,' were also allowed to glean corn.⁴¹¹ By the late sixteenth century in Willoughby the custom had become less generous, and largely depended on the willingness of individual tenants to let their neighbours glean. A court roll of 1568 decreed that

none gleyne anie wheate on anie mans land before ye awnor have caryed his corne awaye wthout lycence of ye awnor of ye ground on payne of ev[er]y one to lose to ye lord 6d.⁴¹²

⁴⁰⁸ Nottingham University Special Collections Mi 6/177/42, Willoughby court roll dated 12th April 30 Elizabeth (1588).

⁴⁰⁹ Nottingham University Special Collections Mi 6/177/27, Willoughby court roll dated 4th October 18 Elizabeth (1577).

⁴¹⁰ Andy Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013), pp. 4-7; 298.

⁴¹¹ Nottingham University Special Collections Mi M 242, 'Wymeswold Agreement', c. 1425. The other provisions of the agreement are listed in David Hall, *The Open Fields of England* (Oxford, 2014), pp. 129-31, who describes them as 'typical of intensively farmed East Midlands field systems, very similar to those which occur abundantly in later centuries elsewhere in the Central Region.'

⁴¹² Nottingham University Special Collections Mi 6/177/32/1, Willoughby court roll dated 14th April 10 Elizabeth (1568).

In 1584 the court forbade outright the gleaning of peas or barley, while wheat or rye could not be gleaned until after the sheaves had been carried away.⁴¹³ The by-law was enforced two years later when five tenants, all men, were amerced differing amounts, from 2d to 12d, for gleaning in the wheat field.⁴¹⁴ As discussed in Chapter 1, the late sixteenth century was a period with much greater pressure from population and food prices than the early fifteenth. The tenants of Wymeswold by the latter period had also become more jealous of the poor and of outsiders than their predecessors. In 1561 they amerced six individuals who were presented as cottagers who lived in cottages newly built and who did not have common rights in the manor, but who had nonetheless attempted to pasture their animals there.⁴¹⁵

Apart from William Ashbie's privilege in being able to have more than a sackful of grass, there is little indication of any interference in the running of the court by any external agent, either one separated from the jurors by geography or social class. This tallies well with the picture of seigniorial decay and stagnant rents painted by the rentals and surveys cited earlier in the chapter.

5.2.4 A comparison of the Willoughby and Upper Broughton manor courts

The village centre of Upper Broughton was about 2½ miles to the east of Willoughby. Though the parishes shared a boundary at the Fosse Way, Broughton village is at the eastern end of its parish and nearer to its south-western neighbour Nether Broughton, across the county boundary in Leicestershire. The area of Broughton manor was elongated east-west, with a spur of land extending north along the Fosse Way at the eastern end of the parish. It was as much part of the Nottinghamshire and Leicestershire Wolds landscape as Willoughby, and as such the land was relatively hilly. The land sloped down from northwest to southeast, where the Dalby

⁴¹³ Nottingham University Special Collections Mi 6/177/38, Willoughby court roll dated 27th April 26 Elizabeth (1584).

⁴¹⁴ Nottingham University Special Collections Mi 6/177/40, Willoughby court roll dated 8th October 28 Elizabeth (1586).

⁴¹⁵ Nottingham University Special Collections Mi 6/176/95, Wymeswold court roll dated 1st April 3 Elizabeth (1561). The Wymeswold manor court, though it was a view of frankpledge, was moribund by the sixteenth century: in the seven surviving court rolls, this and one presentment for the repair of houses were the only business recorded beyond the listing of suitors of court and the transfer of freehold land.

Brook separated Upper Broughton from Old Dalby and Nether Broughton. The village itself lay on the steepest part of this declination, perhaps because this would mean wasting less flat, easily-worked arable land, or perhaps because the slope would offer the best drainage for houses and barns. The settlement, as at Willoughby and throughout the English Midlands, was nucleated, an 1880s Ordnance Survey map showing no hamlets or farms outside the village centre (see fig. 5.2 below).

