Manor Courts and the Retirement of Customary Tenants on the Bishop of Winchester's Estate before the Black Death

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In the Middle Ages the possession of land was one of the few means of guaranteeing security in old age. In many parts of England property was sold or exchanged by the elderly or infirm for a promise of board and lodging for life. This article considers the retirement of customary tenants on the Bishop of Winchester's estate in the period from 1263 to 1349.[1] Around 1300 the episcopal estate included more than fifty manors scattered across seven southern counties, and examples of tenant retirement have been found from most parts of the estate.[2] Historians have long been interested in how the elderly were treated in medieval society, but the evidence from the Winchester pipe rolls provides another perspective to the already extensive literature on old age, retirement, and the maintenance of people no longer capable of productive work.[3]

1 The research was funded by the Economic and Social Research Council (award number R000236499) and involved the computerization of information about tenants' property in the Winchester pipe rolls between 1263 and 1349 (Hampshire Record Office, 11M59/B1/29–101). The database is searched by manor and year. Therefore, references to individual pipe rolls and membrane numbers are not provided in the text. The database can be accessed at http://ukdataservice.ac.uk, where it has the reference label SN 4086. I am grateful to Professor Christopher Dyer and to two anonymous referees for their comments on an earlier draft.

2 For a map and discussion of the estate c.1300, M. Page (ed.), *The Pipe Roll of the Bishopric of Winchester 1301–2* (Hampshire Record Series, 14, 1996), pp. xii–xiv.

3 For an overview, P. Thane, *Old Age in English History: Past Experiences, Present Issues* (Oxford, 2002). See also sections I–II below and the references contained therein.

The examination of instances of retirement within the Winchester pipe rolls provides an opportunity to address two other general issues. The first concerns the reliability of the sources on which this study is based. The evidence for retirement on the bishop of Winchester's estate is drawn from the proceedings of several dozen manor courts, which were summarized in the bishop's annual enrolled accounts known as the Winchester pipe rolls. Manor courts were not static institutions, and their procedures were subject to change according to the demands and expectations of their participants.[4] The retirement of customary tenants carried implications both for the lord and for tenants' families, and it is not always clear from the pipe rolls who benefited most from such changes in court procedure. Another complication is that recording practices also fluctuated over time. The estate's scribes were sometimes inconsistent in the details they provided of court proceedings, but without offering any indication or explanation of a change of policy. That such changes usually occurred at the beginning of a new bishop's episcopate nevertheless suggests that conscious decision-making was involved, and that the changes were significant.

The second general themes issue is related to the evidence of changes in court procedure, and concerns the power of the bishop over his tenants. Recent research has stressed the limitations of lordly authority and control in the Middle Ages. Emphasis has been placed on lords' inability to enforce effectively the rules and regulations which they claimed over their tenants.[5] Evidence from the Winchester estate suggests that the bishop and his officials did not govern every aspect of customary tenants' lives, but that they were concerned to develop strategies to enhance seigneurial power. One of the ways they may have done so was to control what was recorded about tenants' activities in the Winchester pipe rolls, including the arrangement of retirement agreements. By the early 14th century written records were as familiar and important to tenants as they were to lords, but lords to a greater

4 J.S. Beckerman, 'Procedural Innovation and Institutional Change in Medieval English Manorial Courts', *Law and History Review* 10 (1992), 197–252; C. Briggs, 'Manor Court Procedures, Debt Litigation Levels, and Rural Credit Provision in England, *c.*1290–*c.*1380', *Law and History Review* 24 (2006), 519–58.

5 B.M.S. Campbell, 'The Agrarian Problem in the Early Fourteenth Century', *Past and Present* 188 (2005), 3–70; C. Dyer, 'The Ineffectiveness of Lordship in England, 1200–1400', in C. Dyer, P. Coss and C. Wickham (eds), *Rodney Hilton's Middle Ages: an Exploration of Historical Themes* (Past and Present Supplement 2, 2007), pp. 69–86.

extent than tenants directed what was written down and preserved. The interpretation presented here of the changes of court practice as they affected the recording of retirement agreements is certainly open to challenge, but it is presented with the conviction that lords might intervene in their tenants' lives to protect their own seigneurial interests and maintain their authority.

