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Manorial Plunder: Serfdom and Material Culture in Fifteenth-Century England

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Abstract: *Heriot* was a due paid by manorial tenants to their lords when they died, traditionally in the form of their *best beast*. Unlike other customary dues associated with serfdom that gradually disappeared from manorial courts in the later 14th and 15th centuries, heriot proved surprisingly resilient to social and tenurial change, even though it often came to be collected by a cash payment or the render of household goods. In this article I explore why heriot proved so durable. First, I argue that because heriot was owed on the basis of landholding, rather than personal status, it was more easily assimilated into the new formulations of customary tenure; its connection with death meant that it came to be understood as a requisite for the inheritance of customary land. Secondly, however, I argue that heriot's unusual durability must also be understood within the broader continuity of seigneurial prerogatives to tenants' household goods through legal procedures in the manor court. The example of heriot allows us to revisit narratives about serfdom in late-medieval England; rather than the traditional narrative of decline, heriot suggests a more complex reformulation of lordship and its customary entitlements.

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1 Introduction

A silver goblet said to be worth twenty-seven shillings. A bowl worth twenty pence. A dun horse. A cauldron that could hold four gallons. A brass pot worth two shillings fourpence. A pewter pot worth two shillings. A red tunic worth twelve pence. A payment of two shillings sixpence in money. Five shillings in money. A black cow. A cow worth half a mark. A red cow worth twelve shillings. A fallow ox worth ten shillings. A pig worth nineteen pence. A grey horse, price unknown. “Nothing” – because she had nothing.¹

These were things taken from manorial tenants by lords across 15th century England as payments of *heriot*. Heriot was a customary due paid by a tenant when they died, effectively a death duty levied to the lord from their estate.² In the most common formulation, the tenant was said to owe their “best beast” – hence the preponderance of animals in the list above – although, as the 1448 customal of Ringwood in Hampshire had it, heriot could also be paid with “other things”.³ In some places, heriot was simply paid in money, the amount fixed in advance at the beginning of a tenure.⁴

Heriot was one of the most widespread dues collected from peasants in late-medieval England, levied throughout the country. Yet perhaps the more surprising was its longevity: the due had been collected on tenants since at least the 13th century, and it continued to be collected through the 15th century and beyond. In this respect, heriot represents a due that outlasted serfdom itself.⁵ As a result, it is particularly useful as a means of understanding the ways in which serfdom and lordship changed in England after the Black Death.

1 This is a list of items or things levied upon the death of various peasants respectively from: King’s College Cambridge Library and Archives (henceforth, KCC), RIN/5, m. 1r.; KCC, STP/7, m. 1r.; KCC, FOR/8/3; KCC, RIN/7, fo. 3r.; Corpus Christi College, Oxford (henceforth CCCO), Bb 1/3, m. 3v.; KCC, STP/7, m. 1r.; CCCO, Ga 25/3/a, m. 1v.; British Library (henceforth BL), Add. Ch. 49224, m. 1v.; BL, Add. Ch. 49228, m. 1v.; Derbyshire Record Office (henceforth DRO), D77/2/1/4, verso; KCC, CHA/estates1, m. 3r.; BL, Add. Ch. 27294, recto; BL, Add. Ch. 27300, recto; KCC, MON/2, m. 1v.; DRO, D77/2/1/8.; BL, Add. Ch. 27294, recto.

2 M. Bailey, *The Decline of Serfdom in Late Medieval England: From Bondage to Freedom*, Woodbridge 2014, p. 52. As we will see below, heriots were sometimes paid in advance, whether at the beginning of the tenure or upon the surrender of a holding, but these cases were exceptional.

3 KCC, RIN/50.

4 At Woodfidley in Hampshire, for example, a tenurial agreement of 1452 specified that Stephen Bele “[...] would be herioted for both messuages when it should happen” [*heriettabit pro ambobus mesuagii cum accidit*]: KCC, FOR/8/3, recto.

5 Bailey, *Decline of Serfdom*, p. 53.

Why did heriot survive where other dues associated with serfdom – such as *leyrwite* or *chevage* – fell into obsolescence? In this article, I pursue two broad lines of explanation. First, I argue that because heriot was a due owed on the basis of landholding, rather than one associated with servile status, it was more easily assimilated into the new formulations of customary tenure that came to be agreed between landlords and tenants in the later Middle Ages. Its connection with inheritance and the transfer of land, moreover, meant that it was seen as an integral aspect of customary landholding, rather than an extraneous burden.

Secondly, however, I argue that heriot's unusual durability must also be understood within the broader continuity of seigneurial prerogatives to tenants' household goods. From the second half of the 14th century onwards, most English lords relinquished their claims over the bodies of their serfs, giving up or commuting entitlements to labour services, marriage fines, and restrictions on movement. But they never abandoned their extensive claims to manorial chattels, claims made through franchises of royal prerogative rights, through the legal procedures of distraint and forfeiture, and indeed through heriot.⁶

These two aspects of heriot help to cast some new light on late-medieval serfdom in England. Rather than following a simple trajectory of “decline” after the Black Death, as has so often been claimed, I argue that seigneurial claims were transformed into formalized legal rights and processes exercised through the manor court. To some extent this transformation favoured tenants, insofar as it opened more routes for them to contest those claims; yet even when they did so successfully, their use of law helped to reinforce and legitimate lords' legal power over them.⁷

In these claims, late-medieval English serfdom thus bears some resemblance to the kind of “legal plunder” that Dan Smail has identified as one of the predominant forms of public power in late-medieval Mediterranean city-states.⁸ There, as in England, seizures of goods represented a significant form of power over peasants, enacted through the invasion of domestic space, threats to creditworthiness, and potential pauperization through the confiscation of thesaurized wealth. In this article, I suggest, that a focus on manorial plunder can help

⁶ R. Hilton, *The Decline of Serfdom in Medieval England*, London²1983, pp. 51-52.

⁷ A similar point has been made in: T. Johnson, *Law in Common: Legal Cultures in Late-Medieval England*, Oxford 2020, pp. 266-268.

⁸ D. Smail, *Legal Plunder: Households and Debt Collection in Late Medieval Europe*, Cambridge (MA) 2016.

to foreground the new kinds of social violence that inhered within the transmuted structures of late-medieval lordship.⁹

I begin by tracing the development of the historiography of the decline of serfdom and bringing it into conversation with more recent work on the material culture of the medieval peasantry. In the second section, I examine the previously neglected legal history of heriots; I then turn to consider how their earlier features contributed to their endurance and development in the 15th century in the third section. In the fourth section, I explore the ways in which heriots were claimed from manorial tenants, and how their contestation served to reinforce their place as a legal norm. In the conclusion, I return to my broader argument, considering how manorial plunder may help us to reinterpret late-medieval serfdom.

2 Material Culture and the Decline of Serfdom

Serfdom in 15th century England has become, in Mark Bailey's words, something of a "Cinderella subject" in the so-called "Cinderella century".¹⁰ For a long time the topic formed an important component of debates over the transition from feudalism to capitalism; its relative disregard in more recent historiography tracks with the abeyance of explicitly Marxist accounts of rural economic development in this period, and their replacement, to some degree, by more heterodox approaches that emphasize material culture, living standards, and commerce rather than class conflict.

In what follows, I would like to suggest that these two heuristics for understanding changes in the late-medieval countryside – the decline of serfdom and improvements in material culture – have more in common than might first appear to be the case. Both represent an attempt to grapple with the everyday realities of peasant existence, with the degree of choice that peasants were able to exercise over their lives, and the restrictions that were placed upon them. If the two subjects have remained somewhat separate in the context of broader historiographical trends, they can nonetheless be usefully brought back together.

⁹ This is a weak pun on: *A. Appadurai (Ed.), The social life of things: Commodities in cultural perspective*, Cambridge 1986. Just as that body of essays sought to show how the social meanings attached to things were generated by various forms of exchange, my point is that seigniorial seizures (as a famously *extra-economic* mode of exchange) were similarly multivalent, encompassing a social, material, and symbolic violence.

¹⁰ Bailey, *Decline of Serfdom*, p. 9.

The modern historiography of late-medieval serfdom begins with Rodney Hilton's short but definitive essay, *The Decline of Serfdom*, published by the Economic History Society in 1969.¹¹ In fewer than fifty pages, Hilton presents an outline of the subject that – barring the prominence he gives to the supposed “seigneurial reaction” after the Black Death – still remains intact today.¹² As he argued, peasants who survived the plague found themselves in high demand and thus with an advantageous bargaining position; some were able to negotiate away the more burdensome terms of servile tenure under the threat of leaving; others made good on the threat and found favourable tenures (or alternative employment) elsewhere.¹³

Despite his attention to the “many fluctuations and cross-currents” of these changes, Hilton's outlook remained essentially Marxist.¹⁴ At the heart of his account there is an emphasis on class struggle: unfree peasants had long sought free tenure and status, and the gains that they extracted were hard-won from lords who either actively sought to obstruct them via the legal machinery at their disposal, or through recalcitrant appeals to the status quo. While Hilton devoted a good deal of attention to the workings of tenurial change, he concluded with a series of “acts of banditry” by 15th century lords against their tenants, exemplified in attempts to seize the goods and chattels of people they still regarded as villeins, as they battled to preserve their social and economic superiority.¹⁵

In less than a decade, however, such sensitive, empirically-rooted research had been somewhat overshadowed by the polemical Brenner debate.¹⁶ This

11 R. Hilton, *The Decline of Serfdom*, London, 1969. Serfdom in pre-plague society has been better served in the historiography, beginning with: P. Vinogradoff, *Villainage in England: essays in English medieval history*, Oxford 1892; H. Bennett, *Life on the English Manor: a study of peasant conditions, 1150–1400*, Cambridge 1938; G. Homans, *English Villager of the Thirteenth Century*, Cambridge (MA) 1941; J. Raftis, *Tenure and Mobility: studies in the social history of the medieval village*, Toronto 1957; R. Hilton, *Freedom and villeinage in England*, in: *Past & Present* 31, 1965; J. Titow, *English rural society, 1200–1350*, London 1969.

12 See: M. Bailey, *The Myth of the ‘Seigniorial Reaction’ in England after the Black Death*, in: M. Kowaleski/J. Langdon/P. Schofield (Eds.), *Peasants and Lords in the Medieval English Economy: Essays in Honour of Bruce M. S. Campbell*, Turnhout 2015, pp. 147–172.

13 Hilton, *The Decline of Serfdom*, pp. 33–44. See also: C. Dyer, *A Redistribution of Incomes in Fifteenth-Century England?*, in: *Past & Present* 39, 1969.

14 Hilton, *The Decline of Serfdom*, p. 33.

15 *Ibid.*, p. 55.

16 This was spurred by: R. Brenner, *Agrarian Class Structure and Economic Development in Pre-Industrial Europe*, in: *Past & Present* 70, 1976. The original essay and responses to it are collected in: T. Aston/C. Philpin (Eds.), *The Brenner Debate: Agrarian Class Structure and Eco-*

revolved around the question of whether Malthusian demographic cycles or class struggle was the determinative force of economic change in the Middle Ages.¹⁷ If the debate resolved anything, it was that neither of these factors operated independently; in one prescient contribution, Guy Bois suggested that a focus on labour productivity, as a point of convergence between the Malthusian interest in land output and the Marxist interest in labour relations, might provide a useful way forward.¹⁸ And indeed, some historiographical progress would soon be made in that direction.¹⁹

For our purposes, it is noteworthy that heriots did play a small role in the Brenner debate. While asserting that serfdom had disappeared in England by 1400, Robert Brenner argued that landlords retained significant extra-economic power over their customary tenants because of their “[...] right to charge fines at will whenever peasant land was conveyed”, in the form of entry fines and heriots.²⁰ In a vexed response, Michael Postan and John Hatcher disputed this as a matter of fact: they argued that entry fines were often lower for customary than for free tenants, and when they were raised, it was in response to market rates, reflecting the local availability of land rather than untrammelled seigneurial power.²¹ The question of heriots fell by the wayside.

Regarding serfdom more generally, Postan and Hatcher concluded that although it might have “[...] exposed peasants to greater exploitation by landlords than that suffered by free men”, the rigidity of custom that surrounded it also provided a degree of tenurial “[...] protection which many a sixteenth-century

nomic Development in Pre-Industrial Europe, Cambridge 1985. The following citations are from this volume rather than the essays which appeared in Past & Present.

17 See: *R. Hilton*, Introduction, in: *Aston/Philpin (Eds.)*, The Brenner Debate, pp. 1-9.

18 *G. Bois*, Against the Neo-Malthusian Orthodoxy, in: *Aston/Philpin (Eds.)*, The Brenner Debate, pp. 107-118.

19 See: *B. Campbell*, Arable Productivity in Medieval England: Some Evidence from Norfolk, in: *Journal of Economic History* 43, 1983, pp. 379-404; *B. Campbell*, Land, Labour, Livestock and Productivity Trends in English Seigneurial Agriculture, 1208-1450, in: *B. Campbell/M. Overton (Eds.)*, Land Labour, Livestock: Historical Studies in European Agricultural Productivity, Manchester 1991, pp. 144-182; *J. Langdon*, Horses, Oxen, and Technological Innovation, Cambridge 1986; *D. Stone*, Decision-Making in Medieval Agriculture, Oxford 2005; *B. Dodds*, Peasants and Production in the Medieval North-East: The Evidence from Tithes, 1270-1536, Woodbridge 2007; *A. Sapoznik*, The productivity of peasant agriculture: Oakington, Cambridgeshire, 1360-99, in: *Economic History Review* 66/2, 2013, pp. 518-544.

20 *Brenner*, Agrarian Class Structure, in: *Aston/Philpin (Eds.)*, The Brenner Debate, pp. 35, 47.

21 *M. Postan/J. Hatcher*, Population and Class Relations in Feudal Society, in: *Aston/Philpin (Eds.)*, The Brenner Debate, pp. 64-78, at p. 75. This view was subsequently put in more detail by: *J. Hatcher*, English serfdom and villeinage: towards a reassessment, in: *Past & Present* 90, 1981.

English peasant must have wished he possessed.”²² Underneath the stormy polemic, this was a position with which Rodney Hilton (and probably Robert Brenner) would have concurred.²³ Though it remained unrecognized, there seems to have been some shared ground here: Postan and Hatcher agreed that the uneven withering of late-medieval serfdom left open some legal and tenurial anomalies that landlords were able to exploit to their advantage.

Yet the debate, started by Robert Brenner, represented an explosive endpoint to an older generation of ideas rather than the foment of something new.²⁴ More recently, two important contributions by Jane Whittle and Alex Brown, a decade and a half apart, have helped to revitalize the question of the development of agrarian capitalism; notably, both have broken with the traditional periodization divide between the 15th and 16th centuries, and emphasized the importance of legal and tenurial change rather than class conflict – a stress that perhaps owes more to the preoccupations of R. H. Tawney than those of Brenner.²⁵

In all of this, however, two of Rodney Hilton’s central assumptions about the decline of serfdom in England had remained unexplored – and in fact, had been implicitly endorsed by Christopher Dyer in an article of 2005.²⁶ First, was there really a seigneurial reaction in the immediate aftermath of the Black Death, in which lords sought to impose tighter restrictions on their unfree ten-

²² Postan/Hatcher, *Population and Class Relations*, p. 76.

²³ Hilton makes a very similar comment in: Hilton, *The Decline of Serfdom*, pp. 57-58; Brenner, *Agrarian Class Structure*, in: Aston/Philpin (Eds.), *The Brenner Debate*, p. 48. It is not a coincidence that both are citing Tawney, who was arguably the first to understand this transition: R. Tawney, *The Agrarian Problem in the Sixteenth Century*, London 1912.

²⁴ Cf. the comment that, two decades nearer to the debate itself, they felt its “[...] aftershocks [...] continue to reverberate”: J. Hatcher/M. Bailey, *Modelling the Middle Ages: The History and Theory of England’s Economic Development*, Oxford 2001, p. 3.

²⁵ Whittle does in fact discuss and critique Brenner at length: J. Whittle, *The Development of Agrarian Capitalism in Norfolk 1440–1580*, Oxford 2000, pp. 18-27. But Tawney has loomed large in her thinking elsewhere: J. Whittle, *Introduction: Tawney’s Agrarian Problem Revisited*, in: J. Whittle (Ed.), *Landlords and Tenants in Britain, 1440–1660: Tawney’s Agrarian Problem Revisited*, Woodbridge 2013, pp. 1-18. The same can be said for: A. Brown, *Rural Society and Economic Change in County Durham: Recession and Recovery, c.1400–1640*, Woodbridge 2015; A. Brown/J. Bowen (Eds.), *Custom and Commercialization in Rural England, c.1350–1750: Revisiting Postan and Tawney*, Hertford 2016.

²⁶ C. Dyer, *Villeins, Bondsmen, Neifs, and Serfs: New Serfdom in England, c. 1200–1600*, in: P. Freedman/M. Bourin (Eds.), *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion, Medieval Texts and Cultures of Northern Europe*, Vol. 9, Turnhout 2005, pp. 419-435.

ants?²⁷ And second, did serfdom eventually disappear because villeins actively refused their services and deliberately renegotiated the terms of their tenure, or because of impassive market forces such as migration, marriage, and land acquisition that quietly eroded the population of unfree tenants?

In 2015, Mark Bailey's authoritative monograph (also called *The Decline of Serfdom*) became the first attempt to answer these questions through a detailed quantitative analysis.²⁸ Drawing on a sample of some 38 manors of various ownership, size, and local geography, he found that villein tenure disappeared rapidly in the first generation after the Black Death, and that personal servility "was largely irrelevant" by the turn of the 15th century.²⁹ In this respect, he has helped to firmly settle the critical question of chronology, as well as making a strong case for the relative stability of customary tenure.³⁰ In the wake of this rigorous empirical investigation, however, it is less clear whether *decline* is the right concept for understanding what happened to late-medieval serfdom, and indeed, how we might frame these developments beyond the older concept of agrarian capitalism.

Indeed, it is telling that, in the wake of the Brenner debate, the next waves of historiographical innovation grew from a renewed interest in the work of earlier Annalists, and particularly Fernand Braudel, whose three-volume masterwork on economic life had first been translated into English in the early 1980s.³¹ Formulated before the battle lines had been drawn between neo-Malthusianism and Marxism, it placed a great deal of stress on exchange – both the social practices of trade and institutional norms of commerce – as a driver of economic progress, harking back to still older debates about the development of capitalism.³² Through the work of Richard Britnell and others, this emphasis become especially prominent in historiography of the medieval English economy in the 1990s.³³

²⁷ In the interim, an important if idiosyncratic approach to this question came from: R. Palmer, *English Law in the Age of the Black Death, 1348–1381: A Transformation of Governance and Law*, Chapel Hill (NC) 1993.

