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Chapter 1

The peasant land market and the Winchester pipe rolls

P.D.A. Harvey

The peasant land market – the buying and selling of properties by smallholding tenants – attracted little interest among historians before the middle of the twentieth century. That there was such a market was well known to archivists, editors, antiquaries, to anyone who examined the content of any cartulary or any medieval archive, for documents that it produced were there in their thousands, charters recording gifts, sales and leases of often tiny pieces of arable or meadow, minutely defined. As F.M. Stenton put it in 1920, in the introduction to his important edition of Danelaw charters, 'In and after the time of Henry II the charter evidence is copious. And as time goes on we obtain ... an increasing body of charters which prove that people are selling parcels of land to one another.'¹ These people would all be freeholders, for villein tenants, once they had been classed as servile in the early thirteenth century, could not be party to a charter that would be accepted in a royal court of law. This perhaps explains historians' lack of interest: while no one could question the existence of freeholding peasants, they were seen as of little significance, an almost anomalous strand in a social structure of manorial lords and unfree tenants, a rural economy dominated by the demesnes that were worked by these tenants' labour services.

In an article in 1938 F.M. Powicke questioned this view. He suggested that free tenants, often of quite small holdings, were more numerous and a far more important part of rural society than had been supposed. He looked at their position in general, then in detail at charters from Weston Underwood in Buckinghamshire that recorded free tenants' transactions, and he concluded that 'Under the cover of the manorial system, a network of free tenant rights, becoming ever more complicated and constantly changing, was spread over rural England.'² Underlying Powicke's argument was the work of E.A. Kosminsky, published in Russian in 1935 and made known to Powicke, who did not read Russian, by M.M. Postan. From a statistical analysis of the 1279 Hundred Rolls that covered a swathe of counties across midland England, from Cambridgeshire to Warwickshire, Kosminsky showed that free tenants were far from being few and unimportant; in some areas they were more numerous and held more land than the villeins, and, indeed, villages could be found where there were no villeins at all, but only free tenants.

An English translation of Kosminsky's work was published in 1956,³ and the

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1. F.M. Stenton (ed.), *Documents illustrative of the social and economic history of the Danelaw*, Records of the Social and Economic History of England and Wales, 1st series, 5 (London, 1920), p. xlix.
 2. F.M. Powicke, 'Observations on the English freeholder in the thirteenth century', in *Wirtschaft und Kultur: Festschrift zum 70. Geburtstag von Alfons Dopsch* (Baden bei Wien, 1938), p. 392.
 3. E.A. Kosminsky, *Studies in the agrarian history of England in the thirteenth century*, trans. R. Kisch, ed. R.H. Hilton (Oxford, 1956).

following year a book by W.G. Hoskins brought home many of its lessons. This was his study of Wigston Magna in Leicestershire, a village where free tenants probably outnumbered the unfree in the later Middle Ages and where they certainly predominated in the historical record.⁴ Hoskins's account of medieval Wigston was drawn not from the records of manorial lords and their demesnes – surveys, account rolls, court rolls – but from the free tenants' charters that recorded how lands passed between them and to others. A picture emerged that bore no relation to the classical manor of lord, demesne and villeins. At the same time, by implication Hoskins demonstrated the limitations of these charters as evidence even for these transactions and for those who took part in them. At best they present a patchy record, seldom comprehensive even when many survive; at Wigston they relate only to 'a good sample of families and tenements in one part of the village'.⁵ There they survive in the records of the early-sixteenth-century hospital or almshouse: grants of land to the hospital and the earlier documents relating to the same properties, inevitably a very partial picture. Moreover, charters can be tantalisingly uninformative. Until the later thirteenth century it was unusual for them to give the date of the transaction; this can be assessed only from what can be discovered elsewhere of the parties and witnesses or, where we have the original charter and not just a cartulary copy, by the handwriting and any endorsements. Then, just at the point when charters begin to be dated, they stop telling us how much money changed hands: in the fourteenth and fifteenth centuries we are told only that the property was sold for 'a certain sum of money' or some such phrase.⁶

It was against this background that in 1960 the Northamptonshire Record Society published a mid-fourteenth-century cartulary, edited by C.N.L. Brooke and M.M. Postan and entitled *Carte nativorum*, the charters of the villeins. This was a turning point in our understanding of the peasant land market in England. The manuscript was in the archives of Peterborough Abbey, its title copied on the cover in an eighteenth-century hand from its first page of text. Postan tells how, on first seeing it in 1938, he thought that 'an antiquary should have known better than to perpetuate on the cover the title of *Carte nativorum*. Was it not a commonplace of legal history that villeins could not acquire or transfer property by charter?'⁷ But he looked further and found that this title was entirely accurate: the manuscript was a register of charters recording the acquisition of lands by the abbey's unfree tenants, supplementary to the lands they held of the abbey in villeinage. Whether these charters would stand up to scrutiny in a court of law was beside the point. Peterborough's villeins were buying and selling lands, mostly probably free land but sometimes specifically land held in villeinage, and were recording these transactions in sealed charters; and the abbey,

4 W.G. Hoskins, *The Midland peasant: the economic and social history of a Leicestershire village* (London, 1957), pp. 28–30, 62.

5 *Ibid.*, p. 30; also p. 9.

6 P.D.A. Harvey, 'The peasant land market in medieval England – and beyond', in Z. Razi and R.M. Smith (eds), *Medieval society and the manor court* (Oxford, 1996), pp. 405–6.

