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# Toll Disputes, Grain Marketing, and Economic Culture in England, c. 1550–1800

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## Abstract

Tolls were not only fundamental to the operation of early modern English markets, but also had the capacity to generate tensions that belied their seemingly unremarkable role in contemporary economic affairs. Yet, tolls and toll disputes have received little attention in studies of market regulation and have also been neglected in studies of the politics of grain supply and marketing. This article revives tolls as an object of enquiry and suggests that they occupied an ambiguous position within early modern English economic culture. Tolls raised complex questions about how self-interest operated in a society that conceptualized bargaining primarily in communal terms and emphasized the social and moral obligations that should underpin it. While this was arguably true of tolls on all goods, it was especially true of tolls on grain – a commodity that occupied a singular place in contemporary socio-economic relations. By examining how competing parties in toll disputes articulated and sought to defend their interests, and how their respective tactics changed over time, this article sheds new light on the dynamics involved in England's transition from one way of thinking about economic activity to another.

Tolls were ubiquitous features of early modern English markets. In their basic form, they involved payments that market owners collected from traders in return for the privilege to sell their goods (agricultural products, livestock, cloth, and so forth). There were specific types of tolls within this general framework, and some markets collected tolls on grain. While 'toll corn' – like other tolls – could involve monetary payments, the term typically referred to a portion of grain that was taken from the total amount that sellers brought to market. Whether tolls were collected in money or in kind, they constituted a form of rent-seeking, in which market owners extracted revenue by dint of their proprietorial control over the space in which bargaining occurred.<sup>1</sup>

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<sup>1</sup> Chris Briggs, 'Peasants, lords and commerce: market regulation at Balsham, Cambridgeshire, in the early fourteenth century', in Maryanne Kowaleski, John Langdon, and Phillip R. Schofield, eds.,

After tolls were taken, they were directed towards various private or public ends, depending on the market in question and which entity had the right to its proceeds – manorial lords (or their representatives), urban corporations, or individuals who leased tolls from market owners. Where toll revenue was used to subsidize the costs involved in operating markets and maintaining their infrastructure, traders also stood to benefit – albeit indirectly – from paying them.

Although tolls had been collected in medieval markets, the stakes changed over the course of the early modern period.<sup>2</sup> The factors that occasioned this change operated along slightly different timelines and involved different dynamics. From the perspective of those who were entitled to toll revenue, some of these dynamics were more positive than others. On the one hand, there was an increase in economic activity and the price of agricultural products from the second half of the sixteenth century.<sup>3</sup> While trade was liable to short-term disruption – for instance, during plague outbreaks – such inconveniences were temporary.<sup>4</sup> Furthermore, over the course of the seventeenth century, there was an increase in grain yields and a corresponding increase in the amount of produce that ended up on the internal (and eventually external) market. In light of these developments, tolls had the capacity to generate more revenue, and this could be especially true of tolls that were collected in kind rather than in money. On the other hand, there was an increase in private marketing over the course of the period, which meant that more activity took place outside the bounds of regulated markets. Whereas transactions in ‘open’ markets were subject to tolls, those that occurred in informal markets were not.

Against this backdrop of economic dynamism, matters were further complicated by the fact that tolls were open to debate. Disputes about tolls – how long they had been taken, how much (if anything) could be collected, who had the right to their revenue, who was exempt from paying them by dint of their civic or tenurial privileges, and so forth – generated a fair amount of controversy from the second half of the sixteenth century. While some

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*Peasants and lords in the medieval English economy: essays in honour of Bruce M. S. Campbell* (Turnhout, 2015), p. 250.

<sup>2</sup> For medieval tolls and broader market regulation, see James Davis, *Medieval market morality: life, law and ethics in the English marketplace, 1200–1500* (Cambridge, 2012), esp. pp. 137–273. For toll disputes and the legal options available to market owners, see James Masschaele, ‘Toll and trade in medieval England’, in Lawrin Armstrong, ed., *Money, markets and trade in late medieval Europe: essay in honour of John H. A. Munro* (Leiden, 2007), pp. 146–83; Barbara Singer, ‘The recovery of market toll at common law’, *Irish Jurist*, 13 (1978), pp. 348–71.

<sup>3</sup> For the growth in marketing and toll revenue in particular markets, see Craig Muldrew, *The economy of obligation: the culture of credit and social relations in early modern England* (London, 1998), pp. 15–36. For toll corn revenue, see Hillary Taylor, ‘Paternalism and the politics of “toll corn” in early modern England’, *Social History*, 48 (2023), pp. 214–31.

<sup>4</sup> For measures taken in Beverley’s market in response to the 1665 plague, see J. Dennett, ed., *Beverley borough records, 1575–1821* (Wakefield, 1933), pp. 136–8, 58–9, 78–80. The following year, the corporation temporarily reduced the rent on tolls due to a drop in trade. For a similar deal in Grantham, see John B. Manterfield, ed., *Borough government in Newton’s Grantham: the hall book of Grantham, 1662–1704*, II (Woodbridge, 2016), pp. 58–9.

disputes arose when market owners or lessees attempted to amend existing tolling customs with the aim – as their detractors alleged – of increasing their revenue, others arose when traders sought to evade paying tolls on their own initiative. These controversies played out in a variety of ways and in a variety of venues, depending on the market in question and the particular constellation of entities involved in the conflict. In short, tolls were not only fundamental to the operation of early modern English markets, but also had the capacity to generate tensions that belied their seemingly unremarkable role in contemporary economic affairs.

Tolls and the disputes they generated have received little scholarly attention.<sup>5</sup> Recent work on market regulation has noted the extent to which it was inflected by contemporary ideas about what constituted ‘just’ economic practice and examined the measures that were in place to protect consumers and punish traders whose activities were deemed inimical to their interests.<sup>6</sup> A sizeable body of work has likewise examined how the politics of grain supply and marketing were shaped by paternalism; moral prohibitions against profiting at the poor’s expense; and authorities’ concerns about preventing unrest among market-dependent consumers.<sup>7</sup> To varying degrees, these analyses have all emphasized the extent to which economic activity was shaped by contemporary cultural commonplaces, even as the central government became less inclined to engage in interventionist market regulation – particularly with reference to grain – over the course of the period.<sup>8</sup>

Market tolls and the controversies they generated offer a window into alternative aspects of economic life in early modern England and some of the practical and conceptual tensions it entailed. In light of the diversity of tolling practices from one market to the next, controversies about toll corn – like the politics of grain supply and marketing more broadly – had the potential to create tensions and alliances between different socio-economic groups and interests. While these were most evident during periods of dearth, they were informed by widespread assumptions about the ethical considerations that should inform economic activity, as well as the provisions that should

<sup>5</sup> The most sustained accounts remain the relevant passages in Alan Everitt, ‘Marketing of agricultural produce’, in Joan Thirsk, ed., *Agrarian history of England and Wales*, IV (Cambridge, 1967), pp. 466–589; J. A. Chartres, ‘Marketing of agricultural produce’, in Joan Thirsk, ed., *Agrarian history of England and Wales*, V.II (Cambridge, 1985), pp. 406–502.

<sup>6</sup> Charlie Taverner, ‘Moral marketplaces: regulating the food markets of late Elizabethan and early Stuart London’, *Urban History*, 48 (2021), pp. 608–24.