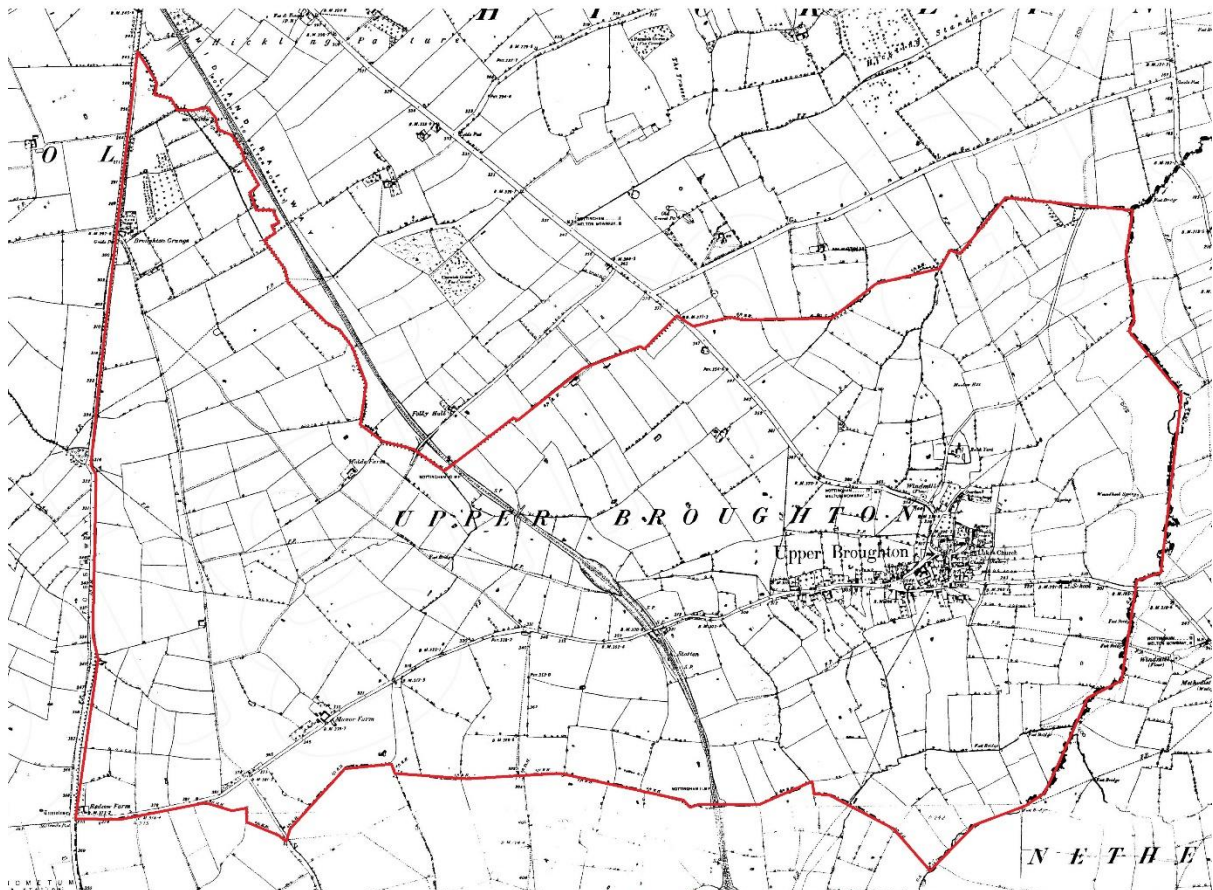


Figure 5.2: 1880s Ordnance Survey map of Upper Broughton, with the parish boundary outlined in red. The western boundary is the Fosse Way, beyond which lay Willoughby on the Wolds.⁴¹⁶