I

Retirement agreements, by which elderly peasants transferred customary land to the young in return for support during old age, are frequently found among the manorial court records of medieval England. Their use has illuminated various aspects of the social and economic history of the family and household in the later Middle Ages, while the interest of lords in the circumstances of their elderly tenants has also been considered. Comparisons have been drawn between the period leading up to the Black Death and that following: before 1349 most retirement agreements were made within the family; thereafter it was more common to make arrangements with non-kin. Increased mortality, the greater availability of land, and enhanced opportunities for migration, are the explanations offered to account for this change.[6] The chronological distribution of agreements within these broad time frames, however, has been generally overlooked. Indeed, it is rarely stated whether the records were spread evenly over time or were grouped in discrete clusters.

This article examines the retirement of customary tenants on the Bishop of Winchester's estate before the Black Death. It demonstrates that between 1263 and 1349 retirement agreements were concentrated in particular periods, seemingly related to the episcopates of individual bishops. The explanation for this pattern may be partly documentary: the ways in which information was recorded in the Winchester pipe rolls was subject to changing practices. But it is likely that a more historical explanation also needs to be sought. The suggestion presented here is that the attitude of the episcopal administration towards retirement agreements changed in the early 14th century, as part of a wide-ranging programme of reform which aimed to increase levels of investment and revenue on the estate. Decisions relating to

6 R.M. Smith, 'The Manorial Court and the Elderly Tenant in Late Medieval England', in M. Pelling and R.M. Smith (eds), *Life, Death and the Elderly: Historical Perspectives* (London, 1991), pp. 39–61; S. Shahar, *Growing Old in the Middle Ages* (London, 1997), pp. 152–59.

the retirement of customary tenants in the Middle Ages were not solely a matter of personal or family choice, and lords might also play an important role.

II

The elderly are often elusive in medieval manorial records, and rarely are the old described as such. An exception occurred following the death of Thomas Northmill, a customary tenant of the bishop of Winchester's manor of Ecchinswell in Hampshire, in 1345–46. Normal practice on the Winchester estate was for a customary holding to pass in the first instance to the widow, who would hold it for her life. Accordingly, Thomas's wife Matilda appeared in the manor court and paid an entry fine of 16s. 8d. to retain her husband's holding. The scribe added that the fine was 'that little because she is aged 72 years and more'. Thomas was probably of a similar age when he died. He had inherited the family holding from his mother, Juliana, 44 years earlier, in 1301–2, when he had paid an entry fine of £2. Thomas and Matilda's marriage produced at least three daughters, two of whom married outside the manor in 1332 and 1344; the third married in Ecchinswell. There is no record of a son, and nor is there a suggestion in the surviving documents before 1350 that either Thomas or Matilda contemplated retirement.

In the absence of explicit statements of old age, the retirement of customary tenants (at an age usually unspecified) from the direct management of their holdings provides the best opportunity to study elderly peasants. Historians have made extensive use of the numerous retirement agreements recorded in manorial court rolls, to examine issues relating to the family, marriage, and inheritance.[7] Notwithstanding the example of Thomas and Matilda Northmill, retirement was relatively common among the customary tenants of medieval England, both before and after the Black Death. Two principal types of retirement agreement have been identified: maintenance contracts, the main focus of this article, and 'delayed devolution', which is discussed further below.

Maintenance contracts were agreements whereby tenants gave up their holdings in return for a promise to be housed, clothed and fed for the remainder of their lives by their successors. The contracts varied a great deal in the detail of their provisions. Indeed, some may

7 P.R. Schofield, *Peasant and Community in Medieval England 1200–1500* (Basingstoke, 2003), pp. 84–87, 101.

have been informal, verbal arrangements, not committed to writing. Two examples from the Winchester estate must suffice. Beginning with those in which the terms of the agreement were treated with the utmost brevity, in 1296–97 Matilda Drake surrendered a house and half a yardland (about 16 acres) in Farnham (Surrey) to her son Nicholas, 'who will maintain her for life'. Presumably there was sufficient trust in the relationship between mother and son to render further detail unnecessary. Fortunately for the historian, such trust between family members was frequently lacking, and tenants were careful to list their demands. A not particularly verbose example was drawn up at East Knoyle (Wiltshire) in 1292–93, when Geoffrey Herbert resigned a yardland (about 20 acres) to his son John, on condition that he received 'respectable victuals every year and the second-best house in which to live; a tunic every other year worth 3s., and every year two pairs of shoes and two linen sheets; if he is unable to be at table, he will have in addition four quarters two bushels of grain, half of wheat and half of barley'.

Maintenance contracts were not only drawn up within the family. Non-relatives might also agree to support an elderly peasant in return for their land. For example, at East Meon (Hampshire) in 1296–97 Walter Newland surrendered a house and yardland to Walter Gulby 'on condition that he will maintain him in victuals and clothes equally with himself for as long as he lives'. More than a third of the 93 maintenance contracts identified on the Winchester estate before the Black Death involved non-family members (Table 1).[8] This pattern is very different from that found on the Worcestershire manor of Halesowen, where just one out of 61 maintenance contracts recorded between 1270 and 1348 was between non-kin.[9] By contrast, the Winchester figures match closely those calculated by Richard Smith from a much larger sample of retirement agreements extracted from the court rolls of manors in East Anglia: there about 36 per cent of agreements dating before 1348 involved non-family members.[10] Analysis at regional or estate level of course masks inter-manorial variation, but on the Winchester estate the number of maintenance contracts recorded for individual manors is generally too few to allow meaningful comparisons. Where figures are

8 For the purposes of this essay non-kin are defined as individuals with different surnames. It is possible that Walter Newland and Walter Gulby were related by marriage, but, if so, the evidence does not survive to prove it.

9 Z. Razi, 'The Myth of the Immutable English Family', *Past and Present* 140 (1993), 13.

10 Smith, 'Manorial Court and the Elderly Tenant', pp. 48, 52.

Table 1: The Number of Land Transfers with Maintenance Contract recorded in the Winchester Pipe Rolls, 1263–1349.

Number of Parent-Child Transfers	39	(41.9%)
Number of other Family Transfers	20	(21.5%)
Number of Non-Family Transfers	34	(36.6%)
Total Number of Transfers	93	(100%)

Source: Hampshire Record Office, 11M59/B1/29–101.

available, on some of the larger manors, they accord with those for the estate as a whole. For example, at Bishops Waltham (Hampshire) 5 out of 12 (41.7 per cent) maintenance contracts were between non-kin; likewise on the manors of Taunton (Somerset) 7 out of 17 (41.2 per cent) contracts involved non-family members.

That peasants were prepared to transfer their land outside the family and entrust their provision for old age to neighbours or even strangers should not cause undue surprise. The failure to produce a direct heir was a potential hazard in the Middle Ages at all levels of society, while the routines of village life encouraged contact and cooperation between neighbours and the establishment of networks of mutual support. Village communities would have regarded with disfavour those who neglected their duties of support to the elderly, leaving them destitute and dependent upon charity. Elderly peasants may thus have had some confidence in the support of non-relatives. Nevertheless, it was perhaps more likely that a written maintenance contract would be drawn up between non-kin than with children and other relations, with whom verbal arrangements may have been more common.[11]

The detailed terms of maintenance contracts can be analysed for a variety of information, including the size of holding transferred, which on the Winchester estate varied from whole yardlands or more to less than an acre, or the amount paid to the bishop in entry fines, which ranged from 1s. to the large sum of £7 6s. 8d., and with little apparent difference between those paid by family members and non-kin (Table 2). Questions of gender may be addressed: there was little difference in the number of men and women who received support during their retirement, but those who provided for the elderly were overwhelmingly men. Most of those who were named in the contracts were individuals. Less than 10 per cent of those who received or provided maintenance

11 C. Dyer, *Standards of Living in the Later Middle Ages* (2nd edn, Cambridge, 1998), pp. 255, 313–14.

Table 2: The Amount of Entry Fine paid for Land Transfers with Maintenance Contract recorded in the Winchester Pipe Rolls, 1263–1349.

Amount of entry fine	Number paid by family	Number paid by non-kin
1s.–5s.	21 (35.6%)	11 (32.4%)
6s. 8d.–13s. 4d.	16 (27.1%)	13 (38.2%)
£1–£3 13s. 4d.	18 (30.5%)	8 (23.5%)
£5–£7 6s. 8d.	4 (6.8%)	2 (5.9%)

Source: Hampshire Record Office, 11M59/B1/29–101.

were married couples.[12] Finally, the generosity of the provision, in terms of accommodation, food, fuel, cash and clothes, can tell us whether the agreement was intended to supply merely the subsistence needs of the peasant or a surplus to sell in the market.[13] For example, the allowance of five quarters of wheat, a quarter of beans and half a quarter of maslin, with which Joan Brook was to be supplied each year by her daughter Alice, was either intended to provide food for an extended household – Joan may have employed a servant or two – or a marketable surplus. Joan lived on the manor of Rimpton (Somerset), which was among the most market-orientated of the bishop's demesnes, and she may have used the same network of local markets as the officials who sold the manor's grain.[14]

III

The main focus of this article, however, is the chronological distribution of the maintenance contracts recorded in the Winchester pipe rolls. Figure 1 reveals that they were concentrated in two periods: roughly the decades 1292–1301 and 1336–45. Is this bunching the result of some quirk of the evidence, or can there be an historical explanation which sheds light on the conditions faced by the elderly? The reliability of the pipe rolls cannot be discounted, at least for the earlier period.

12 For comparable figures from East Anglian courts, E. Clark, 'Some Aspects of Social Security in Medieval England', *Journal of Family History* 7 (1982), 316. For additional comment, P. Fleming, *Family and Household in Medieval England* (Basingstoke, 2001), p. 123.

13 Dyer, *Standards of Living*, pp. 151–54.

14 C. Thornton, 'The Determinants of Land Productivity on the Bishop of Winchester's Demesne of Rimpton, 1208 to 1403', in B.M.S. Campbell and M. Overton (eds), *Land, Labour and Livestock* (Manchester, 1991), pp. 187–88.

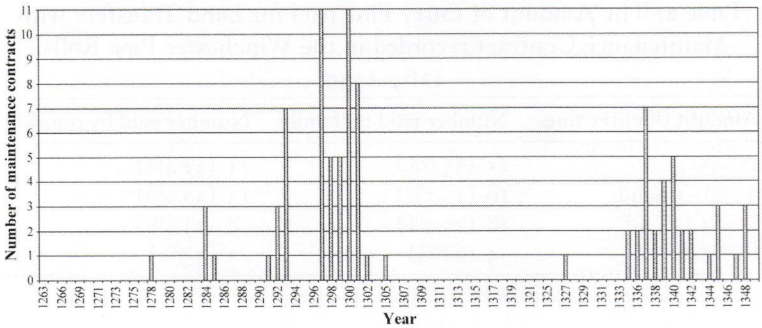

Figure 1: The Number of Maintenance Contracts Recorded on the Winchester estate, 1263–1349

The decade 1292–1301 falls within the episcopate of John of Pontoise (1282–1304), and there can be little doubt that during his time as bishop the amount of detail recorded in the pipe rolls increased. For example, he (or his officials) initiated the practice of copying from the court rolls details of the fines for misbehaviour, a laborious process which was discontinued by his successors.[15]

An awareness of the potential value of detailed written records was not confined to the episcopal administration, but was shared by the tenants of the estate. For instance, a transfer of land recorded in brief among the entry fines paid at Farnham (Surrey) in 1285–86 was given much greater emphasis by the enrolment of a charter detailing the grant more fully in the margin of the pipe roll. Such enrolments became unnecessary, however, following the introduction into the bishop's courts of conveyancing procedures influenced by the common law, a change which can be dated approximately to the late 1290s. Increasingly, the entry fine registered in the pipe roll was regarded as a sufficient guarantee of title which could be consulted in the event of a dispute. This probably explains why tenants were willing to pay for a 'search of the rolls'.[16] Both among officials and tenants, therefore, the final years of the 13th century were marked by an attention to the detail of the written word, which may have encouraged the elderly

15 A similar point is made in M. Page, 'Town and Countryside in Medieval Ivinghoe', *Records of Buckinghamshire* 51 (2011), 194.

16 M. Page, *The Medieval Bishops of Winchester: Estate, Archive and Administration* (Hampshire Papers, 24, 2002), p. 12; Z. Razi and R. M. Smith, 'The Origins of the English Manorial Court Rolls as a Written Record: a Puzzle', in Z. Razi and R.M. Smith (eds), *Medieval Society and the Manor Court* (Oxford, 1996), pp. 53–54.

to commit to parchment the provisions for their retirement which previously had been largely verbal arrangements.

If the value of written records was recognized to be so advantageous, why then were so few maintenance contracts recorded under John of Pontoise's successors until the election of Adam Orleton as bishop in 1333? Four possible explanations present themselves. First, contracts were no longer written down but were limited to verbal agreements; secondly, elderly peasants chose to make alternative arrangements for their retirement; thirdly, the young were no longer willing to commit to the potentially expensive provision of the old; finally, the episcopal administration restricted – or, at least, failed to encourage – the use of retirement agreements and deliberately excluded those that were made from the record of court proceedings in the pipe rolls. Some maintenance contracts, as suggested above, may never have been committed to writing, and the use of verbal agreements almost certainly continued after 1300, but that tenants on the Winchester estate preferred such arrangements over written contracts to the extent that the latter practice was rendered redundant seems unlikely. By 1300 the transition from memory to written record was largely complete.[17] Any such explanation also has to take into account the sudden disappearance of retirement agreements from the pipe rolls at the end of one episcopate and their reappearance at the beginning of another. If tenants were limited to verbal agreements, it seems almost certain that the decision was imposed by the episcopal administration.

The second possible explanation requires some consideration. As mentioned above, two principal types of retirement agreement have been identified on the Winchester estate before the Black Death. The maintenance contract was one, while the other has been termed 'delayed devolution'.[18] This arrangement secured the transfer of resources from the elderly to the young, but allowed the holder to retain the whole or part of the tenement for life. For example, at Alresford (Hampshire) in 1290–91 William Harmondsworth resigned to his grandson John a purpresture of 11½ acres, on condition that he might retain 10½ acres of the land for his life. For this agreement, John paid to the bishop an entry fine of 6s. 8d. The terms under which the land was to be managed were not recorded in the pipe roll and must have been a matter for negotiation. No further reference to William has been found and it is not known when he died. John inherited a house and half a yardland from his father

17 M.T. Clanchy, *From Memory to Written Record: England 1066–1307* (Oxford, 1993).

18 E. Clark, 'The Quest for Security in Medieval England', in M.M. Sheehan (ed.), *Aging and the Aged in Medieval Europe* (Toronto, 1990), pp. 191–92.

in 1298–99 and died in 1317–18, at which time his widow Agnes paid 6s. 8d. to retain a house, half a yardland and four acres of purpresture (encroachment on common or waste land); the remaining purpresture must have been disposed of in another way.

The pipe rolls record more 'delayed devolution' agreements than maintenance contracts. However, it is more difficult to be certain that all of them concerned elderly peasants approaching retirement. Some may have been sales by tenants (not necessarily old) in need of cash who surrendered their hereditary tenure in return for a life interest. Only rarely do the agreements record the duty of care common in maintenance contracts which indicates that a peasant was intending to retire. For example, at Rimpton (Somerset) in 1335–36 Albreda Attwood granted a house and yardland to her son Robert on condition that she should continue to hold the tenement for life and that Robert should take no profit from the holding while she lived but remain with her and serve her. Despite these uncertainties of interpretation, however, 'delayed devolution' agreements, like maintenance contracts, were common during the episcopate of John of Pontoise – 71 have been identified in the decade 1291–1300 – but apparently fell out of favour thereafter. They reappear in the records in reduced numbers from the late 1320s (Figure 2). Moreover, the proportion of family to non-family transfers was about the same for both types of agreement (Table 3). The use of 'delayed devolution' agreements was thus complementary to maintenance contracts, not a substitute for them. Both ceased to be recorded in the Winchester pipe rolls at about the same time.

Another explanation for the disappearance of maintenance contracts – that the young were no longer willing to provide for the elderly – has been employed to account for the fall in their number after the Black Death, when land was often readily available and migration was common. According to Dyer, 'it is understandable that young would-be tenants should avoid taking on holdings encumbered with the expensive and inconvenient obligation to maintain an old couple'.[19] Such an argument, however, can hardly be applied to the conditions of the early 14th century, when land was scarce and holdings were in great demand. On many manors of the Winchester estate, entry fines for land reached their peak in the years around 1300 – unambiguous evidence of high demand – before falling back after the Black Death.[20]

19 C. Dyer, 'Changes in the Size of Peasant Holdings in Some West Midland Villages 1400–1540', in R. M. Smith (ed.), *Land, Kinship and Life-Cycle* (Cambridge, 1984), p. 289.

20 J.Z. Titow, *English Rural Society 1200–1350* (London, 1969), pp. 73–78.

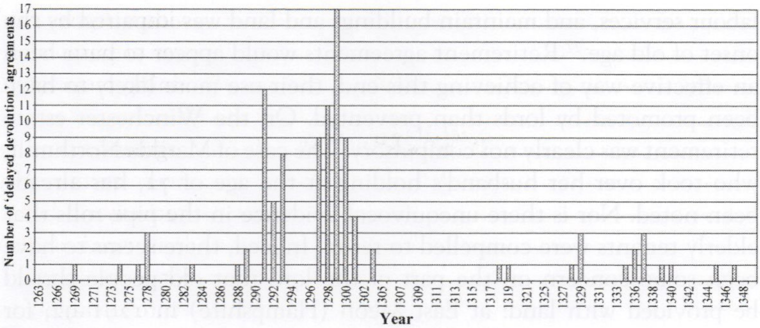

Figure 2: The Number of 'Delayed Devolution' Agreements recorded on the Winchester estate, 1263–1349

Table 3: The Number of Land Transfers with 'delayed devolution' Agreements recorded in the Winchester Pipe Rolls, 1263–1349.

Number of Parent-Child Transfers	54	(52.9%)
Number of other Family Transfers	12	(11.8%)
Number of Non-Family Transfers	36	(35.3%)
Total Number of Transfers	102	(100%)

Source: Hampshire Record Office, 11M59/B1/29–101.

Marriage to widows was also common in places where land was in particularly short supply.[21] In these circumstances, it seems unlikely that would-be tenants would baulk at the prospect of maintaining the elderly, especially if they were their own kin. Moreover, in many cases, the requirements of the elderly appear to have been extremely modest. 'Delayed devolution' agreements in particular suggest that most tenants valued their independence and looked to provide for many of their own needs.

The final explanation to consider – that the lord restricted the use of retirement agreements – also appears to be at odds with current thinking, in this case of seigneurial attitudes to elderly tenants. In particular, it has been argued that in their concern for the asset value of customary holdings, lords might wish to ensure that servile tenants were replaced long before their ability to pay rents, render

21 J.Z. Titow, 'Some Differences between Manors and their Effects on the Condition of the Peasant in the Thirteenth Century', *Agricultural History Review* 10 (1962), 6–13.

labour services, and maintain buildings and land was impaired by the onset of old age.[22] Retirement agreements would appear to have been an effective way of achieving this end, their use more likely to have been promoted by lords than prevented. On the Winchester estate retirement was clearly not compulsory. The case of Matilda Northmill, who took over her husband's holding at the age of 72, has already been noted. Nor is there unequivocal evidence in the pipe rolls that elderly tenants were compelled to retire. Indeed, there seems to have been some concern on the part of the lord that old people should be provided with land: at East Meon (Hampshire) in 1291–92, for instance, Roger son of Thomas Adam was granted an acre of the lord's demesne on condition that his mother Joan held it for her life. Lord and tenant may well have cooperated on this occasion to ensure that Joan was furnished with some sort of livelihood. To some extent, therefore, retirement was a matter of personal choice, and was not imposed on tenants by order of the lord. Nevertheless, there was one feature of retirement agreements to which the bishops of Winchester may have objected.

Many lords were concerned to restrict the fragmentation of customary holdings, a practice particularly associated with the population expansion of the 13th century.[23] The tenants of yardlands and half-yardlands provided both cash rents and labour services. If they were unable to do so because their tenements had become so fragmented that they were no longer large enough to sustain a family in its obligations then the manorial economy would be threatened.[24] On the Winchester estate, the pipe rolls reveal that the fragmentation of customary tenements was a common occurrence in the late 13th century. The subdivision of holdings was often a result of the need for cash, or the provision of non-inheriting children with an endowment. Small parcels of land regularly circulated via the land market, some of which may have been recovered at a later date by the holder of the tenement from which they were divided. The subdivision of tenements was expedient in an era of land hunger, but village communities

22 Smith, 'Manorial Court and the Elderly Tenant', p. 46; Schofield, *Peasant and Community*, p. 109.

23 Schofield, *Peasant and Community*, pp. 65–67; J. Mullan and R. Britnell, *Land and Family: Trends and Local Variations in the Peasant Land Market on the Winchester Bishopric Estates, 1263–1415* (Hatfield, 2010), pp. 44–48.

24 B. Harvey, *Westminster Abbey and its Estates in the Middle Ages* (Oxford, 1977), pp. 212–13.

possessed long memories and the origins of a piece of land were rarely forgotten.[25]

Land was leased, mortgaged and sold for a variety of reasons, such as to buy food and other necessities in times of famine.[26] The elderly may have participated in these land transfers. In a period of high demand for land, peasants might have expected to receive sizeable sums of money for their holdings from which they could derive a livelihood in old age.[27] Complex networks of credit existed in many places, which provided peasants, including the elderly, with the opportunity to raise money against the security of land or produce to replace or supplement their income.[28] Lords benefited from the increased number of land transfers recorded in their courts, for each of which they collected an entry fine, but they may have viewed with disfavour the fragmentation of customary holdings. The bishops of Winchester, for instance, issued injunctions against the 'dismemberment' of tenements in the early 14th century.[29] They may have included retirement agreements in this general prohibition: 'delayed devolution' agreements, especially, led to the subdivision of holdings. For example, at Cheriton (Hampshire) in 1287–88 John Stubbe divided his yardland equally between himself and his son, the two halves to be reunited after his death. Some maintenance contracts, too, stipulated that the retiring peasant should continue to occupy a house and a portion of the land, in addition to receiving provision in cash and kind.

Many more examples of the fragmentation of customary tenements can be found in the Winchester pipe rolls after 1290 than before that date. This may reflect the influence of the statute *Quia Emptores* of 1290, which made substitution of one tenant for another rather than subinfeudation the accepted form for grants of free land and which quickly affected transfers of villein property.[30] The practical consequence of this development was to encourage greater precision in

25 M. Page, 'The Peasant Land Market on the Estate of the Bishopric of Winchester before the Black Death', in R. Britnell (ed.), *The Winchester Pipe Rolls and Medieval English Society* (Woodbridge, 2003), pp. 64–69.

26 B.M.S. Campbell, 'Population Pressure, Inheritance and the Land Market in a Fourteenth-Century Peasant Community', in Smith (ed.), *Land, Kinship and Life-Cycle*, pp. 87–134.

27 Smith, 'Manorial Court and the Elderly Tenant', p. 48.

28 P.R. Schofield, 'Access to Credit in the Early Fourteenth-Century English Countryside', in P.R. Schofield and N.J. Mayhew (eds), *Credit and Debt in Medieval England c.1180–c.1350* (Oxford, 2002), pp. 106–26; C. Briggs, *Credit and Village Society in Fourteenth-Century England* (Oxford, 2009).

29 Page, 'Peasant Land Market before the Black Death', pp. 68–69.

30 Razi and Smith, 'Origins of the Rolls as a Written Record', pp. 54–55.

the enrolment of cases of 'surrender and admittance'.[31] Other changes occurring at about the same time, for example to conveyancing procedures, noted above, were likely to have had a similar effect in ensuring that a more detailed record of peasant land transfers was included in the pipe rolls. Furthermore, the 1290s was a difficult decade economically for many tenants, when poor harvests pushed up grain prices, leading to the sale of land to raise cash to buy food.[32] This combination of circumstances may have made the fragmentation of customary tenements more visible to the bishop and his officials, just as it is to those who study the land market on the episcopal estate. In response, an attempt may have been made to monitor more closely the transfer of customary land, and to intervene more frequently to ensure that accepted practices were followed. For example, references to the examination of tenants, especially women, in court proceedings recorded in the pipe rolls become more plentiful in the early 14th century, indicating a more careful observation on the part of stewards of *inter-vivos* land transfers.[33] Increased levels of scrutiny by court officials may have discouraged the fragmentation of customary holdings on the Winchester estate. Likewise, restrictions on the use of retirement agreements may have been imposed.

The argument that seigneurial authority is the most plausible explanation for the chronological distribution of retirement agreements depicted in Figures 1–2 is strengthened by two further observations. First, the change occurred across the whole estate, and secondly, it took place at the beginning of an episcopate, that of Henry Woodlock (1305–16). The Winchester estate was large and scattered, suggesting that any estate-wide change must have been ordered and implemented by the bishop and his officials. Individual bishops can be shown to have pursued different policies to those of their predecessors and altered aspects of estate administration. Some of the changes introduced by John of Pontoise have already been discussed. The same bishop also initiated the practice of recording yield figures for grain, wool and cheese, and built up the size of his herds to profit by

31 P.R. Hyams, 'What did Edwardian Villagers Understand by "Law"?', in Razi and Smith (eds), *Medieval Society and the Manor Court*, pp. 81–83.

32 P.R. Schofield, 'Dearth, Debt and the Local Land Market in a Late Thirteenth-Century Village Community', *Agricultural History Review* 45 (1997), 1–17.

33 R.M. Smith, 'Women's Property Rights Under Customary Law: Some Developments in the Thirteenth and Fourteenth Centuries', *Transactions of the Royal Historical Society*, 5th series, 36 (1986), 180–86.

fattening them.[34] Likewise, the episcopate of Henry Woodlock has been highlighted as a period of change on the Winchester estate. A plausible context for the bishop's intervention in the land market may thus be proposed, and some consideration given to his intentions.

IV

Henry Woodlock pursued a policy both of retrenchment and investment. The reign of Edward I (1272–1307), especially from 1290, was a period of high taxation to pay for wars in Scotland and France. The burdens of clerical taxation, the purveyance of grain, and disruptions to the wool trade took a heavy toll, and officials of John of Pontoise were encouraged to pay close attention to the income, expenditure and productivity of the Winchester estate. Under Woodlock such inspections continued and some significant changes were made. For example, in 1305–6 payments of grain to manorial servants were reduced on many manors of the estate and a greater uniformity of practice introduced.[35] Similarly, at Rimpton (Somerset) the post of bailiff was discontinued in 1308–9.[36] A concern for cost-cutting was matched by an interest in raising money. Thus, in the management of the estate's woodland and pasture a more commercialized policy becomes evident towards the end of John of Pontoise's episcopate, which was continued and extended under Woodlock, yielding greatly enhanced revenues.[37] There was too an emphasis on investment. At Crawley (Hampshire) expenditure on sheep farming rose substantially during Woodlock's episcopate, in an attempt to profit from increased fleece weights.[38] Woodlock was also notable for the large amounts of money he spent on the estate's buildings, especially in the years 1310–15.[39] Other lords, too, showed an

34 M. Page, 'Challenging Custom: the Auditors of the Bishopric of Winchester, c.1300–c.1310', in M. Prestwich, R. Britnell and R. Frame (eds), *Thirteenth Century England VI* (Woodbridge, 1997), p. 42; D.L. Farmer, 'Woodland and Pasture Sales on the Winchester Manors in the Thirteenth Century: Disposing of a Surplus, or Producing for the Market?', in R. Britnell and B.M.S. Campbell (eds), *A Commercializing Economy: England 1086 to c.1300* (Manchester, 1995), p. 130.

35 Page, 'Challenging Custom', pp. 39–48.

36 Thornton, 'Determinants of Land Productivity', p. 202.

37 Farmer, 'Woodland and Pasture Sales', pp. 113, 130–31.

38 M. Page, 'The Technology of Medieval Sheep Farming: Some Evidence from Crawley, Hampshire, 1208–1349', *Agricultural History Review* 51 (2003), 137–54.

39 J. Langdon, J. Walker and J.R. Falconer, 'Boom and Bust: Building Investment on the Bishop of Winchester's Estate in the Early Fourteenth Century', in Britnell (ed.), *Winchester Pipe Rolls*, pp. 146–55.

interest in new building at this time, as indicated by the considerable number of rural aristocratic and gentry houses which have survived from the first third of the 14th century, a figure not exceeded according to dendrochronology until the final third of the 15th century.[40]

Woodlock's concern to invest in the buildings of the demesne may have led him to examine the state of tenant housing. A noticeable feature of the entry fines recorded during his episcopate and later is the appearance of a requirement to build as a condition of tenancy. For example, at Bishopstoke (Hampshire) in 1308–9 Richard Spurr surrendered a ferling (10 acres) to his son Richard on condition that he built on the tenement before Michaelmas. Likewise, at East Meon (Hampshire) in 1316–17 John Spicer surrendered a house and nine acres to Thomas Patrick on condition that he rebuilt the tenement before Michaelmas and maintained its state. Such conditions were rarely recorded before 1300; thereafter they were relatively common (Figure 3).

These injunctions appear to have been another example of episcopal intervention in the peasant land market comparable to the opposition to the fragmentation of customary tenements or the restriction of retirement agreements. In this case, Woodlock and his officials may have been concerned to increase the stock of tenant housing at a time when the population was high. The lord might also profit (in higher rents and fines) from the expanding capital assets of his tenants. