

**‘Some banglyng about the customes’:
popular memory and the experience of defeat in a Sussex village, 1549-1640**

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I am grateful to Claire Langhamer, Dave Rollison, Keith Wrightson and an anonymous reviewer for comments on this piece. I am also grateful to Lord Egremont for his kind permission to reproduce material from the Petworth House Archives and to Brighton’s social historians for putting up with me while conducting the research for this piece. That research was supported by grants from the Arts and Humanities Research Council and the Leverhulme Trust.

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In the 1570s, in conversation with their parish minister William Harrison, the old men of the Essex village of Radwinter looked back over their lives. One of the things they remembered was a substantial increase in prosperity and material wealth. Evidence of bettered living standards, they told Harrison, was to be found in improved housing conditions, enhanced domestic heating, superior household furnishings and the wider availability of consumer durables. These enhanced living standards had come at a cost. The old men felt that over their lifetimes, social relations had been transformed. Communal values had decayed: there was less hospitality and charity, and lordship had become more oppressive.¹ The elders of Radwinter were not alone in their assessment of changing times. The sense that the Tudor century witnessed both improved living standards and increased social conflict was manifest elsewhere, helping to shape early modern men and women’s senses of themselves and their communities as apart from a receding medieval past. In this respect, memory became a bearer of a historically distinct sense of self, place and community.²

The memories recorded by William Harrison represent a remarkable source, presenting the historian with near-direct access to popular memories of structural and cultural change at a key moment in English economic and social history. Depositions presented to central courts adjudicating in customary disputes also drew upon the memories of such older folk. These sources are more heavily mediated than Harrison’s account of the memories of the Radwinter elders, not least because witnesses were presenting their memories concerning issues that were often delicate and contentious. But three bundles of remarkable depositions survive from the Sussex village of Petworth in which ordinary people speak with often startling clarity about their memories of a world they had lost. In the opinion of the witnesses, a world of plebeian prosperity, social harmony and good lordship had been swept away by the oppressive behaviour of their lords, the Percy family. They explained these views to a commission appointed to hear their evidence on the behalf of the Court of Chancery in 1592, in the course of a protracted struggle between Henry Percy, the ninth earl of Northumberland, and his copyholders.

¹ For a fuller analysis, see A. Paterson, *Reading Holinshed’s chronicles* (Chicago, 1994), 79-83.

² More fully discussed in A. Wood, *The memory of the people: custom and popular senses of the past in early modern England* (Cambridge, forthcoming, 2013), chapter one.

The story of the Petworth inhabitants' struggles with the Percys ends with their defeat. Yet from the evidence of that dispute, it is possible to retrieve something of the ways in which social memory could be deployed as a resource by poorer and middling people, allowing them to find a political voice in which they could make claims to rights and resources. That the tenants were ultimately defeated has some importance for the recent historiography of early modern popular politics, suggesting that celebratory accounts of plebeian agency need to be set against more pessimistic stories.³ The depositions also enable us to gain access to the ways that social memory could act as an enabling force for ordinary people, underwriting their agency and legitimating their resistance.⁴ The story of the Petworth struggle therefore allows us to tell a story of a village conflict featuring both popular defeat and popular agency. It thereby seeks to capture something of the structural imbalances within which popular agency was asserted. In order to comprehend these issues, we must briefly recapitulate Petworth's history of estate policy and social conflict.

Over the years between the 1549 rebellions and the summoning of the Short Parliament, the tenants and cottagers of Petworth came into conflict with their lords over land, rights, custom and resources.⁵ Their protests took a variety of forms – petitioning; litigation; grumbling; riot – that have been seen as characteristic of early modern popular politics.⁶ These protests spanned several generations and involved repeated accusations of riot. Moreover, in one case (that of 1549) the riots formed part of a much wider popular rebellion; in another instance (that of 1607) it was alleged that the rioters had been inspired by the rebellion that took place that year in the Midlands; a third (that of 1640) occurred at the start of a decade that saw not only civil war and political revolution, but also widespread rural protest in which the enclosure of common land was a key issue.⁷

When the Percys took Petworth House as their main residence in 1557, the adjacent village was a characteristic Wealden community, its economy based upon mixed

³ Mark Hailwood has recently suggested that the literature dealing with popular politics and social relations is starting to separate into 'optimists' (those who emphasize agency and the negotiation of authority) and 'pessimists' (who emphasize structural inequalities and the difficulty of successfully asserting popular agency): see M. Hailwood, 'Alehouses, popular politics and plebeian agency in early modern England', in F. Williamson (ed.), Locating agency: space, power and popular politics (Newcastle, 2010), 67-8, 69-71.

⁴ For recent work on social memory as agency, see B. Jones, 'The uses of nostalgia: autobiography, community publishing and working-class neighbourhoods in post-war England', Cultural and Social History, 7 (2010), 355-74; S. Sandall, 'Custom, memory and the operations of power in seventeenth-century Forest of Dean', in Williamson (ed.), Locating agency, 133-60; J. Fracchia, 'Hóra: social conflicts and collective memories in Piana Degli Albanesi', Past and Present, 209 (2010), 181-222; J. Haemers, 'Social memory and rebellion in fifteenth-century Ghent', Social History, 36, 4 (2011), 443-463.

⁵ The story of the dispute up to 1609 is well told (although not without a few factual errors and some slips of transcription) in P. Jerrome, Cloakbag and common purse: enclosure and copyhold in sixteenth century Petworth (Petworth, 1979). For a 1659 summary of the dispute, see West Sussex Record Office (hereafter WSRO), PHA 6368. This essay seeks not to reiterate Jerrome's narrative but, re-reading some of his sources and adding some others, draws out the implications of the dispute for the study of custom and popular memory in early modern England.

⁶ J. Walter, 'Public transcripts, popular agency and the politics of subsistence in early modern England' in M.J. Braddick and J. Walter (eds.), Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland (Cambridge, 2001), 123-48.

⁷ J.S. Morrill and J.D. Walter 'Order and disorder in the English Revolution' in A. Fletcher and J. Stevenson (eds.) Order and disorder in early modern England (Cambridge, 1985), 137-65.

farming, textile production and the iron industry.⁸ Like many Tudor villages, there were few freeholders: almost all of the tenants were copyholders, their tenure set by the custom of the manor. The enclosed fields were surrounded by commons and woodland. Although some copyholders were wealthy clothiers, most worked small farms, combining farming with weaving.⁹ The manorial customs – which regulated common rights and defined copyhold tenure – therefore underwrote both individual household economies and the small polity of the village. Custom grew from the daily lived experience coupled with habits, beliefs and knowledge that were (or at least seemed to be) passed down the generations. Rather than making some appeal to abstract rights, claimants to custom justified their claims with reference to their immersion in their local world. Ingrained in a precise sense of place, and written into a specific landscape, their sense of the local past grew from shared experience, learnt patterns of behaviour and collective wisdom.¹⁰

In 1592, giving evidence to the Court of Chancery, the shepherd Thomas Edsawe described a village whose internal workings were, by the harsh standards of the 1590s, fairly relaxed. Distinguishing the inhabitants of ancient cottages from those of newly-established dwellings, he noted their collective poverty, observing that ‘the cottagers...kept little or noe Cattell horses or beastes’, but adding that if ‘they were of abylytye’ and did own a few beasts, then the copyholders allowed them pasture on the common. This was a sign, as Edsawe saw it, that even the inhabitants of the newly established cottages ‘had the greater favour of the Ten[a]ntts’. Edsawe observed that this was not a matter of customary right, but only of the favour of the tenants; in contrast, ancient cottages came with pasture rights.¹¹ The attitude of the tenants to the new cottagers was, as he saw it, one of ‘gentleness’:

yf any suche Cottager that hathe butt a cottage and a garden buylt uppon the common will for his ease and better helpe of that he hathe to doe keepe a Jade and turne her to the common he thinketh he maye doe yt and never be denyed yt of the other Ten[a]ntts yf they see he be a poore man and that he ys not able otherwise to provide yt but this at the gentleness of the other Ten[a]ntts¹²

In past times, Edsawe said, the lord had been similarly kind to the poor. Upon the death of a tenant, the lord had a right to a heriot – that is, to one of the deceased’s animals or, failing that, to some other valuable item. But as Edsawe remembered, if the estate of a deceased ‘poore man’ was so small that he had not owned any animals, then the lord declined the opportunity to claim anything else. Here was the nub of the copyholders’ case. Charity and reciprocity still underwrote social relations within the village. But the Percys had fractured the values of good lordship: where once the lord had shown decency to ‘poore men’, now he trod them down. In this analysis, in the Petworth of the 1590s, custom drew poorer and middling villagers together, while at the same time forming a contested terrain with their lord.¹³

⁸ For the region, see P. Brandon, *The Sussex landscape* (London, 1974). For the economy of the neighbouring Kentish Weald, which had similar characteristics to the Sussex Weald, see M. Zell, *Industry in the countryside: Wealden society in the sixteenth century* (Cambridge, 1994).

⁹ On the clothiers, see WSRO, PHA 7362, fols. 149r-51r.

¹⁰ Over the past twenty years, the literature on custom has become very rich. The best starting point is E.P. Thompson, *Customs in common* (London, 1991).

¹¹ WSRO, PHA 5449, fols. 50r, 64r.

¹² WSRO, PHA 5449, fol. 65r.

¹³ This represents one local corrective to the generalization that ‘For the poor migrant ... custom came to be regarded not as *cohesive* but rather as a *restrictive* ideology’. S. Hindle, *On the parish? The micro-politics of poor relief in rural England, c.1550-1750* (Oxford, 2004), 32.

From the perspective afforded by hindsight, many customary entitlements might seem trivial: historians sometimes call them mere ‘petty rights’.¹⁴ This is to miss both the diversity of the customary economy and the unity of its conceptual underpinnings. Rights to feed livestock, like sketchier entitlements such as nutting, gathering berries or collecting firewood were a fundamental part of a system of rights. The assertion of custom was essential to the material welfare of both the poor cottager and the slightly wealthier smallholder. Common right allowed copyholders to maintain mixed farms, combining small-scale arable production with some geese, hens, pigs, donkeys, goats and cattle.¹⁵ In Petworth, all the tenants’ livestock save geese and goats could be fed upon the commons. Possession of a cow meant that the poorest household enjoyed milk, cheese and butter. Most families kept pigs, which in the autumn were fattened on acorns in the woodland (a customary right called pannage). Although they were not entitled to cut down living trees, copyholders could take fallen wood for fuel and repairs; they also had rights to underwood (fern, twigs and bracken), which could be converted into charcoal and sold to iron smelters.¹⁶ Many of these entitlements were small in themselves, but they built into a composite whole, a system of resource allocation which allowed even the poor to maintain independent households.

In mid-sixteenth century Petworth, life had been regulated by the court leet. In 1592, the 72 year-old Richard Lindars explained that in those days two large courts were held each year at which ‘ther wer[e] fouer substaunciall wise men of the tenants chosen by the homage or the Steward and those were offycers’.¹⁷ In theory, the leet was answerable to the lord, but in reality it was more or less autonomous. The leet administered manorial custom, fining tenants who overgrazed or encroached upon the common. Sometimes, it gave consent (subject to the authority of the lord) to a pauper to build a cottage on the common.¹⁸ Most importantly, the leet had oversight of the maintenance of manorial custom. As lex loci, customary law defined relations of production and exploitation. It grew from the collectively shared traditions of a locality – the ‘common report of the neighbours’ which lay ‘beyond the memory of man’. Under customary law, the lord had his rights too: on his demesne (land held by the lord for his own use) the Petworth copyholders provided an unpaid labour force in the harvest season. The lord could fell trees and dig for iron ore anywhere he wished save for on the very limited reserve of freehold land. For an entrepreneurially-minded seigneur who was sufficiently insensitive to local opinion, the Petworth estate therefore presented a variety of potential sources of revenue. Herein lay the roots of the bitter conflict in the manor.

Following the execution of Thomas Percy in 1537, the manor of Petworth passed to the Crown. In the late 1530s, Henry VIII enclosed 120 acres around Arbor Hill, upon

¹⁴ For ‘petty rights’, see L. Shaw-Taylor, ‘Labourers, cows, common rights and parliamentary enclosure: the evidence of contemporary comment, c.1760-1810’, Past and Present, 171 (2001), 125.

¹⁵ See, for a later date, B. Short, ‘“The art and craft of chicken cramming”: poultry in the Weald of Sussex’, Agricultural History Review, 30 (1982), 17.

¹⁶ For the wide variation in copyholders’ right to wood, see R. Hoyle, ‘Redefining copyhold in sixteenth-century England: the case of timber rights’, in P. Hoppenbrouwers and B. van Bavel (eds), Landholding, land tenure and land markets in north-west Europe, c.1200-1850 (Brepols, 2004), 250-64.

I am currently writing a study of fuel rights in early modern England.

¹⁷ WSRO, PHA 7362, fol. 267r.

¹⁸ Lord Leconfield, Petworth manor in the seventeenth century (Oxford, 1954), 27-36, is a fair summary of all this.

which he built a banqueting house.¹⁹ These enclosing fences (and possibly the house itself, which was no longer standing by the 1590s) were destroyed in 1549 during the large-scale insurrections of that year. When the Percys were reinstated as earls of Northumberland in 1557, they were required to dwell far away from their northern power base. The seventh earl, Thomas Percy, removed himself to Petworth. At that time, the parkland around the House comprised a rabbit warren and the 105 acres of the Little Park.²⁰ Immediately, earl Thomas commissioned a survey of the manor and started to look for ways to raise revenue and to expand his park. The following year, the court leet consented to the emparkment of Arbor Hill. Around this time, the tenants' only written account of their customs – the customary book – was lost (we will return later to the significance of this). A second survey followed in 1575, after which 200 acres of woodland called Outwood was also taken into the Park. The tenants had hitherto enjoyed common rights in Outwood and in return for its enclosure they extracted from earl Thomas the rights of pannage in two other woods called Outlanes and Middlecarr.²¹ Custom codified all of this: the property neither of the tenant nor the lord, custom emerged from compromise as much as conflict, establishing ground rules which seemed reasonable to all.

In the last decades of the sixteenth century, as inflation bit into their rent rolls, lords of manors across England began to look at ways in which they could increase revenue from their estates. The Percys were at the forefront of these developments. Like earl Thomas, so his grandson earl Henry employed surveyors and cartographers to map his lands, enabling him to gain a clearer view of how more cash could be squeezed from the manor.²² Recognizing that copyholders' rents were fixed by custom, the ninth earl continued the policy begun by his grandfather of converting alienated copyholds into leasehold, the rents of which could be increased at his whim.²³ Although it would reap long-term benefits, the steady conversion of copyhold to leasehold could not generate an immediate source of revenue. Earl Henry therefore turned to more immediate means of raising money: leasing rights to extract and smelt iron; enforcing his monopoly on milling; increasing tolls upon land transactions by raising entry fines to copyhold land and racking fines for leasing such land; enclosing commons; exploiting woodland; and leasing demesne land at increased rents. By the 1590s, the trees of Outlanes and Middlecarr had been cut down, destroying the ecological basis for the pannage rights that had been granted by earl Thomas. The ninth earl made an immediate profit from felling the timber of Petworth; its sale brought him £1,115. The rapid expansion of iron working proved even more damaging to the local environment.²⁴

While ultimately successful, the earl's estate policies – an example of what historians have labelled fiscal seigneurialism – entailed a dragged-out conflict with the copyholders and cottagers. On 29 July 1592, the ninth earl wrote to the Lord Keeper, Sir John Pickering, complaining that the tenants and cottagers had 'renewed their

¹⁹ WSRO, PHA 5450, fols. 1r-34r, 135r-6r, 218r.

²⁰ Leconfield, *Petworth*, 55.

²¹ Leconfield, *Petworth*, 56; WSRO, PHA 5450, fols. 63r-75r, 92r-108r, 120r.

²² G.R. Batho, 'The finances of a Stuart nobleman: Henry Percy, 9th Earl of Northumberland, 1564-1632', *Economic History Review*, 2nd. Ser., 9, 3 (1957), 441.

²³ G.B. Harrison (ed.), *Advice to his son* (London, 1930), 83; Leconfield, *Petworth*, 50; Batho, 'Finances', 440-1.

²⁴ Leconfield, *Petworth*, 51, 98-9.

secrett and riotous pulling downe in the night season ... my Pales and Inclosures, as well as those and in Questeon before you in the Chainciry ... as of my owne Freehold and Demesnes, no whit Touched by the said Controversie'.²⁵ The Petworth inhabitants combined riot with petition and litigation. In August 1591, while Queen Elizabeth was staying with Lord Montague at Farnham (Sussex), the copyholders presented her with a petition criticizing Northumberland.²⁶ That autumn, the tenants entered a petition of complaint against earl Henry at the court of Chancery. They funded this action by collecting a legal fund, known as a common purse. In 1593, the earl launched a counter-suit in the Court of Star Chamber against his leading opponents, the most prominent of whom was a copyholder called William James.²⁷ In his complaint to Star Chamber, Northumberland accused his tenants of riot; suggested that the collection of their common purse constituted a criminal act; and claimed that his opponents had uttered 'words of disgrace, discredit or scandall' against him, including that he had 'dealt dishon[or]able or extreamelie or against his honor wth ys or some of ys'. In answer, the tenants and cottagers claimed that they had no idea who had destroyed the earl's enclosures; observed that raising a common purse was not illegal; and stated that no ill words had been spoken against him. The testimony of the weaver James Barton was the closest that any witness came to the likely truth; he stated that it had been said in the village that the earl had dealt 'extremely' with the copyholders; upon being asked who had spoken these words, Barton responded tactfully that 'hee doth not nowe p[er]fectley remember'.

In 1594, Chancery ruled in favour of tenants on all matters save the enclosure of the commons and woods, which they proposed to investigate more fully. Yet the tenants' victory was far from complete. Pulling strings, the earl again wrote to the Lord Keeper saying that he was willing to deal leniently with the tenants, but that he did not think that they would take anything from him with any gratitude.²⁸ The underlying logic of this seemingly placatory gesture was revealed in 1598 when, after four years of prevarication over the issue of the enclosures, Chancery ordered the tenants to make submission to the earl in return for what the first historian of the Petworth struggle calls 'tacit concessions'.²⁹ This quasi-legal expedient was deployed by the Chancery judges in cases where, having ruled in favour of poorer litigants, they were uneasy about the effects of such a ruling upon the authority of a lord.³⁰ In a further statement of his authority, the earl had William James pressed as a soldier and sent to the war in Ireland.

The message was clear: the tenants could gain as many legal rulings as they liked; but the odds remained stacked against them. In effect, the earl's connections within ruling circles, combined with his obstinate refusal to allow the enforcement of the Chancery decree, his stereotyping of the tenants as riotous and disorderly and the threat implied in his use of his own magisterial power against William James, had trumped the

²⁵ E.D.B. de Fonblanque (ed.), *Annals of the House of Percy* 2 vols (London, 1887), II, 195-6.

²⁶ This may explain Elizabeth's subsequent refusal to visit Petworth House: see Batho, 'Finances', 448. For the dim view that Elizabeth took of aristocrats who failed to maintain harmony with their tenants, see S.E. Kershaw, 'Power and duty in the Elizabethan aristocracy: George, earl of Shrewsbury, the Glossopdale dispute and the Council', in G.W. Bernard (ed.), *The Tudor nobility* (Manchester, 1992), 266-95.

²⁷ See The National Archives (hereafter TNA), STAC5/N1/16.

²⁸ De Fonblanque (ed.), *Annals*, II, 196-7.

²⁹ Jerrome, *Cloakbag*, 109.

³⁰ W.J. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), 264.

tenants' almost complete success at Chancery. Even the earl's imprisonment in 1605 on charges of involvement in the Gunpowder Plot did not impair his ability to coerce his tenants. By that time, William James had returned from Ireland and had been entrusted by his neighbours with a second legal case against the earl. Although he was subsequently to revert to his neighbours' cause, James was at first intimidated into betraying his neighbours. In 1608, the tenants petitioned the Lord Chancellor for support against earl Henry. This fell on deaf ears. In the same year, the earl lodged a new complaint at Star Chamber.³¹ Northumberland claimed that William James (described as 'a most contentious spiritt') and his confederates had spread the rumour that he was an oppressor of the common people, 'By wch practises and wicked meanes there is rayseed a gen[er]all slaunder and ymputacon of dishonor' against him. Most aggressively of all, the earl alleged that, inspired by the rising of the previous year against enclosures in the Midlands counties, James had led rioters 'saying that then was the tyme to followe the example and p[ro]ceedings of the said [Midlands] Rebels'.³² Northumberland detected in all this not merely an attack upon his own lands and reputation but upon the estate of nobility itself. Noting that whereas he was a 'noble men and an Earle in degree and blood' and that his opponents were 'evill disposed p[er]sons', he warned that if they were not stopped, their criticism of him would bring about a wider critique of England's governing elite, causing 'dishonor & slaunder of the nobility and greate psons of... [the] Realme'.

Northumberland wasn't just engaging in the kind of hyperbole characteristic of complaints to Star Chamber.³³ Despite the fact that they were speaking to a commission made up of local gentlemen, some of the Chancery witnesses of 1592 were unable to disguise their hostility to their noble lord. The shearman Thomas Edsawe estimated that, since the enclosure of part of the commons, the cottagers and tenants could maintain less than half the number of animals on their reduced commons as once 'theire Auncestors or predecessors before the said Pettworthe common and Otewood common were inclosed by this mans father' (my emphasis).³⁴ Perhaps Edsawe's lip curled as he spoke the words. This was, we need to recall, a shearman talking about one of the richest noblemen in the realm – yet Edsawe referred to the noble earl not as his grace, his honour, his lordship but, contemptuously, as 'this man'. It was not only Edsawe who looked upon the Percys' proceedings with open hostility. When it was the turn of the 68 year-old husbandman John Wiltshier to give evidence, he described the gossip that still circulated in the locality concerning the selfish motives that had driven earl Henry to enclose Outwood twenty years before:

he hath hearde it reported the chiefest delight that Earle Henrye had in that new Parke was in huntinge, for when a noble man came unto him he woulde cawse a deere to be lett owt of Cunnygree Parke into new Parke and there hunt him, and made little accompte otherwise of the pasture of the new parke and as it was saide he did not care (but onlie for his pleasures sake in huntinge there) to have

³¹ WSRO, PHA 6366.

³² For the Midlands Rising, see most recently, S. Hindle, 'Imagining Insurrection in seventeenth-century England: representations of the Midland Rising of 1607', *History Workshop Journal*, 66, 2 (2008), 21-61. For Star Chamber cases in which enclosure riots were alleged to have been inspired by the Midlands Rising, see TNA, STAC8/18/19; TNA, STAC8/15/13; TNA, STAC8/311/3; TNA, STAC8/245/15.

³³ It is widely recognized by historians that, of all early modern English court proceedings, those at Star Chamber were the most exaggerated.

³⁴ WSRO, PHA 5449, fol. 85r.

geven and bestowed all the herbage and pasture of the new parke upon his Ten[a]nts, so little accompte did he make thereof³⁵

In 1608, the joint testimony of Nicholas Alderton, Thomas Sturt, Joseph Sturt, Christopher Hamblyn and William Myles was even more explicit, describing the 'Earle and his officers' as 'their dangerous adv[er]saries'.³⁶ If this was how the commons of Petworth spoke about the Percys when giving public testimony before a panel of gentlemen, what did they say to one another in the privacy of their alehouses, fields and homes?

The tenants' speech and behaviour offended the earl of Northumberland. Like others of his class, he tended to feel that displays of plebeian assertiveness, unless crushed, inspired the many-headed monster of popular rebellion.³⁷ Later in his life, the earl was to warn his son, Algernon Percy, that 'Envy will ever be hatched where multitudes are drawn together'.³⁸ Perhaps the tenth earl had his father's advice in mind when, in 1640, earl Algernon also took action in Star Chamber against a group of copyholders after their wives broke down enclosures on a piece of land which he had severed from one of their few remaining commons.³⁹ The intervening years had seen a series of actions initiated in Star Chamber against local inhabitants for poaching within Petworth Park.⁴⁰ Further legal action may have commenced around 1659, but if so, it led nowhere.⁴¹

The Petworth dispute therefore ended in the utter defeat of the copyholders. The immediate consequence was the transformation of the local landscape, as the commons were gobbled up in emparkment and enclosure, woodland hacked down and copyhold land turned over in search of iron ore. By the time that a new survey was taken in 1610, an additional 821 acres had been added to the earl's parkland. As Leconfield observes, 'No compensation seems to have been due to the tenants for its imparking'.⁴² In that year, the surveyor calculated that the manor comprised 1,207 acres of parkland; the lord's demesne stood at 3,794 acres; individual copyholds amounted to 3,010 acres; of the manor's once substantial commons, a mere 340 acres now remained.⁴³ As an example of fiscal seigneurialism, the ninth earl's administration of his Petworth estate was highly successful. By his death in 1632, the yearly revenue produced from the Percy estates stood at £12,750. As Batho notes, 'Making every allowance for the fact that this was an era of rising prices, one has to reckon this a great achievement'.⁴⁴

The evidence left by the Petworth dispute demonstrates very clearly how claims to custom could provide a legitimizing language within which ordinary people might

³⁵ WSRO, PHA 5450, fol. 18r.

³⁶ WSRO, PHA 7421.

³⁷ C. Hill, 'The many-headed monster' in his *Change and continuity in 17th-century England* (London, 1974), 181-204. Elite perceptions of popular politics deserve further study.

³⁸ Harrison (ed.), *Advice*, 75.

³⁹ WSRO, PHA 6371. Women sometimes engaged in riot because of the widespread popular belief that they could not be sued for such actions. For an example, see TNA, STAC8/184/24.

⁴⁰ WSRO, PHA 5558-67. For poaching, see R. Manning, *Hunters and poachers: a cultural and social history of unlawful hunting in England, 1485-1640* (Oxford, 1993).

⁴¹ WSRO, PHA 6368.

⁴² Leconfield, *Petworth*, 63.

⁴³ Leconfield, *Petworth*, 45.

⁴⁴ Batho, 'Finances', 442.

criticize their superiors while also advancing their own claims. In many instances, custom also had the potential to provide coherence to individual demands, grouping them under broader appeals to times past, long usage and local tradition. In their Chancery petition of 1591, the tenants demonstrated how this might work. They demanded that seigneurial fines, dues and rents be fixed at a reasonable level; that they should be able to lease their land without any restriction; that all woods growing on their copyholds should be theirs; and that they should be each be yearly entitled to a load of fallen wood from the commons. They also wanted strengthened inheritance rights; the prevention of further damage to their land by iron mining; pasture rights in Petworth park; and pannage in what remained of Outlanes and Middlecarr. In resonant language, the tenants demanded the right to ‘enjoy such common in such as our ancestors tyme beyond the memorie of man have enjoyed the same’.⁴⁵ Arising from an everyday confrontation, the Petworth copyholders’ demands do not have the programmatic quality of, for instance, the Norfolk rebel articles of 1549. But they are motivated by the same desire to establish what Diarmaid MacCulloch has called a ‘tidy world’ in which an autonomous tenantry lived a life largely free from lordly power.⁴⁶

The deposition provided by one Chancery witness of 1592, a 72-year old husbandman called Richard Lindars, provides especially eloquent testimony as to the capacity of labouring people to mobilize social memory and customary law as overtly political resources.⁴⁷ Lindars presented himself as the quintessential local man, explaining that he had been born in Petworth and had lived his life within three miles of the village. Being the youngest son, according to the custom of the manor, he had inherited his father’s holdings.⁴⁸ When his father instructed Lindars in the customs of the manor, he offered the young man some words of warning concerning the danger posed to those customs by the recent loss of a key document – the written account of their customs, called the customary book – and its passage into the hands of earl Thomas.⁴⁹ In 1592, Lindars still recalled his father’s words: that ‘the customes were not like to contynewe yf ther booke shoulde be loste’.⁵⁰ As Lindars saw things, events were to prove his father right. With the loss of the customary book, the seventh and ninth earls proceeded to enclose land, increase fines, cut down woodland, restrict copyholders’ remaining rights and to lease the mineral rights. Seeing the way that events were drifting, in the early 1570s Lindars surrendered his tenancy and left for the neighbouring village of Lurgashall. In 1592, he explained the reason for his departure as follows:

he was the more willing to leave his said copyhold by reason that ... there was some banglyng about the customes and therefore he thought it tyme to be gone And then ... [he] was also moved thereunto by reason that when he sawe suche

⁴⁵ The tenants’ demands are neatly summarized in Jerrome, *Cloak-bag*, 51-4.

⁴⁶ D. MacCulloch, ‘Kett’s rebellion in context’, *Past and Present*, 84 (1979), 47.

⁴⁷ WSRO, PHA 7362, fols. 193r-272r.

⁴⁸ Manorial custom in many Sussex manors favoured the youngest son. See for instance WSRO, Cowdray 1306, fols. 29r-30v; WSRO, Lavington/2, fols. 31r-2r; WSRO, Add MS 2275, fols. 38r-44r.

⁴⁹ For the growing importance of documentation to the maintenance of customary rights, see A. Fox, ‘Custom, memory and the authority of writing’, in P. Griffiths, A. Fox and S. Hindle (eds), *The experience of authority in early modern England* (Basingstoke, 1996), 89-116; A. Wood, ‘Custom and the social organization of writing in early modern England’, *Transactions of the Royal Historical Society*, 6th. Ser., 9 (1999), 257-70.

⁵⁰ WSRO, PHA 7362, fol. 265r. For the role of earl Thomas in the loss of the customary book, see WSRO, PHA 7362, fol. 186r.

banglyng as he termeth it about the customes he remembered the speaches wch his father used when he surrendered the saide cobbyhold to him ... wch were to the effect that the customes beganne to fall and were not like to contynewe.⁵¹

Richard Lindars not only provided compelling evidence as to the cause of the ‘banglyng about the customes’; his deposition also offers an articulate commentary upon the authority of local memory. Lindars explained that in all his 72 years, ‘and tyme out of mynd by auncient reporte until of late tyme wthin these eighteen yeares or thereabouts’, entry fines had been ‘reasonable’, and that this was ‘an olde custome and so the Tennts were fyned for tyme out of minde’.⁵² As his father had predicted, the loss of the customary book led to the impoverishment of the hitherto assertive and prosperous tenants. In Lindars’ account, the cause of that impoverishment was that ‘theire common was abated theire fynes raised and the benefit of the underwoods growing upon there severall copyholds [were] taken from them’. The consequence of this was that they had fallen

to decay and waxed bare & soe have lyved very poorely ever sithence And what by reason of those libertyes taken away and other like customes infringed and wth holden from them they are every day in worse case then other ... Their p[re]decessors never felte

The past weighed upon Lindars’ mind. He argued that if the copyholders were returned to ‘theire auncient customes againe wch they had for thirty yeares agoe and so for tyme out of mynde before’, then they would ‘lyve as well as their auncestors & p[re]decessors did’.⁵³

Earl Henry’s intervention in the local land market, imposing high fees on leases and sub-leases of copyhold land, earned Lindars’ censure: he observed how, whereas former arrangements for sub-letting had been loose and pragmatic - ‘especially if [the sub-tenant] were a poore man’ – earl Henry’s new policies were strictly and harshly enforced.⁵⁴ The implication was clear: that before the Percys took up residence at Petworth, dealings with the poor had been based on reciprocity and informal charity; but that, since their arrival, communal relations had been fractured. Throughout his testimony, Lindars returned to the same essential points: that lord and tenant had once respected one another, but that since the Percys had been re-established as lords, custom had become a battleground; that the ‘banglyng’ over the customs was a product of the Percys’ oppressions and had commenced with the ominous disappearance of the tenants’ customary book.

The Chancery depositions of 1592 suggest that the warning uttered by Lindars’ father that, with the loss of their customary book, ‘the customes were not like to contynewe’ was rather prescient. In particular, the depositions illuminate local perceptions of the ninth earl’s financial expedients. Some witnesses spoke about the destructive effects of iron mining and smelting upon their own land and upon the commons and woods.⁵⁵ Like Richard Lindars, other witnesses and petitioners also deployed the past as an ideological resource. The authors of the 1607 petition to earl Henry asked for the return of ‘such auncient & laudible customes as o[u]r auncestors have longe and time

⁵¹ WSRO, PHA 7362, fols. 199r-200r.

⁵² WSRO, PHA 7362, fols. 201r-2r.

⁵³ WSRO, PHA 7362, fol. 205r-6r.

⁵⁴ WSRO, PHA 7362, fol. 209r.

⁵⁵ WSRO, PHA 7362, fols. 193r-272r; WSRO, PHA 5450, fols. 169r-183r.

out of mynd enjoyed'.⁵⁶ The shearman Thomas Edsawe spoke in 1592 of how whereas once the 'poore coppihoulder or cottager' could maintain a few cows, 'nowe they are not able soe to doe havinge the better parte of their auncyent common taken away'. Edsawe grounded his claims in custom and memory: as he put it, the tenants possessed common rights according to their 'auncyent use and custome'.⁵⁷ In attributing such authority to the past, Edsawe spoke not just for himself: all of the tenants presented similar accounts of their memories of the village in past times. What the Chancery was presented with was the social memory of the village: the collective voice of the inhabitants was deployed as an integrative force, binding the locality together around a common stock of stories about the past.⁵⁸

Early modern people were often tempted to see the present as inferior to the past. The Petworth witnesses presented just such a view. The husbandman Thomas Hollaway explained how, whereas in 1592 the inhabitants had only a few cattle, he remembered that he 'hath seene aboute fourscore head of cattell turned out in a morninge out of the hamlet of upperton into Upperton common and outwood before the same groundes were enclosed'.⁵⁹ In his description of the social changes he had witnessed, the 80 year-old Richard Marten invoked memory, custom and conscience, explaining that whereas the tenants had once been prosperous, 'yf this deponent must utter his Conscience in this Case he verily thincketh and ymagineth not howe yt should otherwise be but that the Copihoulders of what wealth soever ...be in their lyvinges muche poorer then they were wont to be'.⁶⁰ The sympathetic Chichester gentleman William Bullaker agreed, describing how, in the time of Henry VIII and Edward VI, the copyholders included 'men of great wealthe and not so muche as the meanest copyholder there but he was well hable to lyve and of pretye wealthe and kept his house and famlye in veary good and pleantyfull estate and sorte'. In contrast, Bullaker went on, 'nowe at this daye ... the case ys cleane altered as the poore people of the countrie neere abouts Petworthe doe vearye well knowe to theyr great greefe'.⁶¹

Much had been lost, the 1592 witnesses said, with the destabilizing and impoverishment of their community. Richard Lindars saw the immiseration of the copyholders as leading to the end of neighbourliness and charity, recalling how 'wherea[s] their predecessors were wealthy men & able to doe for their frends of neede had beene ... nowe Tennants cannot doe so'.⁶² William Bullaker had been brought up in the village and remembered that whereas

In king Edwards tyme and Quene Mary's tyme there were veary Auncient and grave homagers of the said Mannor suche as would not lose or suffer their customes to bee impeached and besyds that the same customes were ... so well knowne in those dayes that there was noe gaynsayinge therof

in 1591 he 'hath seene of late that the greater number of the said copyholders are but in veary bare and naked estate and carrye noe countenance att all in respect what

⁵⁶ WSRO, PHA 7423. My emphasis.