The sample of court rolls from Broughton is different in nature from that of Willoughby. At Willoughby the coverage is sporadic, with 29 court sessions at sporadic intervals between 1547 and 1592. At Broughton court records only survive from two shorter periods, August 1535 until April 1542 and April 1558 until autumn (the exact date is missing) 1568. However, for these

⁴¹⁶ Map downloaded from Edina Digimap (University of Edinburgh), <https://digimap.edina.ac.uk/historic>.

two periods the coverage is almost complete, a spring and autumn court surviving from each year. The superior coverage of the Broughton sample means that it is possible to track the enforcement of orders and pains to a greater degree than at Willoughby. Tenure at Broughton was, like Willoughby, mainly at the lord's will; a court roll of 1566 lists 28 tenants at will, along with the ten free tenants listed as suitors of the court.⁴¹⁷ Without rentals or any other supplementary documents, no attempt is made here to estimate the population of Upper Broughton, except that it was likely to have been similar to or a little higher than that of Willoughby.

Broughton's manor court was a leet or view of frankpledge, giving it a wider jurisdiction than a court baron. The range of matters determinable at a leet has been discussed in previous chapters so it need not be enlarged on here. The court at Broughton covered some of these functions. The manorial officers it elected included constables, chosen at the autumn session of the court. As at Hunstanton and Docking, they were not elected every year: the election of a constable was not recorded in between 1564 and 1566. Another official, elected in pairs and with wide-ranging responsibilities, including reporting waifs and strays, keeping the pinfold, and presenting tenants for breaches of the peace, was the *forborius* or forbarn, a term not found in any of the other manor courts sampled in this study. The term may be a variation of 'thirdborowe,' an official named by a sixteenth-century handbook alongside tithingmen, headboroughs and other 'inferiour Ministers of the Queenes Maiesties Peace' elected by hundreds or leet franchises.⁴¹⁸ As at Hooton Roberts, the court elected bylawmen in 1559, 1564 and 1567. The names of these bylawmen were different each time, with no-one elected to the office twice.⁴¹⁹ Presentments for affray in theory fell within the jurisdiction of a court baron, but it is notable that the three courts baron in this survey (Tinsley, Hooton Roberts and Willoughby) did not present for affray, while the three courts leet (Broughton, Hunstanton and Docking) all did. The court at Broughton fulfilled other functions of a leet court, amercing tenants or their

⁴¹⁷ Nottingham University Special Collections CI M 035, Upper Broughton court roll dated 8th May 8 Elizabeth (1566).

⁴¹⁸ William Lambard, *The Dueties of Constables, Borsholders, Tythingmen, and such other lowe and laye Ministers of the Peace* (London, 1599), pp. 3-6, accessed at Early English Books Online (eebo.chadwyck.com).

⁴¹⁹ Nottingham University Special Collections CI M 20, 28 and 32, Upper Broughton manor court rolls dated 9th November 1 Elizabeth (1559), 9th November 6 Elizabeth (1564) and 11th November 9 Elizabeth (1567).

families from baking bread and brewing ale. The court was also used as a forum for arbitrating disputes over money. In 1560 John Watson and William Daft came to court to have their dispute over a small debt decided by the lead juror, William Cawarde.⁴²⁰

By-law or pain	Repetitions
Reparations to hedges, ditches and fences	24
Insult and/or affray ⁴²¹	23
Pigs to be kept in the swincote at night	17
No tenant to surcharge the common or keep animals beyond the stint	17
No tenants to keep cattle in the corn field after the feast of the Invention of the Cross/St Peter ad Vincula	11
Pigs to be put before the swineherd during the day	9
Upkeep of metes and bounds	6
No tenant to carry away furze unless in a cart	6

Table 5.3: Most frequent pains and by-laws attested in the Upper Broughton court rolls, 1535-42 and 1558-68.