<sup>7</sup> The literature on these issues is sizeable. For orienting discussions, see E. P. Thompson, ‘The moral economy of the crowd in the eighteenth century’, *Past & Present*, 50 (1971), pp. 76–136; John Walter and Keith Wrightson, ‘Dearth and the social order in early modern England’, *Past & Present*, 71 (1976), pp. 22–42; John Walter, ‘The social economy of dearth in early modern England’, in J. Walter and R. Schofield, eds., *Famine, disease and the social order in early modern society* (Cambridge, 1989), pp. 75–128; John Bohstedt, *The politics of provisions: food riots, moral economy, and market transition in England, c. 1550–1850* (Farnham, 2016).

<sup>8</sup> For government regulation of grain marketing, see R. B. Outhwaite, ‘Dearth and government intervention in English grain markets, 1590–1700’, *Economic History Review*, 34 (1981), pp. 389–406; Buchanan Sharp, *Famine and scarcity in late medieval and early modern England: the regulation of grain marketing, 1256–1631* (Cambridge, 2016).

be in place to simultaneously insulate the poor from the difficulties occasioned by harvest failure and minimize potential disorder. However, in contrast to controversies that arose in other aspects of grain supply and marketing – which had the capacity to pit market-dependent consumers and various authorities against those farmers and grain dealers who evinced little concern for the poor and instead conducted themselves with an eye towards their own gain – the fault lines in toll disputes were often less clear-cut.<sup>9</sup>

This was because tolls occupied an increasingly ambiguous position within early modern English economic culture. They raised complex questions about how self-interest operated in a society that conceptualized bargaining primarily in communal terms and emphasized the social and moral obligations that should underpin it. While this was arguably true of tolls on all goods, it was especially true of tolls on grain – a commodity that occupied a singular place in contemporary socio-economic relations. Although rhetoric about the needs of poor consumers did feature in toll-related controversies, it was most likely to be invoked by traders who attempted to avoid paying tolls, particularly when they were called upon to justify their actions. By examining how competing parties in disputes about toll corn articulated and sought to defend their interests, and how their respective tactics changed over time, this article sheds new light on the dynamics involved in England's extended and uneven transition from one way of thinking about economic activity to another.

## I

Tolls were part and parcel of market regulation in early modern England. By requiring traders to operate in open markets and charging them for the privilege of doing so, authorities ensured that bargaining occurred where it could be monitored and regulated. Where grain was concerned, most regulatory measures were designed with consumers – particularly poor consumers – in mind. Some, such as the assize of bread, operated in normal and dearth years alike.<sup>10</sup> Others – such as the 1552 Act against Regators, Forestallers and Engrossers and the subsequent Books of Orders – were the products of crisis periods. Although such measures aimed to minimize and punish activities that had the potential to foment popular unrest and seditious 'grumbling', they were also paradigmatic expressions of the paternalism that informed the central government's approach to market regulation in the sixteenth and seventeenth centuries.<sup>11</sup>

As was the case with tolls on other goods, a dizzying array of tolling practices operated from market to market. In some markets, toll corn was bound up

<sup>9</sup> For the nature and (relative) persistence of these alliances across the period, see Walter and Wrightson, 'Dearth and the social order'; Thompson, 'Moral economy'; Douglas Hay, 'The state and the market in 1800: Lord Kenyon and Mr Waddington', *Past & Present*, 162 (1999), pp. 101–62.

<sup>10</sup> For the assize of bread, see James Davis, 'Baking for the common good: a reassessment of the assize of bread in medieval England', *Economic History Review*, 57 (2004), pp. 465–502.

<sup>11</sup> For 'grumbling', see John Walter, 'Public transcripts, popular agency and the politics of subsistence in early modern England', in Michael J. Braddick and John Walter, eds., *Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland* (Cambridge, 2001), pp. 123–48.

with civic interests, and corporations controlled the right to the revenue. Elsewhere, lords leased toll corn to urban notables or private individuals.<sup>12</sup> Some lords retained their claims to toll corn, and when they embarked on campaigns of fiscal seigneurialism, amendments to existing tolling practices were among the innovations that they enacted in their drives for revenue-maximization.<sup>13</sup> Other lords were content to lease out tolls on other goods but maintained that they did 'not intend' to surrender their interest in toll corn.<sup>14</sup> Some corporations also adopted this tactic of leasing some tolls, while retaining their right to toll corn.<sup>15</sup> Arrangements of this sort enabled market owners to get a fixed income from and to delegate a portion of market regulation to lessees, while saving the potentially more valuable toll corn for themselves.

While toll corn provided market owners or lessees with financial benefits, it could also be directed towards public or charitable ends. In some markets, toll corn was sold, and the profits were put towards the upkeep of local infrastructure. Elsewhere, it enabled grain to be distributed to the poor via extra-market channels or presented opportunities for members of the gentry to demonstrate their paternalism.<sup>16</sup> In the early 1630s, the countess of Derby, who owned the market in Uxbridge, gave the toll corn 'to the benefit of the poore of the town'.<sup>17</sup> These disbursements – according to her supporters in a dispute with locals who attempted to appropriate the toll revenue for themselves – had been 'to the great reliefe of the poore' and were an indication of her 'noblesse' and largesse.<sup>18</sup> Toll proceeds in cash or in kind were also distributed to the poor through more formal channels, with charitable trusts operating in some markets.<sup>19</sup> Fragmentary accounts from eighteenth-century Haselmere indicate the role that tolls could play in local economies of poor relief: grain (wheat and rye) was distributed to 'poor and decaying inhabitants', while money was paid to poor individuals and to place poor boys in apprenticeships.<sup>20</sup>

<sup>12</sup> For details of the bishop of Durham's leases in seventeenth-century Durham and Stockton, see Durham University Library (DUL), Old University Manuscript E.I.9, fo. 35r; DUL, MSP 98, fos. 320r, 323r. For Gateshead leases, see Durham Cathedral Library, ALL 11/44.

<sup>13</sup> Taylor, 'Paternalism'.

<sup>14</sup> Northamptonshire Archives, E(B) 552.

<sup>15</sup> For select examples, see The National Archives (TNA), E134/1653/Trin2; Dennett, ed., *Beverley borough records*, pp. 143, 177.

<sup>16</sup> For the importance of access to grain via extra-market channels, see Walter, 'Social economy of dearth'.

<sup>17</sup> TNA, PC 2/41/224.

<sup>18</sup> TNA, PC 2/41/365; PC 2/41/224.

<sup>19</sup> In 1676, an almshouse was built and financed with Haselmere's toll revenue. See Surrey History Centre (SHC), LM/761/5. Trustees of toll charities were sometimes accused of misappropriating funds, and I plan to discuss this in a subsequent article. For allegations against trustees more broadly, see Steve Hindle, *On the parish? The micro politics of poor relief in rural England, c. 1550–1750* (Oxford, 2004), pp. 136–7.

<sup>20</sup> SHC, LM/759/2; LM/747; LM/746. For money generated by the sale of toll corn being distributed to the poor in early eighteenth-century Northampton, see Charles Cox, ed., *Records of the borough of Northampton* (2 vols., Northampton, 1898), II, p. 181. For Chester's mayor temporarily

The collection of toll corn could become particularly sensitive during periods of dearth and more widespread adversity. In at least one instance – in Hampshire in 1649 – a crowd appropriated toll corn that they may have felt had been unjustly siphoned off the market in the midst of harvest failure; that members of this crowd were described as ‘idle and dissolute’ suggests that their intervention was not well received by the authorities.<sup>21</sup> As with other aspects of grain supply and marketing, regional authorities engaged in dialogue with the central government in their efforts to ensure that sufficient amounts of grain were available to poor consumers. In 1587, the sheriff of Cornwall wrote to the privy council about grain scarcity affecting the county and noted that he and some justices of the peace had suggested that regional markets temporarily suspend their collection of toll corn. This would ensure that more grain remained in circulation and would be conducive to the relief of the ‘poore’. (It would also have been a convenient reformation: the tolls were ‘verie much myslyked’ by grain sellers, who presumably resented surrendering grain that could otherwise be sold.) But the proposal was unpopular among Cornish market owners, who persisted in collecting toll corn and, in doing so, displayed the relative limits of the moral economy.<sup>22</sup>

Regardless of who ultimately enjoyed the right to toll corn, in many markets it was collected by members of the labouring population who were hired or appointed to do so. In exceptional markets, labouring toll collectors were allowed to keep the toll corn as payment for doing additional work such as cleaning the market streets, but more often they were paid wages and surrendered the grain to the market owners or lessees who employed them.<sup>23</sup> As low-level functionaries, toll collectors were usually the first to encounter recalcitrant traders in the marketplace, and some decided that it was preferable to let them evade tolls rather than risk conflict or injury by pressing the issue.<sup>24</sup> A labourer who collected toll corn in late sixteenth-century Reading described how he occasionally encountered ‘wrangling people’ who objected to paying toll and ‘lett them passe for avoydinge of a tumulte’.<sup>25</sup> One of multiple women who collected toll corn in eighteenth-century Chester recalled how ‘for quietness’ she had occasionally taken smaller volumes of grain than the amount that was officially due.<sup>26</sup> For some toll

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surrendering his claim to the toll corn so it could be ‘distributed among the poor’, see *Ipswich Journal*, 15 Jan. 1774.

<sup>21</sup> TNA, SP 25/94, fo. 451. See also SP 25/94, fo. 487. For the wider context, see Steve Hindle, ‘Dearth and the English Revolution: the harvest crisis of 1647–1650’, *Economic History Review*, 61 (2008), pp. 64–98.

<sup>22</sup> TNA, SP 12/199, fo. 70.

<sup>23</sup> When some toll collectors, such as the trio of worsted weavers who collected toll corn in late seventeenth-century Kidderminster, were accused of taking excessive amounts of grain, they maintained that they had no reason to do so because they only worked for wages and were ‘honest’. See TNA, E134/6WandM/East24.

<sup>24</sup> For a corporation paying an unspecified amount to a toll collector for treatment ‘for the cure of his wounds in demanding toll’ in the 1670s, see Dennett, ed., *Beverley borough records*, p. 156.

<sup>25</sup> TNA, E134/12Jas1/Hill1.

<sup>26</sup> Cheshire Archives and Local Studies (CALs), ZCL/120 c. One woman described how she inherited the position from her mother and recalled that she had helped collect tolls ‘ever since she was

collectors, the enforcement of market regulations was less pressing than their desire to avoid trouble.

## II

Disputes about toll corn fell into three genres; in a given dispute, elements from one or more of these genres could be involved. In the first, traders accused market owners or lessees of changing existing local tolling practices to collect more toll; this typically entailed complaints that they had increased the size of the toll dish (Figure 1) or the proportion of grain that was collected, sometimes during periods of dearth – presumably in an effort to capitalize on the price fluctuations occasioned by harvest failure. In the second, sellers alleged that market owners or lessees had introduced new tolling practices – for instance, by attempting to collect tolls from those who were customarily exempt from paying them or by collecting passage tolls on grain; market owners and lessees were likewise tempted to implement such changes in the context of rising prices. In the third, traders sought to evade paying tolls altogether – seemingly in the absence of any controversial innovations on the part of market owners or lessees; such evasion occurred during dearth and comparatively normal years alike. When sellers refused to pay tolls, market owners and officials had various options – including distraining their grain or initiating legal action against them. While each genre of dispute had its own unique dynamics, they all involved competing interests. For market owners and lessees, tolls were opportunities to maintain or increase their revenue; for traders, tolls were inconveniences that diminished their own revenue. In the various types of documentation produced in toll disputes, market owners (or their agents), lessees, and traders discussed their interests in different ways.

Some market owners and officials had a vested interest in regulating the behaviour of lessees who were accused of tampering with established tolling practices. By doing so, they demonstrated their willingness to act in support of traders' interests and, in theory, removed any principled objections that sellers may have had about operating in the open market. When a lessee in York was accused in 1552 of 'taking undewe and excessyve' toll in a 'counterfayt' dish that had not been approved by the mayor and aldermen, he was ordered to spend three market days in 'the cage' in the Pavement marketplace as punishment.<sup>27</sup> Elsewhere, those who frequented markets took their complaints to lords. In 1771, fifty-eight inhabitants of Chesterfield petitioned the duke of Portland to complain about the lessee's behaviour. First, where Chesterfield's toll had previously been taken from those who bought grain, the lessee started to take 'toll for corn as soon as brought into the market whether sold or not'. The petitioners claimed that tolls were now 'paid for the same thing several times over', suggesting that both buyers and sellers were being charged.

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thirteen or fourteen'. For a complaint about a toll collector's wife taking excessive tolls in late sixteenth-century Southampton, see David Pennington, *Going to market: women, trade and social relations in early modern English towns, c. 1550–1650* (New York, NY, 2015), p. 157.

<sup>27</sup> Angelo Raine, ed., *York civic records*, V (York, 1946), p. 73.



**Figure 1.** Copper dish used to collect toll corn in Guildford's market, late sixteenth or early seventeenth century, Guildford, Surrey. While the majority of the text engraved on the dish has worn over time, 'TOLL' and 'DON' remain legible.

*Image:* Hillary Taylor.

Second, the lessee implemented a new passage toll on grain that was transported to or through Chesterfield on market and non-market days alike. Finally, he increased the size of the toll dish; as the petitioners told it, he 'confine[d] himself to no standard' and instead collected arbitrary (and unreasonable) amounts of grain as he thought 'proper'.<sup>28</sup> An order was subsequently issued to clarify – and reduce – the tolls in Chesterfield's market.<sup>29</sup>

Toll evasion was a persistent enough problem that urban authorities episodically issued orders reminding sellers that there were penalties for failure to

<sup>28</sup> Nottinghamshire Archives, 157 DD/P/60/26. After the 1670 Act for Ascertaining Measures of Corn and Salt, those who were entitled to toll revenue were meant to pay for a standardized brass measure (the so-called 'Winchester bushel'), which was to be publicly displayed in the market. While tolls themselves were not standardized across markets, toll corn was meant to be collected 'in proportion' to this standard. The Chesterfield petitioners claimed that although a previous lessee had indeed adhered to the standard, the lessee in question did not. For a 1671 controversy about who was meant to pay for the new brass measure in Brackley, see Northamptonshire Archives, E(B) 564. For the unpopularity of standardized measures and the persistence of non-standardized measures, see Richard Sheldon et al., 'Popular protest and the persistence of customary corn measures: resistance to the Winchester bushel in the English west', in Adrian Randall and Andrew Charlesworth, eds., *Markets, market culture and popular protest in eighteenth-century Britain and Ireland* (Liverpool, 2006), pp. 25–45.

<sup>29</sup> Nottinghamshire Archives, 157 DD/P/60/27. In addition to clarifying tolls in relation to the Winchester bushel, the toll on cheese was reduced on the grounds that cheese would be 'a great object' in Chesterfield's trade after the canal was completed, perhaps indicating that lower tolls were regarded as being conducive to incentivizing commercial activity.



operate in the marketplace. Rather than focusing on the impact that backroom bargaining had on consumers or prices in the open market, some corporations stressed their interests and revenue. In October 1615, Chester's council noted the 'harm done to the commonwealth of the city and its customs' by traders who sold grain in 'innhouses and cellars' and evaded tolls in the process. In an effort to suppress such practices, the council restated a mid-sixteenth-century order and noted that any grain brought into Chester should be openly sold on market days and outlined fines for non-compliance.<sup>30</sup> While such measures were partially intended to ensure that transactions occurred where they could be monitored and regulated, the corporation's motives were not entirely high minded. Around the same time, it observed that the collection of tolls on other goods – including cattle imported from Ireland for sale in Chester's market – had lapsed; it ordered that some of these tolls be reimposed and that 'ancientt books' be consulted to establish lapsed customary tolling precedents.<sup>31</sup> Here, as elsewhere, officials were concerned not only with maintaining existing toll revenue, but also expanding it.

Corporations were prepared to spend money to initiate or participate in legal proceedings about their toll interests. The case of Leeds, which was granted a royal charter in 1626, indicates how preoccupied urban officials and lessees could be with maintaining toll revenue, as well as defending its privileged inhabitants' exemptions from paying tolls in other markets. In the early 1660s, the corporation noted: 'sundry suites & controv'sies are likely to arise (many p'sons p'tending themselves discharged from the paym[en]t [of tolls] by reason of some ancient tenures or other grant)'.<sup>32</sup> By 1664, it was reserving £80 annually to spend on the 'management & defence of any suit or action wherein the corporation is concerned' and, in subsequent decades, it spent money on many toll-related disputes – including the prosecution of those who refused to pay tolls in Leeds's market.<sup>33</sup> In 1701, the corporation feared that toll revenue was 'in danger to be lost if speedy care [was not] taken to preserve [it]', so it set up a committee which was tasked with reviewing 'papers' related to tolling practices; hiring 'sollicitors' as needed; and 'preserving, recovering & defending the just right and privilege of the corporation...either at law or equity'.<sup>34</sup>

Some disputes about toll corn – and tolls more generally – ended up in the equity courts.<sup>35</sup> Although the common law courts could also handle toll

<sup>30</sup> Margaret Groombridge, ed., *Calendar of Chester city council minutes, 1603-1642* (Blackpool, 1956), p. 79. This order had previously been issued in 1547, 1564, 1567, 1573, and 1585. For a similar 1660s order by Guildford's mayor, see SHC, BR/OC/2/7/2.

<sup>31</sup> Groombridge, ed., *Calendar of Chester city council minutes*, pp. 39, 181.

<sup>32</sup> J. G. Clark, ed., *Court books of the Leeds corporation: first book, January 1662 to August 1705* (Leeds, 1936), p. 12.

<sup>33</sup> *Ibid.*, pp. 14, 59, 135. For toll suits between Wakefield, Leeds, and Hull, see pp. 52, 112, 118, 136, 141. For Durham's mayor and aldermen borrowing money from a charitable bequest to pay for suits about toll corn in the 1660s, see DUL, Old University Manuscript E.I.9, fo. 53r.

<sup>34</sup> Clark, ed., *Court books of the Leeds corporation*, pp. 174-5.

<sup>35</sup> The exchequer suits that make up the core of this section turned on competing claims about the tolling customs of particular markets. For orienting discussions of custom and the litigation

disputes, the documentation generated in equity suits offers the richest and most accessible record of how market owners, lessees, and traders sought to justify and defend their claims in court. While internal evidence often suggests that the disputes in question had rumbled on for some time, matters tended to come to a head during or shortly after prices had risen as a result of harvest failure. In years of bad harvests, sellers may have balked at the prospect of losing a share of their grain to tolls, while market owners or lessees were presumably keen that their revenue should not be further diminished by recalcitrant traders. In some cases, market owners or lessees sued traders who refused to pay tolls, citing their evasion of market regulations and attendant attempts to undermine the rights and interests of those who were entitled to toll revenue. Elsewhere, traders sued market owners they accused of amending customary practices related to the collection of toll corn. Some disputes involved suits and counter-suits and dragged on for years. Indeed, in some instances, the amount of money spent in legal fees may well have eclipsed the revenue that litigants stood to lose by paying tolls or gain by receiving them.

In the equity courts, those who objected to tolls tended to draw on certain themes. Tollers were variously presented as being at odds with the demands of equitable market dealing; the duties of good lordship; and the needs of the poor. The sincerity of such rhetoric is debatable, particularly when it was deployed by individuals who sold significant quantities of grain on the market or were otherwise engaged in questionable marketing practices. Nevertheless, for much of the sixteenth and seventeenth centuries, many of those who objected to paying tolls relied on these discourses; some persisted in doing so after the central government had become increasingly ambivalent on the question of market regulation.

Some suits involved generic complaints about how comparatively wealthy and powerful individuals were inclined to 'oppress' their inferiors.<sup>36</sup> When a lessee in late sixteenth-century St Neots instituted a practice of collecting toll corn, witnesses described him as 'a gentleman of great wealth, [who] might pleasure and displeasure many inhabitants' of the town and surrounding area. His tolling innovations – which traders resisted and were eventually sued for – were supposedly symptomatic of a deep-seated tendency to abuse his power at his inferiors' expense.<sup>37</sup> After a toll dispute came to a head in Hinckley in the early 1620s, the defendants and their witnesses championed a group of naïve and impoverished grain sellers, who had supposedly been

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that it could generate, see Andy Wood, *The memory of the people: custom and popular senses of the past in early modern England* (Cambridge, 2013); J. P. Bowen and A. T. Brown, eds., *Custom and commercialisation in English rural society: revisiting Tawney and Postan* (Hertford, 2016).

<sup>36</sup> For such rhetoric in equity courts, see Andy Wood, 'Fear, hatred and the hidden injuries of class in early modern England', *Journal of Social History*, 39 (2006), pp. 803–26.

<sup>37</sup> TNA, E134/3Jas1/East20. Here, Payne's son (a later lessee) sued those who refused to pay toll corn and argued that the toll revenue had been put towards paving the market and other maintenance, which traders benefited from. For a case from the late 1590s in which the bailiffs and their appointed toll collectors claimed that toll corn was used to subsidize the cleaning of Caistor's market, but traders claimed that the practice had been initiated 'only [with the aim of] advancing and inrichinge themselves', see TNA, STAC 5/P23/1.

cheated by the lessees and their toll collectors. Hinckley's market officials had 'many tymes taken of many poore and simple people' arbitrary and excessive amounts of grain 'without any due regard to the quantity brought to be sold' and purportedly used threats of legal action to coerce traders into submission.<sup>38</sup>

Elsewhere, traders who objected to tolls described how their efforts to supply grain to the poor had been frustrated by grasping lords and their toll collectors. A yeoman from Messingham described how, during the harvest failures of the late 1590s, he had attempted to transport barley down the River Trent to sell 'in the weste partes where they stode...in great neede'.<sup>39</sup> But his undertaking was thwarted by toll collectors in Gainsborough, where a London merchant had recently acquired the manor and its associated market; started collecting tolls on grain that was transported along the river; and changed existing toll customs in a bid to increase his revenue.<sup>40</sup> When the mayor and burgesses of Reading sued a handful of traders who refused to pay toll corn in the early seventeenth century, the defendants and their supporters likewise called attention to their own charitable marketing activities; in doing so, they obliquely suggested that the mayor and burgesses' recent changes to tolling practices were motivated by a desire to increase their revenue. One witness described how he once bought 'Dancke [Danzig] rye at London in a deere yeare and brought yt to Reading...and used parte of yt himself and solde also thereof to poore folks'.<sup>41</sup> That defendants in these suits were often themselves accused of selling grain directly out of their houses on market and non-market days indicates how slippery the competing claims in toll disputes could be.

A protracted dispute about toll corn in Kidderminster's market from the late seventeenth century gives a sense of how hollow traders' theoretical concerns for the poor could be in practice. On the surface, this controversy revolved around the size of the dish that was used to collect toll corn. The bailiff, burgesses, and their hired toll collectors maintained that the size of the dish was reasonable; had not been changed in recent memory; and was smaller than the dishes used in neighbouring markets. Their detractors, by contrast,

<sup>38</sup> TNA, DL 4/73/24. These 'poor people' had allegedly 'payd [toll corn] many tymes through feare and to avoyd suits and troubles'. Witnesses for the complainants also alleged that Hinckley's toll revenue had historically been used to subsidize dinners and 'frendly entertaining', but the revenue had recently been redirected towards the lessees' private benefit.

<sup>39</sup> TNA, STAC 5/A39/37. Members of the Lincolnshire gentry also claimed that excessive tolls had been taken on grain they brought to Gainsborough to sell to 'the poorest sorte of people to bringe downe the high prices of the markets'. In the protracted legal dispute about tolls in Gainsborough, the lord was ultimately successful.

<sup>40</sup> For the corporation of Leicester intervening when its freemen's grain was distrained after they claimed exemption from these Gainsborough tolls, see Helen Stocks, ed., *Records of the borough of Leicester, 1603-1688* (Cambridge, 1923), pp. 142-4.

<sup>41</sup> TNA, E134/13Jas1/Hil1. He added that when he did so, he had not paid toll because he was a freeman of Reading; other witnesses offered conflicting accounts of how long Reading's freemen had been obliged to pay tolls on 'English [and] outlandish corn' that they brought to sell in the market and suggested that freemen and non-freemen alike had historically been expected to pay tolls.

claimed that Kidderminster's 'old iron toll dish' had been replaced with a larger brass dish at some point in the 1670s.<sup>42</sup> Furthermore, whereas nearby markets purportedly had several toll dishes of variable sizes, Kidderminster now had only one dish 'of the same bignes', which the toll collectors neglected to fill in proportion to the amount of grain individual sellers brought to market.<sup>43</sup> The issue came to a head in 1694 when John Tayler, who sold 'great quantities of wheat, rye, and mangcorn' in Kidderminster, embarked on a toll-evasion campaign. Indeed, by some accounts, he was simply the public face of wider opposition to the local toll regime, which had allegedly 'occasioned great compleints in the country [among] all sorts of people' – including 'the poore'.<sup>44</sup> According to the worsted weavers who collected tolls in Kidderminster, Tayler brought 'one or two bags' to the market and sold by sample; left the remainder of his grain in an inn; and refused to pay tolls altogether.<sup>45</sup> In their estimation, there was a logic to Tayler's actions: his toll evasion began in the early 1690s when 'the price of corn was raised' as a result of harvest failure.<sup>46</sup>

In the ensuing exchequer suits and counter-suits, Tayler claimed that his toll evasion was born partially out of convenience but primarily out of principle – specifically, his concern for poor consumers.<sup>47</sup> By the late seventeenth century, Kidderminster had a sizeable population of clothworkers – a demographic who were historically well represented among grain rioters.<sup>48</sup> In suggesting that local officials were siphoning excessive amounts of grain off the market, Tayler simultaneously defended his actions and implied that they constituted an antidote to policies that had the potential to foment disorder.<sup>49</sup> Multiple witnesses were enlisted to support his case. The innkeeper who allowed Tayler to store grain claimed he remarked that 'if he had anything to give he would give it to the poor and not to them that had no need of it' – that is, the bailiff and burgesses.<sup>50</sup> A servant who sold Tayler's grain suggested that Kidderminster's toll regime disproportionately impacted consumers and recounted how his master had remarked that the 'toll dishe was to[o]

<sup>42</sup> If Kidderminster had indeed acquired a new brass dish, this presumably related to the Act for Ascertainning Measures of Corn and Salt (1670).

<sup>43</sup> TNA, E134/6WandM/East24.

<sup>44</sup> TNA, E134/6WandM/Mich27.

<sup>45</sup> TNA, E134/6WandM/East24; E134/6WandM/Mich27. For a suggestion that the practice of collecting toll corn died out organically in eighteenth-century Northampton as traders began selling by sample, see Cox, ed., *Records of the borough of Northampton*, II, p. 191.

<sup>46</sup> TNA, E134/6WandM/East24.

<sup>47</sup> TNA, E134/7WandM/East22. He was allegedly 'old and lame' and found that his servants were unable to 'looke after' all his grain in the open market, so it was easier to sell by sample.

<sup>48</sup> For clothworkers' involvement in grain riots, see Buchanan Sharp, *In contempt of all authority: rural artisans and riot in the west of England, 1596–1660* (Berkeley, CA, 1980); John Walter, *Crowds and popular politics in early modern England* (Manchester, 2006).

<sup>49</sup> For the comparatively large number of grain riots in the 1690s, see Bohstedt, *The politics of provisions*, p. 97. For the wider climate, see Brodie Waddell, 'The economic crisis of the 1690s in England', *Historical Journal*, 66, 2 (2023), pp. 281–302.

<sup>50</sup> TNA, E134/6WandM/East24. For an earlier controversy about who was entitled to Kidderminster's toll revenue, including toll corn, see E134/1653/Mich19; E134/1653/East12.

big which...was a greter injury to the poore than to [him]'.<sup>51</sup> Another of his servants heard him tell 'poor people that...if their purses would not reach to buy a strike of corne he would sell any of them halfe a strike or a pecke or halfe pecke'.<sup>52</sup> But on further examination, Tayler's relationship with the poor was not as benevolent as he made it out to be. Some witnesses noted that although he eventually started bringing more grain to the market, he had only done so *after* the 'poor people and rabble of the town...threatened' him into doing so.<sup>53</sup> By this logic, Tayler's alliance with the poor was a marriage of legal convenience that added a patina of legitimacy to his toll evasion.

However, those who objected to paying toll corn did not always defend their actions with reference to discourses about equitable marketing or the needs of the poor. Instead, they cited ambiguities in local market customs; privileges that supposedly exempted them from paying tolls; and extenuating circumstances. A case from Durham's Chancery Court provides a representative example. In Durham, toll corn was called scavage corn, and in the seventeenth century the bishops of Durham leased it to groups of individuals who occupied positions of local authority (including former or future mayors and aldermen). In 1637, the lessees sued a Durham maltster named Margaret Forster and a few grain sellers who refused to pay scavage corn. While grain prices could move independently of each other, in 1637 wheat, oats, and barley were all expensive; furthermore, in comparison to the other two types of grain, the price of barley had risen considerably from its average price the previous year.<sup>54</sup> Forster and the sellers with whom she dealt effectively objected to paying tolls because they were running a forestalling racket. The latter allegedly brought 'greate quantities of bigg barley & oates' directly to her house on weekdays (Saturday was the market day). This was bad enough, but the lessees argued that such illicit activity encouraged 'divers other countrie men, who formerly furnished [Durham's market] with their corne...to sell the same off the market...unto bakers, brewers, maltsters and other inhabitants' – simultaneously diminishing the volume of grain that the lessees could collect and driving up the price in the market.<sup>55</sup> In stressing that the actions of a toll-evading minority would likely inspire others to operate outside of the market, Durham's lessees were not unique. That such concerns were expressed by officials who attempted to stamp out toll evasion in their own markets is perhaps indicative of a wider awareness that tolls were unpopular, and traders simply needed inspiration to embark on their own course of resistance.

In the Durham suit, the defendants' arguments read more like excuses than principled objections, and the court ruled in the lessees' favour. Forster claimed that there was no custom of tolls being taken on grain that was sold on non-market days. The dealers argued that if they were constrained

<sup>51</sup> TNA E134/7WandM/East22.

<sup>52</sup> TNA, E134/6WandM/East24.

<sup>53</sup> TNA, E134/6WandM/East24.

<sup>54</sup> Andrew Appleby, 'Grain prices and subsistence crises in England and France, 1590–1740', *Journal of Economic History*, 39 (1979), pp. 880–1. For a dispute about tolls on grain – especially barley – transported to Ipswich by water, see TNA, E/134/1649–50/Hil8.

<sup>55</sup> DUL, Old University Manuscript, E.I.9, fo. 108.

to operate only on market days, it was difficult for them to find horses to transport the grain to Durham, and they would be unable to 'vent their corne...for their owne necessities'. The logic of the Chancery decree suggests that officials used the dispute to reinforce regulatory measures in Durham's market; address complaints that were circulating among traders; and rectify ambiguities that might, if left unchecked, generate future toll-related conflict. If such measures were partly intended to safeguard the lessees' claims to the toll corn, they also provided a degree of protection to traders, thereby (in theory) diminishing the temptation to operate outside of the market.<sup>56</sup>

How successful such local interventions were in the long term is difficult to establish. By the early eighteenth century, the toll evasion had apparently become widespread enough to attract criticism in print. An anonymously authored 1718 tract about problems afflicting the grain trade offered an account of the consequences that private marketing and sale by sample had for regulated markets: 'tolls [had] sunk to nothing', and once-thriving market-places had become reduced to 'little else besides toy-shops and stalls for bawbles and knickknacks'.<sup>57</sup> The author offered multiple explanations for why this state of affairs had arisen. Many farmers allegedly did not frequent the market, preferring instead to conduct transactions with 'jobbers' directly from their houses. Others deliberately sold grain on non-market days. Still others used the market but sold grain by sample 'in a bag or handkerchief; this technically enabled the bulk of sales to occur outside of the market. The author was primarily concerned about the consequences that such practices had for poor consumers and argued that the Edwardian statute against regrators, forestallers, and engrossers – now 'look'd upon and slighted as obsolete and dormant' – needed to be enforced as vigorously as it had been in the past.<sup>58</sup> But in making these points, there was a sense in which the author was fighting a rear-guard action. Sale by sample was increasingly common; by the second half of the eighteenth century, if not before, some supposed that it was a more efficient and 'methodical' way of conducting transactions.<sup>59</sup> Furthermore, the relevant regulatory statutes were repealed in 1772, even if some justices continued to make intermittent attempts to enforce them.<sup>60</sup>

Some market owners and their representatives were more concerned about the impact that private bargaining had on their revenue. At Holywell in 1735, a

<sup>56</sup> Among other regulatory measures, the Chancery decree ordered that toll collectors adhere to the customary toll measure and not use their hands to 'upheep' extra bits of grain into the dish. For the full catalogue of regulatory orders, see DUL, Old University Manuscript E.I.9, fos. 110r–111r. For a subsequent decree in favour of the lessees in a 1660s dispute, see DUL, Old University Manuscript, E.I.9, fos. 112r–114r.

<sup>57</sup> Cambridge University Library, 7200.d.10; Anon., *An essay to prove that regrators, engrossers, forestallers, hawkers, and jobbers of corn, cattle, and other marketable goods, provisions, and merchandizes are destructive of trade, oppressive to the poor, and a common nuisance to the kingdom in general* (1718), p. 18.

<sup>58</sup> *Ibid.*, pp. 20, 10.

<sup>59</sup> For these remarks about the market in King's Lynn, see Anne Orne, ed., *Matthew and George Culley: travel journals and letters, 1765–1798* (Oxford, 2002), p. 214. For the increase in private marketing, see Everitt, 'Marketing of agricultural produce'.

<sup>60</sup> Hay, 'State and market in 1800'.

maltster was accused of conspiring with a farmer to evade tolls. While the pair's first transaction had been conducted in the market, they had arranged for subsequent deliveries to be taken directly to the maltster's kiln. Local authorities feared that this resistance – were it to spread – would have deleterious financial consequences for lord who owned the market. One observer noted that 'near 4000 quarters of barley are malted in [Holywell] and the loss of the toll of it will be considerable'.<sup>61</sup> Indeed, if the qualitative comments produced in this dispute are any indication, tolls could present opportunities for members of the English gentry to benefit financially from what were, in effect, tributary exactions from traders who used markets on property that they owned but did not frequent. As one commentator noted: 'the chief part of [the lord's] present income from the Welsh estate consists in tolls, which will suffer much by these practices'.<sup>62</sup> In this dispute, some of the lord's representatives had a less than crystalline sense of how those who evaded tolls could be brought to heel. As one put it, perhaps inadvertently indicating the degree to which regulatory statutes had fallen out of fashion by the early eighteenth century: 'There are acts of Parliament that relate to badgers and forestalling markets but I am not acquainted with em but this I am well assured of [that] at Stockport they toll every [grain transaction]'.<sup>63</sup>

The lord who owned the manor of Birmingham – home to a weekly corn market – found himself in a similar predicament in the early 1720s and sought legal advice about how to secure toll revenue. The advice was mixed. In response to a question about what could be done against traders who 'evade[d] payment of toll corn' by operating on non-market days, the lawyer noted: 'I am of opinion there is no remedy in this case.' However, where traders refused to pay tolls on market days, he believed that 'a sack of corn' could be distrained as compensation. What could be done to prosecute those who sold by sample and kept the bulk of their grain in 'an inn or place out of the market' was murkier. He was sceptical about how this could be successfully prosecuted and appeared to allude to a shift in legal thinking about tolls, at least in the equity courts: 'The remedy (if any) I think is in a court of equity for the fraud but I very much doubt whether any relief can be had there for toll is not favourd'.<sup>64</sup> Indeed, whether sales by sample were liable to tolls continued to be something of a legal grey area in common law into the early nineteenth century, at which point a precedent case established that they were not.<sup>65</sup>

As informal marketing became more widespread, some towns had to combat more organized threats to their toll revenue. The corporation of Chester found itself in such circumstances in the 1750s when Mary Daffy, who owned property on the margins of Chester but lived in London, recruited

<sup>61</sup> Lancaster Archives (LA), DDKE/9/133/10.

<sup>62</sup> LA, DDKE/9/133/10.

<sup>63</sup> LA, DDKE/9/133/10.

<sup>64</sup> Derbyshire Record Office, D3155/C/243–4.

<sup>65</sup> For a discussion of why sale by sample was not liable to tolls and the relevant 1803 case, see Frederic Gunning, *A practical treatise on the law of tolls* (London, 1833), p. 65; John Cantwell, *A practical treatise on the law of tolls and customs, as well those payable in the city of Dublin as in every city, corporate town, fair and market in Ireland* (Dublin, 1817), pp. 10–11.

her sister to place an ad in a local newspaper announcing the creation of a new, toll-free corn market in Gloverstone. Gloverstone was adjacent to the castle and technically situated outside the city's jurisdiction; a market had operated there for some time in an ambiguous relationship to the open market.<sup>66</sup> According to two aldermen, Gloverstone's market had historically been frequented by 'country' bakers who used it to 'avoid a dispute' with the freemen bakers of Chester and because they were selling improperly weighted bread that was liable to seizure in the regulated market. Such small fry, however, were not deemed to pose a real threat to the integrity of Chester's market and its toll revenue, and the corporation had apparently not gone to the trouble of cracking down on their activity for much of the eighteenth century. As one alderman observed, marketing in Gloverstone was done by 'very poor persons' and was too 'trifling and insignificant...[to] make the objects of complaint'.<sup>67</sup>

The situation changed after the creation of the new market. To make matters worse, 'bakers, maltsters and other dealers in corn' flocked there, when they had previously (and perhaps grudgingly) used Chester's market.<sup>68</sup> As a result, the amount of grain sold in the open market had 'greatly sunk', and the corporation's revenue 'greatly diminished'.<sup>69</sup> A porter who collected toll corn in Chester's market estimated that 'not half so great a quantity of corn' was now sold there.<sup>70</sup> According to Daffy's sister, there was nothing shocking about the new market's popularity: traders used it because the 'magistrates of Chester [had] frequently exacted tolls very unduly from persons who brought corn to be delivered in the city'.<sup>71</sup> Unsurprisingly, the corporation felt otherwise.<sup>72</sup>

As in other disputes, Chester's officials sought legal advice regarding who they could prosecute and on what grounds. But the issue was ambiguous. A Lincoln's Inn lawyer noted that if Daffy's claim to a grant that entitled her to operate the market could be disproven, the corporation could seek to 'recover damages against her in an ac[tion] on the case for erecting a market to the prejudice of the city'.<sup>73</sup> What could be done against those who sold grain in Gloverstone was more ambiguous. As he put it:

I do not see that the city has any remedy...unless...the farmers might be prosecuted for selling their corn out of a market which I am inclined to think they cannot [be] because where a market [is] held they are not bound to inquire into the title of the person who holds it.<sup>74</sup>

<sup>66</sup> For the fortunes of Gloverstone's market in the late seventeenth and eighteenth centuries, see CALS, ZCL/118 h.

<sup>67</sup> CALS, ZCL/118 g.

<sup>68</sup> CALS, ZCL/118 a.

<sup>69</sup> CALS, ZCL/118 g.

<sup>70</sup> CALS, ZCL/118 c.

<sup>71</sup> CALS, ZCL/118 h.

<sup>72</sup> CALS, ZCL/118 d. Specifically, it felt that the Gloverstone market was an 'illegal attack upon the right of [Chester's] antient marketts'.

<sup>73</sup> CALS, ZCL/118 a.

<sup>74</sup> CALS, ZCL/118 a.



The corporation eventually sued Daffy and her sister in King's Bench, although the former died before the suit was resolved.

### III

Tolls had been collected – and evaded – in medieval English markets. But the situation changed from the mid-sixteenth century, as the volume of economic activity and the price of agricultural products increased. In light of such developments, market owners and lessees stood to accumulate revenue and sought to defend their interests accordingly – even if toll revenue was not put towards private ends in every market. If the concerns of market owners and lessees changed over the course of the period, the same was true of traders. In considering what was historically specific about their objections to tolls, parallels can be drawn with Christopher Hill's analysis of another type of controversial exaction: namely, tithes. As he observed: 'opposition [to tithes] was no doubt as old as Christianity in England; but the sixteenth century economic developments made [some socio-economic groups] especially conscious of tithes as a burden'. Furthermore, as was the case with tithes, tolls could be regarded as providing 'succor [to] non-producers': they required traders, at least some of whom produced the products they sold, to surrender a portion of the proceeds to those who enjoyed proprietorial control over the market.<sup>75</sup>

Indeed, according to the Digger Gerrard Winstanley, tolls enabled a minority to profit, when – in a just society – land should be freely available for the use of all. In his estimation, tolls heaped extortion upon extortion: 'inferior tenants and labourers [bore] all the burdens, in labouring the earth, in paying taxes...beyond their strength', while the gentry 'live[d] idle upon their labours [and carried] away all the comfortable livelihood of the Earth'. He suggested that 'country people' – not being freemen – were 'much troubled' because they could not 'sell any corn or other fruits of the Earth in a market town, but they must either pay toll, or be turned out of the town'. Ventriloquizing them, Winstanley remarked:

this is a most shameful thing, that we must part with our estates in taxes... to purchase the freedom of the land, and the freedom of towns, and yet this freedom must still be given from us, into the hands of a covetous Norman toll-taker, according to the Kings old burdensome laws, and contrary to the liberty of a free commonwealth.<sup>76</sup>

In making these points as part of a broader and more radical critique of contemporary socio-economic relations, Winstanley was something of an outlier. For much of the period, traders who objected to tolls lacked a robust conceptual framework that they could draw upon to articulate their criticism; this

<sup>75</sup> Christopher Hill, *Economic problems of the church: from Archbishop Whitgift to the Long Parliament* (Oxford, 1956), pp. 120, 130.

<sup>76</sup> Gerrard Winstanley, *The law of freedom in a platform: or, true magistracy restored*, in Ann Hughes and David Loewenstein, eds., *The complete works of Gerrard Winstanley*, II (Oxford, 2009), pp. 284–5.

was especially true in settings where toll revenue was directed towards the maintenance of market infrastructure or was re-distributed to the poor in cash or kind. Furthermore, as Craig Muldrew has suggested, contemporaries did not conceptualize marketing activity primarily in terms of self-interest – an ahistorical notion from neo-classical economics that does little to elucidate the complexity of economic life in early modern England. Rather, they thought about the market in terms of ‘communal duties and obligations’ and emphasized the role trust and contractual reciprocity played in bargaining.<sup>77</sup> Tolls fell slightly outside of this framework. Although many objections to tolls were rooted in some form of self-interest, this was not quite something that traders could come out and say explicitly – not least because inherited ways of conceptualizing, conducting, and regulating economic activity continued to retain some traction throughout the period.

This mismatch between the substance of objections to tolls and the horizons of what was ‘sayable’ – coupled with the fact that, for much of the period, the courts appeared willing to side with those who owned markets or leased tolls against those who attempted to evade them – meant that contemporaries were obliged to frame their critiques in alternative and more palatable ways. Some did so by citing extenuating circumstances. Others noted their rights and privileges as freemen who were supposedly exempt from paying tolls by dint of their town’s charter, or as tenants whose leases exempted them from paying tolls.<sup>78</sup> Still others objected to tolls (and alleged tolling innovations) on the grounds that they violated the tenets of equitable market dealing; the obligations involved in good lordship; or diminished the amount of grain available to poor consumers. On balance, these were reactive critiques of tolls as they were taken in concrete circumstances, rather than abstract critiques of tolls as rent-seeking extractions.

However, as the period progressed, tolls were increasingly liable to be criticized as exactions that supposedly obstructed commerce. While these attacks occurred on different fronts and assumed different forms, they had the cumulative effect of broadening the ways in which contemporaries could not only critique, but also conduct, marketing activity. By the early eighteenth century, some economic commentators outlined why tolls were problematic. While Nehemiah Grew was, in his *The meanes of a most ample increase of the wealth & strength of England in a few years* (1707), largely concerned with England’s overseas – as opposed to internal – trade, he made some transferable points about the relationship between commercial activity and duties of various sorts. He argued that customs were a ‘heavy clog’ that circumscribed English merchants’ ability to operate to their full potential because they had to keep a portion of their goods ‘dead at home, to answer them’. If trade was to flourish, customs should be decreased. Grew also took issue with a toll called ‘light money’, which was collected from foreign ships and used to subsidize

<sup>77</sup> Craig Muldrew, ‘Interpreting the market: the ethics of credit and community relations in early modern England’, *Social History*, 18 (1993), p. 168.

<sup>78</sup> For Durham’s Chancery siding with the lessees against a tenant from Newton who claimed exemption from tolls in Durham’s market, see DUL, Hogg MS 1/27, pp. 63–9.

'the lights sett up to direct them in their passing along the English coasts'. As he told it, the toll was counterproductive: it gave 'occasion to all foreigners, to avoyd coming near us, as much as they can'. If vessels were able to enter English harbours freely, Grew argued that the wider economic benefits would dramatically eclipse any revenue generated by the tolls.<sup>79</sup>

If such objections to tolls were explicit, others were more oblique. Some traders balked at paying tolls and adopted various methods to avoid doing so. But it was also increasingly the case that established, regulated markets lacked the capacity to handle the growing volume of internal trade. In these circumstances, more activity occurred outside the bounds of the open market, notwithstanding the sporadic efforts of market owners and officials to ensure that unauthorized activity did not occur on their watch. As a result, a larger (though unquantifiable) share of transactions escaped toll collectors. While market owners or lessees could attempt to stop a train that had already left the station, many traders were likely content with the direction of travel – it created circumstances in which they were able to realize impulses that had historically been kept in check.<sup>80</sup>

These developments were not foreordained; their progress was also uneven. Nevertheless, by the second half of the eighteenth century, they had become sufficiently entrenched that some market owners and officials appear to have conceded that there was little use in resisting them. Some markets – such as Pontefract in the 1750s – abolished the practice of collecting toll corn in an effort to 'encourage' trade, while others abolished tolls on other goods for similar reasons.<sup>81</sup> Furthermore, where critiques of tolls had previously been expressed in more rarefied circles, they increasingly gained wider circulation. Newspapers disseminated commentaries on tolls, as well as accounts of disputes that had arisen when traders evaded tolls in particular markets. After York announced its intention to suspend its collection of toll corn, the *Newcastle Courant* noted that the corporation's decision should be 'applauded' because it was 'likely to greatly improve the market'.<sup>82</sup> A 1768 report in the *Derby Mercury* went a step further, outlining the supposedly baleful impact that tolls had on commerce and advocating their abolition on a national scale. Although this report appeared in the wake of the harvest failures of the mid-1760s, it expressed sentiments that enjoyed currency in comparatively normal years. Shifting the focus from consumers to traders' interests, it noted:

<sup>79</sup> Nehemiah Grew, *Nehemiah Grew and England's economic development: the means of a most ample increase of the wealth and strength of England, 1706–1707*, ed. Julian Hoppit (Oxford, 2012), pp. 72–4.

<sup>80</sup> For later examples of toll evasion, see Richard Perren, 'Markets and marketing', in G. E. Mingay, ed., *The agrarian history of England and Wales, 1750–1850*, VI (Cambridge, 1989), pp. 240–1. For a mayor issuing an order that grain dealers stop evading tolls in Hereford by selling outside of the market, see *Hereford Journal*, 11 Feb. 1789.

<sup>81</sup> *Derby Mercury*, 7 Jan. 1757. The Pontefract corporation's abolition of tolls on grain was accompanied by their buying 'a large quantity of corn, to supply to the poor inhabitants'. For details regarding a lord's decision to abolish tolls on grain and cattle in Minchinhampton, see *Gloucester Journal*, 18 Nov. 1793.

<sup>82</sup> *Newcastle Courant*, 31 Dec. 1791. For a report concerning Chester's suspension of collecting toll corn, see *Chester Courant*, 14 Jan. 1800.

as various schemes have been proposed of late to render the dealing in corn more common, and encourage the bringing it to market, it is thought nothing would be more favourable thereto, than to make all corn markets toll-free, which would obviate the difficulty the dealers therein now lie under in that respect.<sup>83</sup>

By such logic, tolls were among the vestiges of an earlier mode of economic life: obstacles that not only discouraged trade, but also unduly benefited those who provided a ‘service’ in the form of access to regulated markets over which they exercised monopolistic control.<sup>84</sup> Early modern toll disputes might well be regarded as arcane; on closer inspection, they appear as the morbid symptoms of an extended transitional moment.

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<sup>83</sup> *Derby Mercury*, 1 Jan. 1768. For a report in which the corporation of Tewkesbury’s insistence on collecting toll corn from traders who attempted to evade payment was described as ‘impolitic and injurious’, see *Worcester Journal*, 2 Dec. 1813. For an 1817 argument that there ‘should be no tolls, customs, or market-dues’ in Ireland, see Cantwell, *A practical treatise*, p. 36.

<sup>84</sup> Although Adam Smith was critical of monopolies and the regulation of grain marketing, he was relatively silent on market tolls. He was, however, fairly enthusiastic about the potential economic benefits of toll roads and argued, among other things, that via proportionately higher tolls on ‘carriages of luxury...the indolence and vanity of the rich [would] contribute...to the relief of the poor’ by reducing the cost of transporting goods across the county. See Adam Smith, *The wealth of nations* (London, 1982), p. 312.

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