7 C.N.L. Brooke and M.M. Postan (eds), *Carte nativorum: a Peterborough Abbey cartulary of the fourteenth century*, Northamptonshire Record Society, 20 (Northampton, 1960), p. xxviii.

instead of trying to stop this traffic by confiscating the lands or annulling the purchases, merely set about regulating it by keeping copies of the documents.⁸

No parallel has been found to Peterborough Abbey's register of its villeins' charters, but there is no reason to suppose that such charters were peculiar to this one estate. We can now accept that customary tenants – villeins – were a significant proportion of those transferring small amounts of land by charter, probably in the thirteenth and fourteenth centuries, and certainly in the fifteenth century, when the distinction between customary and other tenants, between unfree and free, was breaking down. What proportion, however, we do not know. It was a happy chance that Postan, working on Peterborough surveys, recognised in the charters names already familiar to him as villein tenants. Charters do not normally reveal a smallholder's status, free or unfree; this can be discovered only from manorial surveys and court rolls, and their survival along with relevant charters is unusual. However, in 1953 R.H. Hilton had already found that villeins were leasing lands from Gloucester Abbey in the thirteenth and fourteenth centuries by means of documents sealed with their own seals.⁹ Systematic research would almost certainly discover that what was happening at Peterborough and Gloucester was happening on many other estates as well.

Hilton thus anticipated Postan in showing that unfree villeins might be parties to sealed charters. But there were other facets as well to Postan's historical introduction to *Carte nativorum*, making it seminal work, one of the more important of his contributions to knowledge. In 1889 F.W. Maitland, editing the court rolls of Ramsey Abbey's manor of King's Ripton in Huntingdonshire, had noted that the villeins' frequent surrenders of property into the hands of the manorial lord showed that 'a brisk traffic was done in small parcels of land'.¹⁰ A.E. Levett, in work published in 1938, found that on the estates of St Albans Abbey villeins were regularly leasing parts of their holdings to one another, but no one had followed up Maitland's suggestion that villeins were effectively buying and selling unfree lands through the manorial court. Now, however, Postan set it beside the villeins' transfer of land by charter. In law the only way a villein could divest himself of his holding, or any part of it, was to surrender it – hand it back in the manorial court to the lord of the manor, who would then let it out to a new tenant in villeinage. The surrender and the entry of the new tenant would be recorded on the manor's court rolls. Sometimes the land would be surrendered specifically to the use (*ad opus*) of a named person who would then be admitted as the new tenant, and Postan saw these as instances of sales of land; the new tenant will have paid some form of purchase price to the old, and both will have

8 *Ibid.*, pp. xix, xxxii.

9 R.H. Hilton, 'Gloucester Abbey leases of the late thirteenth century', *University of Birmingham Historical Journal*, 4 (1953–4), pp. 11–13; reprinted in *idem*, *The English peasantry in the later Middle Ages* (Oxford, 1975), pp. 153–5.

10 F.W. Maitland (ed.), *Select pleas in manorial and other seignorial courts*, Selden Society, 2 (London, 1889), p. 105.

paid fees to the lord for effecting the transfer.¹¹ Taking these transfers in the manorial court along with conveyances by charter, whether by free or by unfree tenants, we have substantial evidence for what Postan called 'the village land market'.¹²

From some manors significant series of court rolls survive complete or nearly complete over many decades. Where this is the case they provide a better record of the transfers of customary, unfree, land than any but the fullest series of charters can give us of transfers of free land, whether by free or by unfree tenants. Partly this is because it is such a full record; in theory, and mostly in practice, every change in the tenure of unfree land had to be made in the manorial court and entered on the court roll. There is a gap in the record only if a court roll is lost from the sequence, and — as is *not* the case in a series of charters — we can nearly always tell if this has occurred, when one or more court rolls are missing. Unlike charters, all court rolls are dated. Then again, the court rolls record every change of tenure: not only what we assume to be sales and purchases, but changes when a tenant died or became too infirm to manage the holding, so that it passed to a widow, a son or another relative whose relationship to the former tenant is often revealed in the record. However, we are more likely to find a piece of property fully described and defined in a charter than on a court roll, and court rolls are far scarcer than charters; they survive in twos and threes from many places, but the full series that tell us most have seldom survived. Moreover, while we have charters relating to small pieces of land from the mid-twelfth century onwards, the earliest known original court roll dates from 1246 and very few survive from before the 1270s.¹³

11. *Ibid.*, p. 106; Brooke and Postan (eds), *Carte nativorum*, p. xlvi. C. Howell, *Land, family and inheritance in transition: Kibworth Harcourt, 1280–1700* (Cambridge 1983), pp. 245–8, sees transfers *ad opus* as giving the incomer customary hereditary rights that would not pass if the holding had been transferred without this phrase: it meant that there was no break in tenure, for the holding was theoretically held by the original tenant, but to the use of the incomer. This interpretation may have arisen from *Select Pleas*, p. 106, and note, where Maitland, with less than his customary lucidity, comments that 'the idea of one man being seised of land to the use (*ad opus*) of another was a familiar idea enough in the manorial sphere long centuries before the Court of Chancery began to coerce the "feoffee to uses" with a writ of subpoena'. My understanding is that he is suggesting that villein tenure in general was in effect a form of tenure to use from the lord of the manor who was in law the freehold owner of all property held in villeinage. While we must always allow for local variation in custom and in phraseology, there seems no reason to doubt that '*ad opus*' means no more than the agreed transfer of the holding, probably normally against payment, from the current villein tenant to the other who is named.

12. Brooke and Postan (eds), *Carte nativorum*, p. xlix.

13. P.D.A. Harvey, *Manorial records*, 2nd edn (London, 1999), p. 41.