The list of most common by-laws and pains reflects a similar agricultural regime to that in place at Willoughby, with an emphasis on the upkeep of field drains and division, and strict regulation of livestock, with a village neatherd and swineherd employed to keep them under control during the day. Access to common pasture was stinted, as at Willoughby, and the two-tier system of farmers or husbandmen and cottagers was in place in both manors. A 1536 court passed a pain stating that no cottager was to keep more than three animals, and amerced two tenants for exceeding the stint, for the more than nominal sum of 1s per animal.⁴²²

⁴²⁰ Nottingham University Special Collections CI M 22, Upper Broughton manor court roll dated 6th November 2 Elizabeth (1560).

⁴²¹ This is not strictly speaking a pain or by-law, but it was presented along with the others and was theoretically presentable at a court baron like Willoughby, where no such presentments were made.

⁴²² Nottingham University Special Collections CI M 003, Upper Broughton court roll dated 22nd June 28 Henry VIII (1536). 'Animal' in this case almost certain refers to cattle.

Some orders passed by the court suggest that the kind of farming practised at Broughton, though mainly similar to Willoughby, might have been more commercial in nature. Two pains were placed regulating where tenants could leave hemp or flax, cash crops which are not in evidence at Willoughby.⁴²³ A pain of 1565 implies that some of the tenants had flocks of more than 100 sheep, requiring them, if so, to 'kepe a lawful schepp[er]de for the same,' and all tenants with fewer than 100 to keep them with the common herd.⁴²⁴

The most significant difference between the courts at Willoughby and at Upper Broughton was the extent of control the latter assumed over the tenants' lives. The court at Willoughby interfered very little with the tenants provided that they kept the by-laws, only repeating in general terms that they ought to keep their tenements in good repair, and once declaring that tenants should not keep a shop or tavern (*tabarna*) without the lord's permission.⁴²⁵

The Broughton court was far more active. Tenants were ordered not to harbour subtenants (literally 'no tenant in his house but himself,' *no' plus Tenent' in domo sua nisi seip[su]m*) in 1541.⁴²⁶ On more than one occasion they were required to produce evidence of title to their holdings, which never occurred at Willoughby.⁴²⁷ All men in the manor were required to have a cartload of coal and one of wood before Christmas.⁴²⁸ It is unclear whether this was a paternalistic measure aimed at ensuring tenants could get through the winter or an attempt to secure the lord a captive market for the produce of his woods and coal mines, but the 5s amercement tenants were threatened with for failing to supply themselves suggests the latter. Named individuals were banned from the village under substantial penalties. In 1558, William Aston and his wife, said to have been 'brybyng and stealyng of Cloasse lynnyng,' were amerced 6s 8d and

⁴²³ Nottingham University Special Collections, CI M 013, Upper Broughton court roll dated 17th May 33 Henry VIII (1541), and CI M 021 (24th April 2 Elizabeth, 1560): 'no-one within this lordship ought to lay *linis* [flax] *et canibus* [presumably *cannabis*, hemp, rather than dogs] outside le Flax Poyle.'

⁴²⁴ Nottingham University Special Collections, CI M 029, Upper Broughton court roll dated 22nd May 7 Elizabeth (1565).

⁴²⁵ Nottingham University Special Collections Mi 6/177/17/1, Willoughby court roll dated 17th April 1 Edward VI (1547).

⁴²⁶ Nottingham University Special Collections CI M 013, Upper Broughton court roll dated 17th May 33 Henry VIII (1541).

⁴²⁷ For example Nottingham University Special Collections CI M 013 and CI M 032, Upper Broughton court rolls dated 17th May 33 Henry VIII (1541) and 11th November 9 Elizabeth (1567).