²⁸ Bailey, *Decline of Serfdom*, p. 14.

²⁹ *Ibid.*, pp. 306, 301 (quote).

³⁰ *Ibid.*, p. 291.

³¹ See: F. Braudel, *Civilization and Capitalism: 15th–18th Century* (3 vols.), New York 1981–1984, esp. Vol. 2: *The Wheels of Commerce*.

³² A useful summary can be found in: Hatcher/Bailey, *Modelling the Middle Ages*, pp. 92–93.

³³ R. Britnell, *The Commercialisation of English Society*, Cambridge ²1996. The inspiration from Braudel is also pronounced in: M. Kowaleski, *Local markets and regional trade in medieval Exeter*, Cambridge 1995; J. Masschaele, *Peasants, Merchants, and Markets: Inland Trade in*

Here the trajectory of Christopher Dyer represents a particularly striking example of this reorientation. Despite having been a doctoral student of Rodney Hilton, and despite having published an important article on late-medieval lord-tenant relations some years before, he remained aloof from the cut-and-thrust of the Brenner Debate; even as it was still rumbling on, he made his first forays in a new direction with a study of peasant diet that took its point of departure from Marc Bloch.³⁴ In 1989, he expanded further in this direction with a monograph on living standards in post-plague society; the very same year, he published an important early article on “the consumer and the market” in the same period.³⁵

Through this work, Dyer opened up a markedly more optimistic vista onto late-medieval rural society. Moving beyond the language of crisis (of feudalism) or indeed decline (of serfdom), he emphasized the increasing range of choice open to 15th century peasants compared to their predecessors: to resist rent demands made by lords, to insist on better working conditions, to buy better food, clothes, and accommodation, and even to invest strategically in agricultural or artisanal production.³⁶ Dyer developed this view further in his Ford Lectures of 2003, subsequently published as *An Age of Transition*, a title that hints at its faintly Marxissant orientation.³⁷

While the direction of Christopher Dyer’s work crystallizes certain trends in medieval English economic history, it should also be understood in the context of a much broader historiographical shift in which consumption – as a material and a cultural phenomenon – came to the fore. In particular, the idea of a “consumer revolution”, a term first posed by Neil McKendrick in 1982, became a particularly powerful framework for historians seeking to reinterpret the economic changes of the later 17th and 18th centuries.³⁸ This concept has continued to exercise a powerful hold on premodernists working in this area, and the

Medieval England, 1150–1350, Basingstoke 1997; for an overview, see: *M. Bailey*, The Commercialisation of the English Economy, 1086–1500, in: *Journal of Medieval History* 24, 1998.

34 *C. Dyer*, English Diet in the Later Middle Ages, in: *T. Aston/P. Coss/C. Dyer/J. Thirsk (Eds.)*, Social Relations and Ideas: Essays in Honour of R. H. Hilton, Cambridge 1983, pp. 191–216.

35 *C. Dyer*, Standards of Living in the Later Middle Ages: Social Change in England c.1200–1520, Cambridge 1992; *C. Dyer*, The Consumer and the Market in the Later Middle Ages, in: *Economic History Review* 42/3, 1989, pp. 305–327.

36 *Ibid.*, *passim*, with summary at p. 276.

37 *C. Dyer*, *An Age of Transition? Economy and Society in England in the Later Middle Ages*, Oxford 2005. The issue of *transition* is addressed in the introduction, at pp. 5–6.

38 *N. McKendrick*, The Consumer Revolution of Eighteenth-Century England, in: *N. McKendrick/J. Brewer/J. Plumb (Eds.)*, The Birth of a Consumer Society: The Commercialization of Eighteenth-Century England, Bloomington (IN) 1982, pp. 9–33; see also the essays in: *J. Brewer/Roy Porter (Eds.)*, Consumption and the World of Goods, London 1993.

question of when modern mass consumption emerged has overshadowed more qualitative understanding of what this actually means.³⁹

Since the 2000s, studies of premodern material culture have thus tended to split along three main lines. First, social historians (including Christopher Dyer himself), often in collaboration with archaeologists, have continued to do the important empirical work of identifying everyday objects, patterns of consumption, and living conditions.⁴⁰ Second, cultural historians – particularly those working on the Renaissance – have attempted to tackle questions about the relationship between objects, consumerism, desire, and identity.⁴¹ And third, economic historians have continued to probe and nuance the idea and timing of the consumer revolution, and to place it in the context of medieval commercialization and state formation.⁴²

In the last decade and a half, there has been a notable surge of work on material culture from historians of late-medieval England, and it has tended to pick up the first or third of these general approaches.⁴³ Indeed, the most significant recent research has been a team project led by Chris Briggs and Ben Jervis, which compiled a large dataset based on inventories of peasant goods, in order to investigate questions about patterns of rural consumption.⁴⁴ There has also

39 This point is well-made in: *F. Trentmann*, Materiality in the Future of History: Things, Practices, and Politics, in: *Journal of British Studies* 48/2, 2009, pp. 283-307, at p. 307.

40 *C. Dyer*, Living in peasant houses in late medieval England, in: *Vernacular Architecture* 44/1, 2013, pp. 19-27; *C. Dyer*, The material world of English peasants, 1200–1540: archaeological perspectives on rural economy and welfare, in: *Agricultural History Review* 62/1, 2014, pp. 1-22; *C. Dyer*, Rural Living 1100–1540, in: *C. Gerrard/A. Gutiérrez (Eds.)*, *The Oxford Handbook of Later Medieval Archaeology in Britain*, Oxford 2018, pp. 193-209; *J. Birrell*, Peasants eating and drinking, in: *Agricultural History Review* 63/1, 2015, pp. 1-18.

41 See: *U. Rublack*, Matter in the Material Renaissance, in: *Past & Present* 219, 2013, pp. 41-85; and in the essays in: *T. Hamling/C. Richardson (Eds.)*, *Everyday Objects: Medieval and Early Modern Material Culture and its Meanings*, London 2010. For the later Middle Ages, perhaps the closest comparator of this kind of work is Caroline Bynum, although it is characteristically *sui generis*: *C. Bynum*, *Christian Materiality: An Essay on Religion in Late Medieval Europe*, New York 2011.

42 *M. Howell*, *Commerce Before Capitalism in Europe, 1300–1600*, Cambridge 2010; *Smail*, *Legal Plunder*, esp. pp. 181-239.

43 See the introduction by Rachel Delman and Anna Boeles Rowland and the essays in that collection: *R. Delman/A. Boeles Rowland*, Introduction: people, places and possessions in late medieval England, in: *Journal of Medieval History* 45/2, 2019, pp. 129-144.

44 Published as: *C. Briggs/A. Forward/B. Jervis/T. Gromelski/M. Tompkins*, *The Material Culture of English Rural Households c.1250–1600*, Cardiff 2023.

been some interest in the question of how the possessions acquired by rural households might have helped to shape a distinctive sense of identity.⁴⁵

Amid this spate of work, however, there has been a striking lack of interest in the politics of objects, or more generally, the kinds of institutional power in which they were enlisted, or even helped to constitute.⁴⁶ Indeed, this failure to attend to issues of power marks out medieval histories of material culture from those conducted by modernists, for whom such questions have been prominent.⁴⁷ Thus for all the weaknesses of earlier Marxist approaches to the history of the late-medieval countryside, we have lost something important if we do not pay attention to the changing power relations that accompanied the drastic social and economic changes of the 15th century.

In what follows, I would like to suggest that in the custom of heriot and how it was instrumentalized, and indeed also other seigneurial claims over peasant goods, there is an interesting point of intersection between the decline of serfdom and the rise of rural consumption. By considering the place of material culture in the legal regime of the late-medieval manor, we can better understand what it meant for rural tenants to live through the aftermath of serfdom. Before we come to this, however, we must first attend briefly to the custom and practice of heriot.

3 The Customary Law of Heriot

Heriot has never received a great deal of attention from historians as an aspect of customary law. As such, it is useful to consider here how it originated, how it

⁴⁵ See: *P. Goldberg*, The fashioning of bourgeois domesticity in later medieval England: a material culture perspective, in: *M. Kowaleski/P. Goldberg (Eds.)*, *Medieval Domesticity: Home, Housing and Household in Medieval England*, Cambridge 2008, pp. 124-144. For an important study of urban material culture in the same period, see: *K. French*, *Household Goods and Good Households in Late Medieval London: Consumption and Domesticity After the Plague*, Philadelphia 2021.

⁴⁶ Two exceptions are: *S. Smith*, Towards a social archaeology of the late medieval English peasantry: power and resistance at Wharram Percy, in: *Journal of Social Archaeology* 9/3, 2009, pp. 391-416; *T. Johnson*, Medieval Law and Materiality: Shipwreck, Finders, and Property on the Suffolk Coast, c. 1380–1410, in: *American Historical Review* 120/2, 2015, pp. 406-432. From a different vantage, see also: *C. Fletcher (Ed.)*, *Everyday Political Objects: From the Middle Ages to the Contemporary World*, London 2021.

⁴⁷ See: *Trentmann*, *Materiality in the Future of History*, pp. 302-303; and for examples, see the essays in: *T. Bennett/P. Joyce (Eds.)*, *Material Powers: Cultural studies, history and the material turn*, London 2010.

came to be associated with unfreedom, and the ways in which its legal development would shape its payment in the later Middle Ages. In all this, two features stand out: first, it was always a claim based upon land tenure (as opposed to chattels), and second, it was normally understood as a payment – by the dying or dead – to secure the inheritance of their heirs. As I will suggest, these two features made it relatively resilient to socio-economic change, and may help to explain its durability through the 15th century.

The earliest mentions of heriot relate to a death duty, *heregeat*, claimed in pre-Conquest England.⁴⁸ This form of heriot was normally associated not with villeins, however, but with thegns, that is freemen of some rank.⁴⁹ Often paid in kind with armour, *heregeat* may have been part of a customary practice by which lords received back the weaponry they had given to a follower upon his death.⁵⁰ *Heregeat* seems to have been paid in exchange for inheritance, but it is not clear what the consequences of non-payment would have been, and in any case, the amount owed was bound by norms of what was considered to be reasonable.⁵¹

How *heregeat* became heriot, as Paul Hyams drily put it, “is somewhat obscure in detail”.⁵² The answer almost certainly lies in the critical period of legal development between the middle of the 12th and 13th centuries.⁵³ But it was not so much that heriot *per se* came to be better defined, but rather that an alternative term, relief (*relevatio*), was increasingly used to describe the inheritance payments made by freeholders to their mesne lords. This is evident in the legal treatise *Glanvill*, written in the late 1180s, where payments of relief were only to be made after the legitimate heir had presented himself to the lord and done full homage, and which, in a phrase that recalls *heregeat*, had to be “reasonable”.⁵⁴ It is clear that the writer of *Glanvill* only had freeholders in mind here.⁵⁵

48 For a brief summary, see: *J. Hudson, The Formation of the English Common Law: Law and Society in England from King Alfred to Magna Carta*, London 2017, pp. 83-84.

49 A solitary example of a *villanus* paying a relief of 20s is cited in: *J. Hudson, The Oxford History of the Laws of England*, Vol. 2, Oxford 2012, p. 124, footnote 167.

50 *F. Pollock/W. Maitland, The History of English Law Before the Time of Edward I* (2 vols.), Vol. 2, Cambridge, 1895), 2: pp. 259-260.

51 *Hudson, Oxford History of the Laws*, p. 124, citing Cnut’s Laws.

52 *P. Hyams, Kings, Lords and Peasants in Medieval England: The Common Law of Villeinage in the Twelfth and Thirteenth Centuries*, Oxford 1980, p. 77.

53 See: *R. Hilton, The English Peasantry in the Later Middle Ages*, Oxford 1975, p. 234.

54 *G. Hall (Ed.), The Treatise on the Laws and Customs of England Commonly Called Glanvill*, Oxford 1965, pp. 109-110 [Book 9, Chapter 6]. *Glanvill* was typically forceful in his framing: the king was permitted to take the lands of his barons into his hands until the heir “has made satisfaction for the relief”.

55 *Ibid.*, p. 106.

Indeed, in the early 13th century, when *relevium* received a still more comprehensive definition in the treatise known as *Bracton*, it was explicitly contrasted with heriot: a relief, the writer here maintained, was owed by the heir, whereas a heriot was owed by the deceased tenant themselves.⁵⁶ The significance of this distinction lies once more in the importance of homage: for the tenant, relief “[...] must be given after homage [has been] done and when his inheritance has been restored to him”.⁵⁷ Heriots, by contrast, could be given before the oath of fealty (a formal pledge of loyalty that was a prerequisite for a new tenure). In other words, relief had come to refer to a *post facto* recognition – set within reasonable limits – that the lord had upheld his tenant’s right of inheritance.⁵⁸ It had taken the place of *heregeat*, and in the process, come to describe free tenure only.

Of course, legal change is normally rough rather than smooth: through the 12th century, the older form of *heregeat* and the dues that related to peasant inheritance were both described as “reliefs”.⁵⁹ As late as 1251, a detailed custumal from Hartest (Suffolk) refers to both “heriot” and “relief” to describe the due owed on unfree holdings after the death of a tenant.⁶⁰ Yet by 1287, a judge in the Common Pleas had ruled that a lord could not claim heriot on a holding if he had already accepted relief for it; while implying some equivalence between the two payments, the judge also suggested they were technically distinct.⁶¹ Indeed, the two terms seem to have bifurcated as a result of broader legal change in this period: the increasing complexity of the law of freehold inheritance, the growing jurisdictional distinction between the common law used in

56 G. Woodbine (Ed.), *Bracton on the Laws and Customs of England* (4 vols.), Vol. 2, Cambridge (MA) 1968–1977. On the writing and dating of the treatise, see: T. McSweeney, *Priests of the Law: Roman Law and the Making of the Common Law’s First Professionals*, Oxford 2019.

57 *Ibid.*, p. 245.

58 *Bracton* routinely refers to “reasonable reliefs”, and indeed, is so invested in their association, that reliefs for him become the occasion to ruminate on the nature of reasonable payments more generally: “For what is paid ought to be neither very great nor very small; neither greater than the giver can manage nor less than is becoming for the receiver; neither great nor small, but intermediate. In every reasonable payment let a mean be observed, for there is moderation in all things etc. When in these matters the limits are exceeded, neither moderation nor measure will any longer prevail”. *Ibid.*, p. 249.

59 Hyams, *Kings, Lords, and Peasants*, p. 77.

60 M. Bailey, *The English Manor, c.1200–1500*, Manchester 2000, pp. 52, 54–55, 57–58.

61 Year Books, Trin. 15 Edw. 1, 1, fo. 112. He also ruled that heriot could only be claimed from a tenant who was resident on the lord’s fee at the time of their death, perhaps hinting at an association with bond tenure.

the king's courts and the customary law of manor courts, and (related to this) the emergence of formal legal criteria for villeinage and villein tenure.⁶²

In all of this, it never appears to have occurred to contemporaries to define heriot as an aspect of villeinage; nor was it ever associated with the legal precept that villeins could have no heirs.⁶³ Yet the direction was clear. *Bracton* defines heriot – in contradistinction to relief – as “[...] where a tenant, free or bond, at his death remembers the lord of whom he holds, with his best beast [...] a gift made rather of grace than of right and one which does not concern the heir.”⁶⁴ We will return to this curious idea of gifting and remembrance below. Here, *Bracton*'s definition is interesting because while he is clear that free tenants might owe heriot, the due is explicitly contrasted to right (*iure*), the principal concept of the common law of inheritance. Thus, heriot did not derive from, nor was it subject to right; rather, it was set “according to the custom of diverse places”.⁶⁵

Indeed, by the time of the earliest surviving manorial records from a few years later, heriot was coming to be associated with customary dues.⁶⁶ In 1248 at Ruislip (Middlesex), a man named Walter Hulle paid a fine of chevage to live in nearby Harmondsworth. As part of the deal, he promised that he would undertake all his labour services, “[...] and that his heriot shall be secured to the lord in case he dies there”.⁶⁷ At Hartest a couple of years later, notwithstanding the mention of reliefs, heriots seem to have been considered as a specifically servile obligation: rates of payment were graded by the size of unfree holdings, with tenants paying roughly a penny per acre. Virgaters could pay 32d. or give their best beast, while cottars, who held four acres or less, could pay 4d., or give a ploughshare instead.⁶⁸

⁶² On the law of inheritance in this period, see: *J. Biancalana*, *The Fee Tail and the Common Recovery in Medieval England: 1176–1502*, Cambridge 2004; on the distinctions between (and influences of) common law and customary law, see: *R. Smith*, *Some Thoughts on ‘Hereditary’ and ‘Proprietary’ Rights in Land under Customary Law in Thirteenth and Fourteenth Century England*, in: *Law & History Review* 1/1, 1983, pp. 95-128; and on the law of villeinage, see: *Hyams*, *Kings, Lords, and Peasants*, pp. 221-265, 240-242 in particular.

⁶³ *Hyams*, *Kings, Lords, and Peasants*, p. 78.

⁶⁴ *Woodbine (Ed.)*, *Bracton*, Vol. 2, p. 250.

⁶⁵ *Ibid.*, “secundum diversam locorum consuetudinem”.

⁶⁶ In addition to the citations below, they were said to be common on manors of the Bishop of Winchester by the 1250s: *M. Postan/J. Titow*, *Heriots and Prices on Winchester Manors*, in: *Economic History Review* 11/3, 1959, p. 393.

⁶⁷ *F. Maitland (Ed.)*, *Select Pleas in Manorial and Other Seignorial Courts*, Vol. 1, Selden Society 2, London 1889, p. 16.

⁶⁸ *M. Bailey*, *The English Manor, c.1200–1500*, Manchester 2000, pp. 52, 54-55, 57-58.

By the end of the 13th century then, and probably some time before, heriot had been assigned a place in customary law. In a suggestive aside, Paul Hyams wonders whether heriot may be one instance of a more general trend by which “[...] Old English law slid down society with those who used it after the Norman Conquest, to end as peasant custom”.⁶⁹ There is an affinity here with Paul Vinogradoff’s neat proposal that the idea of heriot as the render of a tenant’s ‘best beast’ was a distant echo of the old martial *heregeat*, with the ox and yoke representing a like-for-like replacement of the war-horse and its harness.⁷⁰ It is even possible that the unusual and potentially ambiguous notion that the heriot beast should be the tenant’s best was a relic of this translation of *heregeat* into a new, rather more humble social context.

Whatever the case, these developments had a few important implications for claims of heriot in the later medieval countryside. To begin with, heriot would remain closely associated with land tenure.⁷¹ There were some exceptions: in an early-fourteenth custumal for the Battle Abbey manor of Barnhorn (Sussex), for example, it was pointedly specified that servile tenants who had no livestock were not obliged to pay or provide anything for heriot.⁷² But this seems to have been the result of a local negotiation: elsewhere it was clear that every tenant – down to the meanest cottar – should pay.⁷³ At Broadham (Surrey), tenants without livestock, both free and bond, were simply ordered to pay an entire year’s rent as heriot.⁷⁴

Heriot was not simply an obligation of tenure, however, but retained its older connection with inheritance. At Walsham-le-Willows in Suffolk, the equivalence between the payment of heriot and inheritance was made clear in land transfers: inheriting tenants were said to “have entry by the heriot”, and in some cases, it was explicit that this payment voided the lord’s claim to an entry fine.⁷⁵ Elsewhere, the same association can be seen in inverse form, as heriot was paid

⁶⁹ Hyams, *Kings, Lords, and Peasants*, p. 78, footnote 49.

⁷⁰ Vinogradoff, *Villainage in England*, p. 161. This association was remembered in the later Middle Ages, too, albeit in relation to mortuaries: see: P. Cavill, *Mortuary dues in early sixteenth-century England*, in: *Continuity and Change*, 36, 2021, pp. 285-308, at p. 293.

⁷¹ This inquiry was enshrined in the treatise *Modus Tenendi Curia* (c.1340): “Whether there be any voidance in the tenements of free or bond and what the lord shall have by their death by way of heriot or otherwise.” See: F. Maitland (*Ed.*), *The Court Baron*, Selden Society 4, London 1890.

⁷² S. Scargill-Bird (*Ed.*), *Customals of Battle Abbey: In the Reigns of Edward I and Edward II, 1283–1312*, Camden Society 41, London 1887, pp. 21-22.

⁷³ J. Birrell, *Manorial Customals Reconsidered*, in: *Past & Present* 224, 2014, p. 18.

⁷⁴ *Ibid.*, pp. 160-162.

⁷⁵ See: Bailey, *English Manor*, pp. 199, 207.

in advance after *inter vivos* land transfers, in order to prevent the lord losing out on the right.⁷⁶ Thus the payment of heriot seems to have been regarded as essential for the heritability of customary holdings – a *quid pro quo* that helped, via custom, to stabilize inheritance for villeins who, in the understanding of common law, enjoyed no such right.⁷⁷ From this perspective, it is possible that some customary tenants were willing to make the payment in exchange for the security of tenure.

This last point about heriot is critical. As a legal technicality, despite its association with tenure and inheritance, heriot remained a *custom* (a prescriptive right based on local convention) rather than a *service* (a specific performance that constituted a valid tenure).⁷⁸ This not only meant that, formally and practically, it was always adjudicated within the manor court, but also that, in a more general sense, that it became a part of lord-tenant relations. As Andy Wood has put it, custom was “paradigmatic”: not because everyone agreed upon what customs were in a given place, but because “[...] it constituted a discursive field within which conflicts could be fought out.”⁷⁹ As we will see, such conflicts over custom would reshape late-medieval serfdom, and heriot along with it.

4 Heriot and the Decline of Serfdom

Before the Black Death, in the 13th and 14th centuries, when customary holdings were scarce in most places and lords were able to make more demands upon their tenants, heriots formed part of a suit of customary obligations and impositions. In the later 14th and 15th centuries, as tenants found themselves in high demand and better able to bargain the terms of their tenure, most of these obligations and impositions were refused outright or negotiated away.⁸⁰ What remains to be explained is why heriot, among the many other disappearing customary dues, remained relatively impervious in the context of these structural changes to society.

⁷⁶ *Postan/Titow*, Heriots and Prices.

⁷⁷ *Smith*, Some Thoughts on ‘Hereditary’ and ‘Proprietary’ Rights, p. 111.

⁷⁸ Year Books, Hil. 21 Hen. VII, plea 15, fo. 13a; see also: *J. Baker (Ed.)*, Reports of cases by John Caryll, Selden Society 115-116, 1998–1999, i, p. 288; ii, pp. 512, 520-522, 636.

⁷⁹ *A. Wood*, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England*, Cambridge 2013, p. 13.

⁸⁰ *Ibid.*, footnote 13.

One initial answer to this question is that heriot was one of many payments owed by the dying in medieval England. Wills are replete with obligatory or quasi-obligatory payments, as testators made recompense for “tithes lost and forgotten”, settled outstanding debts to their neighbours, and made provision for their heirs.⁸¹ Death was imagined as a process of rendering account: “Therefore I wyll in all the haste / Have a rekenynge of every mannes persone”, proclaims God in the moral play *Everyman*, and Everyman himself is told to bring his “countynge boke” with him as he makes his final pilgrimage.⁸² As we have already seen, Bracton, claimed that heriot was owed as a gift “of remembrance”, a token offered in appreciation of good lordship.⁸³

In this context, heriot did not stand out as a particularly extraordinary due. Indeed, it was closely related to the payment of mortuary, owed by every late-medieval Christian to the rector of their parish.⁸⁴ In England this due was often defined as a parishioner’s second best beast, suggesting its close relation to claims of heriot; disputes sometimes broke out over which claim ought to take precedence. Although the payment of mortuary became a target of religious reform in the first decades of the 16th century, as Paul Cavill has recently shown, it continued to be collected long after the end of the Middle Ages.⁸⁵ The long-term fate of heriot was thus bound up with widespread cultural norms of obligation owed at the point of death, which are perhaps especially slow to change.⁸⁶

But there may have been more particular reasons for heriot’s longevity too, and these relate to its tight association with land tenure and inheritance. To begin with, one irony of post-plague society was that, as villein lands were taken on by freemen (and vice versa), the distinction between villein tenure and personal servility tended to become more pronounced: because people of any status might now hold such tenures, it became more urgent to define the small subsection of the tenantry who could be distinguished as *native de sanguine*, unfree by blood. As such, the distinctive obligations of personal servility – such

81 See: C. Burgess, *Late Medieval Wills and Pious Convention: Testamentary Evidence Reconsidered*, in: M. Hicks (Ed.), *Profit, Piety and the Professions in Later Medieval England*, Gloucester 1990, pp. 14-33.

82 C. Davidson/M. Walsh/T. Broos (Eds.), *Everyman and Its Dutch Original*, Elckerlijc, Kalamazo (MI) 2007, pp. 19, 25.

83 *Ibid.*, footnote 62.

84 See: R. Helmholz, *The Ius Commune in England: Four Studies*, Oxford 2001, pp. 135-186.

85 Cavill, *Mortuary dues in early sixteenth-century England*, pp. 297-301.

86 The idea that human life itself incurs a debt payable at death is extremely widespread. See: D. Graeber, *Debt: The First 5000 Years*, New York 2011, pp. 56-59.

as chevage, merchet, leyrwite, labour services – became more conspicuous in rural society, precisely because they were now performed by a minority.⁸⁷

In places where villeinage had never been common, heriot might come to be associated with unfree status. On the large manor of Westwood in Suffolk, for example, where heriots were not usually claimed on customary tenures, there was in 1439 a brief attempt to reinforce seigneurial rights over the handful of unfree tenants: two men were asked to pay merchet, the fine for servile marriage, while the recently deceased Beatrix Rede, *native de sanguine*, was said to owe a heriot on “her best beast or the most precious of her goods”.⁸⁸ In such places, where the obligations of villeinage had never been strongly enforced, heriot seems to have been (mis)remembered as another one of its distinguishing dues.⁸⁹

However, as heriot had never legally been part of villeinage, in most places its ambivalent relation to freedom worked the other way around. In the 13th and early 14th centuries, freemen had sometimes been understood to owe the due; in the 15th-century countryside, where the vast majority of tenants enjoyed a *de facto* freedom that was nonetheless legally hazy, it meant that heriot could still be claimed without imputing the taint of servility to those who paid it.⁹⁰ In places where customary dues were still a feature of manorial life, heriot’s detachment from unfreedom meant that it rarely came to seem as outrageous as the other dues of personal servility in the later Middle Ages.⁹¹

In addition, heriot’s close association with land tenure secured its position amid the tenurial flux of the post-Black Death countryside. In this period, many villein tenures were gradually transformed into what historians have tended to call customary tenure. This umbrella term describes the multitude of new, often highly localized, forms of holding that were garnished with an array of technical

87 Dyer, *New Serfdom*, p. 430; Bailey, *Decline of Serfdom*, pp. 56-59.

88 Suffolk Archives (henceforth SA), HA30/369/412, m. 5r.

89 The last time heriot was claimed in Westwood was 1452, when Robert Newer died: his best tunic, worth 4d, was levied: SA, HA30/312/188, m. 1v. The Newers were one of two families at Westwood whose servile status was continually recorded in the 15th-century court rolls. John Newer moved away from the village in 1442 to nearby Theberton, paying a shilling in chevage for permission to do. His son William spent his life roving the borders of Suffolk and Norfolk: Bungay, Covehithe, Elmham, Northales, and though no real attempt seems to have been made to fetch him, the absence was recorded into the 1480s: SA, HA30/369/398, m. 1r.

90 Thus Marx’s sharp if overblown dictum that the freed serfs who constituted the emerging proletariat were “[...] free in a double sense, free from the old relations of clientship, bondage and servitude, and secondly free of all belongings and possessions, and of every objective, material form of being, *free of all property*”: K. Marx, *Grundrisse: Foundations of the Critique of Political Economy*, transl. Martin Nicolaus, London 1973, p. 431.

91 Hilton, *Decline of Serfdom*, p. 55.

terms.⁹² They nevertheless tended to share a few important features: they were heritable (or otherwise alienable), paid fixed or assize rents, and were liable to some traditional customary obligations. This emphasis on custom was in effect a statement of jurisdiction: lands held by customary tenure were subject to the judgment of the manor court.⁹³

Thus even as heriot had stood apart from the architecture of serfdom, it had become assimilated into customary legal procedure: almost everywhere it was a feature of land inheritances, and in many places for *inter vivos* land transfers too. The ubiquity and repetitiveness of its payment in manorial courts seems significant: where labour services, for example, were embedded in customary practice as a set of distinct local traditions associated with the harvest, heriot was essentially bureaucratic – a part of the formal court process that had to be followed when land changed hands. In this regard, it bears a striking resemblance to another such customary payment – the entry fine owed by an incoming tenant, which also survived the decline of serfdom to become a part of customary tenure.⁹⁴

Indeed, heriot became part of what helped to distinguish customary tenures from others. In many places, villein tenures were simply converted to different forms of leasehold, that is fixed-term contracts that normally paid cash rents and carried none of the old servile dues, including heriot.⁹⁵ With so much flexibility, now, over the terms of tenure, the manor court – and more particularly, the homage jurors who decided what was custom – came to play an important role in distinguishing different different types of holdings.⁹⁶ Thus at Chalk in Wiltshire, when Robert Fowle gave up a cottage and curtilage in 1476, “[...] held from the lord according to the custom of the manor”, the jurors could simply declare that “nothing comes of heriot because it is not heriotable”.⁹⁷

⁹² See: *M. Tompkins*, ‘Let’s Kill All the Lawyers’: Did Fifteenth-Century Peasants Employ Lawyers when they Conveyed Customary Land?, in: *L. Clark (Ed.)*, *The Fifteenth Century VI: Identity and Insurgency in the Late Middle Ages*, Woodbridge 2006, pp. 73-87.

⁹³ *P. Harvey*, Conclusion, in: *P. Harvey (Ed.)*, *The Peasant Land Market in Medieval England*, Oxford 1984, pp. 333-336.

⁹⁴ *Bailey*, *Decline of Serfdom*, p. 53.

⁹⁵ *Ibid.*, pp. 25-36.

⁹⁶ See: *L. Bonfield*, *The Nature of Customary Law in the Manor Courts of Medieval England*, in: *Comparative Studies in Society and History* 31/3, 1989, pp. 514-534.

⁹⁷ KCC, CHA/estates3, verso. With this tenancy, whatever its nature, Fowler seems nonetheless to have taken responsibilities he could not meet, for the homage also fined him two shillings for damages and reparations, before another tenant took on the holding, paying an entry fine of 3s 4d.

The increasing bureaucratization of customary tenure in the manor court meant that in the 15th century tenurial arrangements were more often settled by recourse to written records: both the formal court rolls held by the lord, but also the copies of agreements that were increasingly given to customary tenants.⁹⁸ Robert Howchyn, a substantial customary tenant of West Hendred (Berkshire), was taking on lands right up to his death in 1518; after he died, the court looked over his many copies and decided that “[...] there is no heriot because Agnes, his widow, has joint estate for the term of her life” – that is, as there had been no interruption to the tenancy, no heriot was due.⁹⁹ The emergence of these copies, even if they did not yet constitute the formal copyhold tenure that became widespread in the 16th-century countryside, further helped to routinize heriots in land transactions of all kinds.¹⁰⁰

If heriot survived serfdom’s decline, however, it did not survive unchanged. In his survey of heriot in 15th-century manorial courts, Mark Bailey suggests two significant alterations in the way heriot was implemented, and implies that these represented a more moderate form of the due.¹⁰¹ In the first place, he argues that heriot was paid less frequently, as tenants made deathbed land transfers to evade the due altogether, or paid just one heriot for multiple holdings. This combination of evasion and deferral fits with the broader pattern of tenant resistance to seigneurial dues in the 15th century; while outright defiance was unusual, these slow but obstinate “weapons of the weak” seem to have been effective in securing concessions.¹⁰² As we will see in the next section, these struggles often took the shape of struggles over custom in the manor court.

In the second place, Mark Bailey suggests that heriot was more often paid in cash, rather than in kind. As a general claim, this is harder to assess, because it is clear that on many estates money heriots were well-established even before the Black Death.¹⁰³ But in any case, it is questionable whether this change represented an improvement: in the 15th century, an era of recurrent and sometimes severe monetary shortages, tenants in the countryside may have found it diffi-

98 *Johnson*, *Law in Common*, pp. 249-251.

99 CCCO, Bb 1/3, m. 6v. Just a year and half before, Robert and Agnes had taken on a swathe of pasture, over 18a, for a huge rent of 5 pounds per annum, “[...] and a heriot when it falls”: m. 5v.

100 *Bailey*, *Decline of Serfdom*, pp. 25-26.

101 *Ibid.*, p. 53.

102 I refer, of course, to: *J. Scott*, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, New Haven 1985.

103 For example, see: *Postan/Titow*, *Heriots and Prices*, pp. 394-395. Of course, Bailey’s account is deeply sensitive to the complexity of local variation: *Bailey*, *Decline of Serfdom*, p. 327.

cult to accumulate the necessary cash.¹⁰⁴ What evidence there is, moreover, suggests that peasants retained money especially for the payment of official dues, such as rent and tax.¹⁰⁵ Thus if heriots were paid more often in cash, this would seem to represent another way in which they had been incorporated into the routine bureaucracy of manorial administration.

In sum, then, heriot survived the decline of serfdom because of its cultural significance as a death duty; because of its ambiguous status as a marker of personal servility; and because of its role within tenurial custom, just as custom itself was becoming increasingly legalistic. Particularly critical in all of this was the deep connection between heriot and tenure, which enshrined its place in the legal processes of land transfer as they were administered by the manor court. In the next section, I will argue that the legalization of heriot deeply shaped the way in which it was claimed by lords and contested by tenants in the 15th century. By paying closer attention to these struggles we can better understand the transformation of serfdom into legalized plunder.

5 Heriots: Plundered and Resisted

William Pigeon died early in the winter of 1414. Described as a *nativus*, a villein, he had held a virgate, a customary holding of thirty acres, at the manor of Kintbury in Berkshire. At his death his chattels were inventoried by the court: three cows, four bullocks, two calves, a foal, three sheep, 24s worth of grain; and a “possenet” (a cooking vessel), a serving dish, and a “fryengpanne” (frying pan) that were in the custody of the vicar – perhaps in lieu of a mortuary (or in anticipation of one). The goods were valued at total of 95s 2d.¹⁰⁶ In Kintbury, heriots were highly standardized, with tenants paying 5s per virgate – a relatively low sum, albeit paid for each holding, and pro-rated for smaller ones.¹⁰⁷ For Pigeon’s widow Christina, the heriot of 5s thus represented a duty of just over 5 percent

104 See: *P. Nightingale*, Monetary Contraction and Mercantile Credit in Later Medieval England, in: *The Economic History Review* 43/4, 1990, pp. 560-575, esp. pp. 563-564; *J. Bolton*, Money in the Medieval English Economy: 973–1489, Manchester 2009, pp. 290-293; *M. Stevens*, London creditors and the fifteenth-century depression, in: *Economic History Review* 69/4, 2016, pp. 1083-1107. For the rural economy in particular, see: *C. Briggs*, The availability of credit in the English countryside, 1400–1480, in: *Agricultural History Review* 56/1, 2008, pp. 1-24.

105 *Dyer*, Age of Transition, pp. 178-179.

106 BL, Add. Ch. 49220, recto.

107 E.g., see: BL, Add. Ch. 49227, m. 2v.

of their assessed assets, though if we also included the worth of the land itself in this calculation, the proportion would be still less.¹⁰⁸

If this heriot did not represent a particularly severe financial burden, it would be a mistake to understand these seizures only in crude economic terms, as though their significance lay in their impact on peasant budgets.¹⁰⁹ Dan Smail, in his study of debt-related seizures by medieval Tuscan city-states, has pointed to “[...] the violence of the practice [...] inhered in the implicit claim that no space, not even the bedroom, was beyond the reach of sovereign power.”¹¹⁰ Every inventory of villein chattels – and they were made across England in this period, by lords anxious to track what must have seemed like an increasingly precarious right – made good on the claim that a lord had the right to know what their tenants owned, right down to the last frying pan.¹¹¹

While few heriots generated such full-scale inventories, behind every terse entry in the manorial court roll that “a heriot falls to the lord”, there was a deeper process: a manorial officer, perhaps accompanied by members of the homage jury, had to go to the household of the recently deceased, question the heirs about remaining assets, make an evaluation – perhaps linked to the assessments made for testamentary purposes – and choose something valuable.¹¹² Given the potential for foul play, this may well have been a public event.¹¹³ Certainly at Willoughby (Warwickshire) in 1472, it was reported that Thomas Flore “[...] paid his heriot in full court, in the presence of the parson of Sibton, and it remains in the hands of the lord’s receiver”.¹¹⁴ This was presumably an attempt to allay any suspicion that the parson was being defrauded of his mortuary, but

108 Christina Pigeon died the next summer, and as a widow she was exempt from heriot: BL, Add. Ch. 49221, recto. There is little evidence in the Kintbury court rolls of an active land market and so there are no records of the *market rate* for a virgate. However, entry fines were typically charged at 40s; if this corresponds roughly to the holding’s worth, then the proportion falls to 3.7 percent of their assets.

109 But the due was indeed burdensome, as Hilton suggests: *Hilton*, English Peasantry, p. 43.

110 *Smail*, Legal Plunder, p. 235.

111 Several more were made at Kintbury, but on separate bills or schedules that were at some point detached from the court rolls and lost: BL, Add. Ch. 49235, mm. 4r., 6r. On the wider trend, see: *Dyer*, *New Serfdom*, p. 430.

112 See: *I. Forrest*, *Trustworthy Men: How Inequality and Faith Made the Medieval Church*, Princeton 2018, pp. 273-275.

113 In a very different context, it has been suggested that inventory-making constituted a form of *theatre*. See: *K. Wilson*, The household inventory as urban ‘theatre’ in late medieval Burgundy, in: *Social History* 40/3, 2015, pp. 335-359.

114 Magdalen College Oxford Archives, 45/4, recto.

perhaps also reflected a desire to have Flore's obligation publicly acknowledged and recorded in the rolls.¹¹⁵

Where there was publicity, of course, there was also the potential for public shaming. At Netherseal in Derbyshire in 1425, it was reported that Robert Willeson had died and, "[...] the bailiff seized a broken bowl worth 10d in the name of heriot, and he had no other chattels".¹¹⁶ There is a hint here at how upsetting this procedure could have been – not only in the unusually explicit statement that there had simply been nothing else worth taking, but from the value judgement implicit in the description of Willeson's best thing. In one case, from Kibworth Harcourt in 1431, such shaming may even have been deliberate: after a substantial virgater named Nicholas Saunder died, an inquiry was ordered into the state of his holdings. The homage jurors refused to go along with this, reporting simply that the tenements were in good repair and that no further action needed to be taken. But subsequently the bailiff took an extremely meagre heriot, a cap worth just 6d, and was ordered to sell it. The disparity between Saunder's wealth and the heriot is strange, as is the manoueuering over the inquiry into the state of his holdings. Taking a man's cap, in other contexts, was regarded as an insult to his masculinity.¹¹⁷

But the shame lay also in the helplessness of tenants in the face of such seizures. In 1427 at the death of John Yweyn, who had held just a furlong of land in Stour Provost (Dorset), the bailiff took "[...] a pewter pot worth 2s, that is delivered to the household of the lord".¹¹⁸ Yweyn's widow Christina would be humbled twice over: she sold the reversion (the inheritance rights) of the furlong to a man named Peter Wareyn, and so was now said to owe yet another heriot to the lord – this time, it seems as a kind of advance payment, to ensure that the lord would not miss out when she died. For the second heriot she gave up a serving dish worth 20d, whereupon the lord's bailiff immediately sold it to Peter – whether with a wicked sense of irony or a hard-nosed pragmatism, it is hard to know.

The seizure of household goods must have often raised the question of what to do with them. What did Richard Middleton, lord of Milton in Surrey, want

115 At Kintbury (Berkshire), even pecuniary heriots were said to be "paid to the prior in court": e.g. BL, Add. Ch. 49238, m. 6r.

116 D77/2/1/5, verso: "ballivus seisivit unam ollam debilem precium x d nomine heriott et nulla alia catalla habuit".

117 Merton College Oxford Archives, MCR 6421, m. 12v. On the strong link between hats and masculinity in this period, see: *S. Bendall, Adorning Masculinities? The Commissioning and Wearing of Hat Badges during the Habsburg-Valois Italian Wars*, in: *Sixteenth Century Journal* 52/3, 2021, pp. 539-570, esp. pp. 542-544.

118 KCC, STP/7, m. 1r.

with the “red tunic” of John Frye, who died in 1412, which was worth just a paltry shilling?¹¹⁹ At Ombersley in Worcestershire, when Thomas Alisaunder died in 1464, the lord took “one coverlet and one gown” worth 20d. This was just a subplot in a much larger intrigue: Alisaunder had an unacknowledged (presumably illegitimate) son, John, who, in exchange for a formal manumission of serfdom from the lord, relinquished his claim to the land by “making no claim, but standing speechless and silent” – in favour of his own son William. The heriot was subsequently pardoned, but the significance of the lord’s claim was clear enough: it was a statement – now recorded on the court rolls – that this land was still held under customary tenure, and William entered agreeing to these terms.¹²⁰

Though some lords took heriots in the form of household goods, they were still often collected in the traditional form of the best beast. If such a procedure perhaps represented less of an intrusion into the domestic space of the tenant, the loss of livestock must have presented its own aggravations: if oxen and horses were chosen, tenants could be left without draught power, while the taking of a dairy-cow, a pig, or a sheep would have impacted plans for consumption or exchange. Cows in particular were often leased for short periods as part of barter exchange or reckoning among neighbours.¹²¹ For wealthier households, the seizure of one animal was perhaps merely a minor annoyance; for those with fewer means, it might have made the difference between a good year and a bad one.¹²² But regardless of the material effect of such seizures on peasant fortunes, the symbolism of such seizures was the same for all tenants. John Molsylle, a prosperous tenant of Chalk in Wiltshire, died in 1447 and his widow rendered up a cow worth a 6s 8d: “[...] it was committed to the lord’s stable”.¹²³

Tenants were not entirely without recourse against claims of heriot. As noted above, heriot’s central place in manorial inheritance custom meant that in some circumstances, it was possible for the homage jurors – who, after all, would one day find themselves or their families in the same position as the affected household – to dispute the legality of the claim. In some cases, as happened after the death of Robert Haven in 1492 at Blythburgh in Suffolk, the ju-

119 CCCO, Ga25/3/a, m. 1v. It is perhaps worth noting that Frye paid part of his rent, for just an acre, in kind (with two chickens).

120 *L. Poos/L. Bonfield (Eds.), Select Cases in Manorial Courts 1250–1550*, Selden Society Vol. 114, 1998, p. 37 [case 42].

121 See: *T. Johnson, Reckoning and Economic Life in Late Medieval England*, in: *Past & Present*, forthcoming.

122 See: *Dyer, Standards of Living*, pp. 148–150.

123 KCC, CHA/estates1, m. 3r.

rors were willing to declare that “[...] nothing falls to the lord as heriot because it [the holding] is not heriotable”. This plain statement suggests a degree of boldness, especially given that Haven was one of the very few men to be identified as a *nativus de sanguine* on this manor. Haven’s son petitioned the lord’s “special grace to have his inheritance”, and it was granted.¹²⁴

But custom is nothing if not nebulous. On the manor of Ringwood in Hampshire, heriot formed one arena of a long-running series of disputes between the tenants and their new lords, the provost and scholars of King’s College Cambridge, after they acquired the manor in 1445.¹²⁵ One of their first acts as lords was to make a new rental, setting out the terms of tenure on the manor.¹²⁶ Among the other dues and obligations, it specified that for a standard bond or servile tenure, the tenant should render a heriot of their best beast, “or other things”; it also ordained that tenants should pay mortuary, because the manor here was attached to the rectory (and the college held the benefice), so that tenants found themselves obliged to pay a death duty twice over to the same lords.

But if the custumal would seem to have settled the question of heriots at Ringwood, in practice the right seems to have been rather less clear. In 1451, just three years after the custumal was written, upon the death of John Twinton “[...] nothing came to the lord as heriot because of an agreement made with the steward, enrolled in the record of a previous court”.¹²⁷ This may imply that the new lords had honoured a bargain made before they acquired the manor, but at the very least, it suggests that individual arrangements could be made to override custom. Other cases proved equally challenging: in 1467, after John Moyngnam gave up his tenure of eight acres of heath, the homage jury confessed that “[...] whether anything comes to the lord in the name of heriot at this time is not known”.¹²⁸ Such tactical ignorance represented a more passive way of responding to these claims.

In 1487, however, the homage was bolder. In this year it was reported that the widow Joan Whyng died, “[...] whereupon there comes to the lord a heriot of one pot that holds, by estimation, four gallons, which remains in custody”. Yet the homage jurors immediately objected, saying “[...] that the heriot should not be demanded by the lord, because Joan was not a tenant. Therefore inquiry is to

¹²⁴ SA, HA30.312.200, m. 5r. For a similarly obtuse statement, see above footnote 97.

¹²⁵ *VCH Hampshire*, pp. 606-614. At this time, the college (founded in 1441) was not called King’s but by its formal name, the College of Our Lady and St. Nicholas.

¹²⁶ KCC, RIN/50.

¹²⁷ KCC, RIN/5, m. 2r.

¹²⁸ KCC, RIN/6, C.

be made into the custom of the lordship before the next court.”¹²⁹ Their objection may have been made on the basis that when Joan Whyng’s husband John had died a decade earlier, she had made a formal agreement in the court to sell the reversion of the tenancy to a man named William Cokkes, who indeed came to present his copy of this transaction after her death.¹³⁰ This advance transfer had not generated a heriot for the lords, and, at least according to the jurors, it had also invalidated the claim to one at Joan Whyng’s death.

Had the homage been successful with this interpretation of custom, it would seem to have provided a way for other tenants to evade heriots in future. In fact, the very next year the jurors went further. It was presented that John at Woll had died holding two acres “according to the custom of the manor”. The homage made the simple statement that “[...] nothing falls to the lord of heriot, because it is not heriotable” – similar to the argument presented in Blythburgh at around the same time (see above). John at Woll’s widow, another Joan, now occupied the holding “but they [the jurors] do not know by what right”.¹³¹ In their verdict, the homage of Ringwood may have been attempting to promote the exemption from heriot that was enjoyed by widows on other manors.¹³²

In these disputes over custom, precedent was crucially important. Statements that holdings were “not heriotable” were just the starting point in a negotiation process that would help to further specify the criteria. However, if tenants enjoyed some success in these negotiations during the first century after the Black Death, heriot’s intractable place within understandings of customary land tenure and inheritance seems to have made it difficult for such marginal gains to be consolidated into a full discharge from the due. The stakes of refusing to pay at all – disinheritance, or inability to alienate – were too high. Thus the ever greater specificity of heriotability actually reinforced the idea that the overall claim was legitimate, and that the lord’s manor court was the place in which the specifics of the due would be adjudicated.

Indeed, as the balance of power in the 16th-century countryside shifted back towards landlords, battles over the security of customary tenure and communing rights came to the fore – both matters that had long been fought out in the

129 KCC, RIN/7, fo. 3r.: “Et super hoc venit homagium et dicit quod heriecta de predicta medietate cotagij non demandetur ad opus domini quia predicta Johanna non fuit tenens domini. Ideo inquiratur de consuetudine huius dominij citra proxima [curia]”.

130 It seems highly unlikely that Joan at Woll was not a tenant (except by such a technicality), given her husband’s prominent involvement in manorial affairs: e.g. KCC, RIN/6, B, recto; RIN/5, m. 4r.; RIN/6, A, verso.

131 KCC, RIN/7, fo. 4v.

132 See above, footnote 99.

manor court.¹³³ As late as 1563, a statement of custom made by the customary tenants of Bushey, in Hertfordshire, began with three defiant claims about heriot: first, no one had ever paid more than one heriot, even if they had several holdings; second, strikingly, “[...] we saye that the lorde oughtte to have the second beste for hys herryott and the heyer the beste”; and third, that heriots should not be due on land transfers, “[...] except yt be in extreme of death”. All this was custom “[...] by the tyme of any remembrance, or before, to our knowledge.”¹³⁴ Perhaps this was true. But the statement suggests that even as the tenants of Bushey sought to define heriot more strictly, and on terms more advantageous to themselves, they could not imagine its disappearance. It had outlived the apparent decline of serfdom and come to be remembered as an intrinsic part of local custom.

6 Conclusion

I have argued here that the survival of heriot as a servile due – though as we have seen, one that always had a rather ambiguous relation to servility itself – helps to illuminate an important aspect of the way that serfdom changed in late-medieval England. Although narratives of serfdom’s decline are accurate insofar as they describe the disappearance of some of the more egregious manifestations of lordship, they tend to measure the 15th century using the yardstick of the 13th and 14th; such narratives have thus downplayed some of the stranger continuities and legacies of serfdom, as it was gradually transformed from a set of claims over the bodies of villeins themselves (their labour, their movements, their marriage) into a lattice of property rights claimed over their lands and chattels.

In conclusion, there are three points I would like to emphasize. The first is that heriot was just one claim among many that lords might exercise over peasant goods through the manorial court. A few others stand out: attachments, that is, the taking of goods in order to ensure a tenant would answer to a claim; distraints, or goods taken to compel payment; and outright forfeitures, or the taking of goods in lieu of payment for an outstanding due. None of these claims was distinctive to the manor court, but this was certainly the forum in which most people would have encountered them. They represent an important exam-

133 Wood, *Memory of the People*, pp. 63-65.

134 Quoted from private manuscripts in: *Tawney, Agrarian Problem*, pp. 126-127.

ple of the ways that seigneurial power was legitimated and justified through legal procedure.¹³⁵

But it is also striking that these powers, when they were exercised, drew on similarly invasive procedures of inventorying peasant goods. They often laid claim to similar kinds of thing – the tin and pewter pots and pans that were probably among the more valuable consumer goods that peasants owned. Such seizures thus symbolically deprived tenants of food, or the capacity to make it for themselves.¹³⁶ At Ringwood in 1487, after John Deene was found to be in arrears for his rent, the court ordered a panel of arbitrators to value two of his pewter pots, various tin dishes and saucers, and other pewter vessels, “[...] seized in previous courts against a rent of 3s 9d owed to the lord”. The appraisers found the utensils to be worth 3s, leaving Deane at the mercy of further seizures for the residue.¹³⁷ As the lords struggled to enforce heriot upon a recalcitrant tenantry, especially at Ringwood, it is striking how easily they were able to use the court – via a panel of tenants – to enforce their power through these claims over chattels.

Indeed, moving to the second point, it is significant that such claims were made over material things. As Christopher Dyer has pointed out, “in some respects the manorial courts took on a new energy” in post-plague society, especially when it came to prosecuting the waste of customary holdings, cataloguing the *principalia* of the manor – the goods supposedly provided by the lord to tenants – and amercing offences against the common pastures or woods.¹³⁸ Indeed, such concerns with the physical fabric of the manor could combine with seigneurial powers of forfeiture: thus at Woodfidley in the middle of the 15th century, no fewer than sixteen items – including a “wodchoke pot”, various animal skins, and even a bed – were seized from the butcher William Swalsclyf, an arrest of goods made in order to pay for the reparation of his tenement.¹³⁹

To this we may also add rights from franchises of the royal prerogative, such as treasure trove, the right of wreck, deodand, or the forfeiture of felons’ chattels; or more commonly, claims to waifs and strays – these wandering animals were most frequently horses or cattle, and were taken into the lord’s stable, where they would revert to his ownership if the rightful owner did not come

135 See: *Johnson*, *Law in Common*, pp. 41-42, 83-84.

136 See: *Briggs et al.*, *Material Culture*, pp. 104-110, esp. 109.

137 RIN/7, fo. 3r.

138 *Dyer*, *New Serfdom in England*, pp. 431-432.

139 KCC, FOR/8/2. This is an undated bill attached to rolls that date 1447 to 1452 – precisely of the kind that was lost at Kintbury (see above footnote 110).

to fetch them.¹⁴⁰ These rights were not always especially profitable, but they were obviously valuable to lords in other ways, whether because of the prestige of royal sovereignty from which they had been prescribed or granted by charter, or because they contributed to a more intangible sense of the lord's overarching power over the physical fabric of the manor.¹⁴¹

Thirdly and finally, the way in which heriot, and these other claims of lordship, survived and changed through the 15th century, suggests a different temporality to serfdom than a simple narrative of decline would suggest. In one sense, servility was a deeply entrenched structure in premodern English society, one that far exceeded the legal architecture of serfdom itself.¹⁴² As ever, it is hard to put it more exquisitely than did R. H. Tawney over a century ago: "There are more ways of living 'at the will of a lord' than were known to Glanvill and Bracton, and the utility of the contrast in the sphere of legal analysis does not save it from being but a thin abstraction of the countless forms of tyranny which spring from the world-old power of one human being to use another as his tool."¹⁴³

But more than simple continuity, there is something untimely about serfdom in the 15th century. Historians from Rodney Hilton to Mark Bailey have noted the strange anachronism of the petition that came before the House of Lords in 1536 to formally abolish serfdom, or the demand by Kett's rebels in 1549, "[...] that all bond men may be made free, for God made all free with his precious blood shedding" – both demands made in a society where only a tiny fraction of the rural population were still technically subject to servile status.¹⁴⁴ Likewise, being defamed as a serf, or indeed as a "bondman & hegesquyer" in the more colourful version of an Essex woman in 1488, was still sufficiently insulting to warrant legal action.¹⁴⁵ The spectre of serfdom – and like a spectre, it was feared and resented – endured rather longer than its reality, and this

140 See: *Johnson*, *Medieval Law and Materiality*, pp. 429-430; on waifs and strays, see: *J. Claridge/S. Gibbs*, *Waifs and Strays: Property Rights in Late Medieval England*, in: *Journal of British Studies* 61, 2022, pp. 50-82.

141 Rights to shipwreck did become substantially more valuable with the expansion of maritime colonialism in early-modern England. See: *D. Cressy*, *Shipwrecks and the Bounty of the Sea*, Oxford 2022.

142 See: *J. Whittle*, *Housewives and servants in rural England, 1440–1650: evidence of women's work from probate documents*, in: *Transactions of the Royal Historical Society* 6/15, 2005, pp. 51-74.

143 *Tawney*, *The Agrarian Problem*, p. 45.

144 Respectively: *Bailey*, *Decline of Serfdom*, p. 4; *Hilton*, *Decline of Serfdom*, p. 55.

145 London Metropolitan Archives, DL/C/B/043/MS09064/002 [Act book of the bishop's commissary], fo. 188v. For another such insult, see: DL/C/B/043/MS09064/008, fo. 109r.

seems significant.¹⁴⁶ As tenants perceived the fundamental inequalities that still structured rural society in the 15th and 16th centuries, the cultural memory of bondage still provided a powerful explanation for the social violence of lordship.

Bionote

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146 I have discussed this ghostly metaphor elsewhere: see *T. Johnson, Byland Revisited, or, Spectres of Inheritance*, in *Journal of Medieval History* 48, 2022, pp. 439-456.