⁵⁷ WSRO, PHA 5449, fol. 88r. My emphasis.

⁵⁸ For the best discussion of this subject, see J. Fentress and C. Wickham, Social memory (Oxford, 1992).

⁵⁹ WSRO, PHA 5449, fol. 15r.

⁶⁰ WSRO, PHA 5449, fols. 39r-40r; see also fol. 122r.

⁶¹ WSRO, PHA 7362, fols. 149r-51r.

⁶² WSRO, PHA 7362, fols. 204r-5r.

theire predecessors dyd'.⁶³ The reason for the immiseration of the copyholders was down to 'Fines on admission to copyhold'. As Bullaker put it

there was nothing then amongst the tenaunts coppingholders of the said mannor but povertye want and great lamentacon by reason of hard dealings and measure that was offred and had bene then inflycted upon theym by the Lord of the said mannor then beinge in takinge awaye their oulde and ancient customes from theym and settinge greater fynes one their heades than ever their Auncestors payed or that they were hable to beare.⁶⁴

If William Bullaker saw the increase in fines as the basis for the copyholders' reduced condition, some of his former neighbours felt that the enclosure of much of their former commons was to blame. The loss of the commons still rankled with the 80 year-old carpenter Richard Marten. He emphasized his own embeddedness within the community, stating clearly that 'he ... well knoweth the parryshe and towne of Petworthe because he this deponente was borne there and brought up there all dayes of his lyfe'. In his narrative, Marten situated himself in a social world characterized by face-to-face social relations, emphasizing that 'he knoweth all the said coppihoulders and cottagers in Petworth or the moste of them'. A necessary condition for the endurance of this idealized community was access to their common land which, for Marten, was vested in long usage. He explained that 'the copyholders of [Petworth] ... have of longe tyme ever sythence this deponente was of remembraunce had common upon Petworth common and outwood common untill nowe of late yeares that ... [the ninth earl] hath enclosed the ... two commons'.⁶⁵ Especially notable, both in terms of their physical visibility and their impact upon the copyholders' well-being, were the enclosures erected upon the village's commons by the seventh and ninth earls.⁶⁶ The asset-stripping of the material environment was something which many of the witnesses of 1592 commented on, an assault upon their material conditions which they linked to the earl's recent enclosures. Readings of a changed landscape thereby interlocked with memories of a lost social world.

The day-labourer Ralfe Coates integrated these memories into an overarching narrative. In his analysis

before the said Inclosures and before the ten[a]ntts were putt to the great fynes that have beene of late taken by the Lord upon deathe or s[u]rrend[e]r of the Auncestors or predecessor and for the widowes estate by free benche beinge farr greater than afore tyme and before the ... coppiholders were geven awaye and their coppihold grounds spoyled or digged for yron myne contrary to that was wont to be before these things happened he saith wch are but of late dayes the said coppiholders were of good worthe and abylytye for the most part and lyved in wealthe and quyettnes but sithence these things fell out they are growen to great decayance and povertye⁶⁷

Fundamental to the former prosperity of Petworth, the old men of Petworth argued, had been the maintenance of neighbourliness and reciprocity. These values bound the villagers together and connected them to their lord. On all sides, it was remembered,

⁶³ WSRO, PHA 7362, fols. 152r, 165r.

⁶⁴ WSRO, PHA 7362, fols. 151r-152r.

⁶⁵ WSRO, PHA 5449, fols. 24r-5r.

⁶⁶ WSRO, PHA 5449, fols. 23r-41r; WSRO, PHA 5450, fols. 156r-183r; Leconfield, Petworth, 59.

⁶⁷ WSRO, PHA 5449, fol. 123r.

social relations had been mediated by long-established customary arrangements. William Bullaker recalled how, when the manor had been held by the Crown, the tenants had asked the Crown's officers to fix their entry fines at a specific level, rather than (as was then practice) to allow them to fluctuate at between 6 and 24 months' annual rent. As Bullaker remembered things, the Crown's surveyor had reassured the tenants, telling them 'that they needed not to make any suche request sayinge they were the kings Ten[a]nts and were favorablye used and payed noe fynes but suche as were reasonable and easye'.⁶⁸ Richard Lindars drew a similar picture, recalling how 'in the begininge of his tyme' the customary arrangements in the manor had been the basis of 'much quietness and ease betweene ... the lorde and the Tennants'.⁶⁹

These bitter memories threw the tenants and cottagers of the 1590s into renewed conflict with their lord. Most notably, the Petworth dispute illuminates how social memory can define poorer people's sense of themselves and their communities, providing a form of empowerment. The tenants' and cottagers' memories of the world they had lost shaped their aspirations and informed their social ideals. Those ideals were defined by an appeal to custom which provided - albeit for a limited time - a renewed sense of collective agency. That the tenants and cottagers were ultimately defeated ought not to rob us of the significance of their vision of how their village should be ordered. In their depositions, the cottagers and copyholders of early modern Petworth provided a clear account of their local society, analysed the historical processes that had led to its formation and suggested the possibility that the small polity of their village might be ordered in a different way.

⁶⁸ WSRO, PHA 7362, fols. 147r-8r.

⁶⁹ WSRO, PHA 7362, fols. 266r-7r.