⁴²⁸ Nottingham University Special Collections CI M 014 and CI M 018, Upper Broughton court rolls dated 21st October 33 Henry VIII (1541) and 17th October 5 & 6 Philip and Mary (1558).

ordered to 'avoide ye Towne,' while someone whom the jurors named as Margaret Begar was similarly ordered to 'avoide ye towne in all ye hastele,' under pain of 3s 4d.⁴²⁹ Orders for the repair of buildings were fewer in number but far more specific than at Willoughby, and the financial penalties for failure could be extremely large by the standards of the manor court. In 1566 Robert Olyver and Francis Nobyll were ordered to repair the house that Francis lived in on pain of 40s.⁴³⁰ Two years later, Thomas Mason was put under pain of 20s to

set upp a pese of a howse end which he pullyd downe before Michilmes in such lyke order & forme as it was when he entrid to it at the sight of the Jur'.⁴³¹

The jurors were also to make sure that Robert Oliver sufficiently repaired his houses, as well as being consulted on the extent of the bailiff's yardland (as noted earlier in the chapter). In the autumn of the same year, the jury was ordered to inquire 'what unlawfull Games hath bene kept in Thomas Masons howse in the nyghter tale.'⁴³²

It is unfortunate that the sample of Broughton court rolls ends in 1568, so that it cannot be ascertained whether these increasingly specific instructions to the jury were a trend which continued into the late sixteenth century. At any rate, it is clear that the scope of the Upper Broughton leet court's activities was not in decline but expanding by 1568. The repeated targeting of Robert Olyver and Thomas Mason begins to resemble the presentments directed against 'problem tenants' of Hunstanton and Docking like Thomas Holdenby and John Wandham.

⁴²⁹ Nottingham University Special Collections CI M 018 (1558).

⁴³⁰ Nottingham University Special Collections CI M 035, Upper Broughton court roll dated 8th May 8 Elizabeth (1566).

⁴³¹ Nottingham University Special Collections CI M 036, Upper Broughton court roll dated 24th April 10 Elizabeth (1568).

⁴³² Nottingham University Special Collections CI M 037, Upper Broughton court roll, 10 Elizabeth (date illegible but presumably October or November).

5.3 Conclusion

In Chapter 2, analysis of the names of the jurors at Willoughby was used to suggest that the manor court was primarily run by a handful of long-standing families. The total number of jurors named across the 47-year sample was lower than in any of the other case study manors. This chapter has shown that, despite being tenants at will for at least part of the sixteenth century, their rents increased barely at all in 150 years, and they appear to have seen off a move towards the enclosure of the common fields in 1605, before they were able to buy full ownership of them for a knock-down price ten years later. The lord's interests in the manor were in a state of total neglect, embodied by the ruins of the manor house and its associated buildings. From 1549 until well into the 1560s its lords were minors in the wardship of gentry largely foreign to the region, and once Francis Willoughby came of age he was either unable or unconcerned to reassert control. Willoughby is perhaps the closest of all the case studies to a manor where seigniorial authority had been fully stripped away.

Its manor court was nonetheless played an important part in the governance of the community. The kind of business it dealt with may serve to indicate how a group comprising the main users of the common resource of the fields and pastures would choose to govern in the absence of outside interference (albeit noting that the lord's steward was present during sessions of the court, and that no community in England can have completely disregarded its landlord). Nearly all the presentments at the court concerned the rules governing agriculture in the open fields and regulating the rights to appropriate the resources that could be gathered from them. The by-laws were proclaimed repeatedly in the manor court, where most of the users of the manor's resources would have been present. The houses in which the tenants dwelt also seem to have been conceived of as a common resource, to be kept in good repair for when their current occupiers should move elsewhere. Scholarship on the sixteenth-century village suggests that it was untypical for peasant families to feel a strong connection to specific houses and pieces of land; they were more concerned with what made most economic sense for their family.⁴³³

⁴³³ Whittle, *Development of Agrarian Capitalism*, p. 158; Wrightson and Levine, *Terling*, p. 31: 'The impression gained is that the important thing was to have land. The question of which bit of land was of little importance.'

The Willoughby court was also preoccupied with excluding those who were not entitled to use the manor's resources and with ensuring that common rights were not exceeded, as embodied in the tight restrictions against gleaning (probably eased in practice by the tradition of neighbourliness) and in the carefully-delineated and flexible stint on the animals each tenant was entitled to graze. In short, the court at Willoughby by the mid-to-late sixteenth century had adapted itself to fulfil most of the criteria for a sustainable institution for governing a common resource, as set out in Chapter 2, while discarding more or less everything else that a manor court might theoretically do. The Willoughby jurors did not make presentments for interpersonal disputes like affray or slander or record property transfers. The extent to which higher authority was absent, and to which the village failed to conform to early modern elite ideals of order and profitability, appears in the appalled comments of the 1605 surveyor quoted at the beginning of the chapter.

The court of Upper Broughton highlights what might be expected in a more hierarchical community. As quoted in the preceding section, the court attempted to control the tenants more strictly, imposing harsher financial penalties, and, by the 1560s, ordering the jury to make enquiries to ensure that orders and pains had been carried out. It may be pertinent that a 'Mr Richard Clifton,' likely a member of the Clifton family who owned the manor, lived (or at least had a house) in Broughton, which a tenant was amerced for watching by night in 1563.⁴³⁴ It is difficult to measure the relative success or failure of the divergent approaches to communal governance taken by the Willoughby and Broughton courts, though the prevalence of violent disputes at Broughton, with twenty-three presentments made in the eighteen years covered by the sample, suggests the more top-down approach taken there did not succeed in resolving every dispute among tenants.

⁴³⁴ Nottingham University Special Collections CI M 033, Upper Broughton court roll dated 29th April 5 Elizabeth (1563).

Conclusion

As chapter 1 and all the case studies have shown, the sixteenth-century manor court preserved the structure and some of the language of its medieval incarnation, but in those places where it retained real importance its function and the motive force behind it had been transformed.

Chapter 2 offered a framework for understanding how and why a manor court might retain a central place in the life of its community. It was by no means a perfect common-governance institution, but it can reasonably be suggested that it was better-placed to do the job than any of the alternatives that existed at the time. It was less exclusive than governance by a parish vestry, let alone a small and self-selecting informal council of the wealthiest inhabitants. All tenants, in theory and sometimes in practice, participated in the creation and enforcement of customary regulations. Sanctions for rule-breakers were applied on the spot, starting at a nominal few pence and increasing if it became clear that a rule-breaker was not being deterred by social pressure. Amercements at most courts seem to have been applied disinterestedly to all rule-breakers, even if they were jurors or office-holders. Moreover, the process took place in public and in the presence of most of those who were affected by the decisions made there.

That said, it is important to avoid painting too rosy a picture. How far the manor court and its jury truly represented the people it wielded power over depended on the social ecology of the community, a concept explored in chapter 2. Everywhere women, even those who held land in their own right, were excluded from service as jurors and from office-holding. The legal constitution of the court restricted its membership to the more orthodox forms of landholder, free and customary tenants who swore fealty to the lord of the manor. In manors which contained a large number of subtenants, absentee tenants and landless labourers or artisans, those running the court would thus come from a small section of the population, and one with a set of interests that may conflict with others'. Chapter 4 was a case study of such a manor. The consequences of this lack of representation at Tinsley, exacerbated by the manor's subdivision into four separate communities, meant that the court's functions shrank to very little by the late sixteenth century.

In a village with a more active manor court and a large body of jurors, there was still scope for dissent and exclusion. Chapter 6 shows the leet jurors of Upper Broughton expelling vagrants

and petty criminals from the village. The principle that a common resource can only be sustainably governed by enforcing the boundary between those who are entitled to use it and those who are not was here being applied at the expense of the poor and marginalised. At Hunstanton and Docking, the case studies for chapter 5, it is possible to identify wealthier tenant families who were presented repeatedly for a range of offences. Henry Deynes and Thomas Holdenby at Hunstanton, and the two John Wandhams at Docking, were meant to be part of the decision-making body at the manor court, and they all served as jurors and office-holders, but more frequently appear on the receiving end of manorial justice. The exact rights and wrongs of their cases cannot be recovered, but they betray disharmony and a failure to keep everyone on board, even in places where the manor court's infrastructural reach within the village community was comparatively deep. Making an example of problematic tenants may have been necessary for this kind of power to be effective, but again, the boundaries of the community left some stuck on the outside.

Manor courts could also be hamstrung by excessive lordly interference, by which the interests of the lord, enacted through their officials (stewards, bailiffs and parkers) could distort the priorities of the court. Lords possessed means of pressuring their tenants, and this leverage increased over the course of the sixteenth century as prices and rents steadily rose. The interests that manorial lords had in their lordships were summarised in chapter 2 as financial gain from rents and natural resources and a boost to their prestige and social status. A lord who was not resident in the manor had little interest in the priorities of the tenants. At Hunstanton, where the lord of the manor was a long-established part of the village, the Lestranges took a degree of paternal interest in the welfare of (some of) their tenants and allowed a group of prominent families to run the manor court without much interference. They seem to have benefited from this approach in the quiescence of Hunstanton during the rebellion of 1549.

If there is a connecting strand between each of the case studies in this thesis, much of the recent social-historical study of small communities in England, and studies of communal group behaviour in other areas, it lies in the adaptability of groups of people, even of relatively humble status, to their physical and social contexts. English peasants and artisans of the sixteenth century could, and did, create new institutions to govern themselves where they perceived a need for

them. Elsewhere, as in the more rural and isolated case studies in this thesis, they turned the existing machinery of the manor court to their purposes. This offers a partial answer to the central question posed in the introduction: given the transformation of seigniorial authority in the two centuries leading up to the period covered by the case studies, and the lords' general withdrawal from direct control of their manors, and given the development of alternative source of legal redress, why did tenants of some communities retain an interest in the manor court as the chief forum for controlling the communal aspects of their lives?

The clearest response appears in the manor court of Willoughby, discussed in chapter 5, which was a rural village where the lord and his influence had practically disappeared and where rents had been fixed since time out of mind. The court continued to be relevant, but its use was restricted to the aspects most relevant to governing access to common resources, and when, how and by whom they could be used. Personal disagreements and violence were not dealt with there. The greatest contrast is found at Tinsley, a manor in which the lord had a considerable economic interest and where a large proportion of the inhabitants were sub-tenants of gentry freeholders living outside the manor. Here, it does not appear to be tenant priorities which directed the court's business, but those of the lord and wealthy farmers.

At courts which possessed a leet jurisdiction, the tenants added criminal jurisdiction to agricultural regulation, but again, with a focus on their own interests. The habit at the Hunstanton and Docking manor courts of recording the verbal outbursts of tenants protesting against the court's verdicts is a fascinating phenomenon, suggesting firstly that the tenants expected the court to be run fairly and were outraged when it was not, and that the jurors and officers of the court wanted to punish dissent where it occurred so that it could not begin to undermine the court's authority.

Lords could provoke class conflict and resistance (active or passive) if they tried to increase the revenues they appropriated from tenants or assume greater power to regulate their communities, but in other places they and their most influential tenants could co-operate, with much of the active governance being done by the tenants through the manor court. Where there was no heavy seigniorial presence, the manor court carried on under the full control of the tenants, who both responded to the changing situation of the late sixteenth century and

were influenced by, and in turn themselves influenced, ideas and institutions in the wider world of which they formed part. Direction and control from above was not necessary, and accounts of social and governmental change in late medieval and early modern England are richer for paying attention to the records of manorial courts for an insight into the priorities of those who carried out the day-to-day labour of ensuring peace and security.

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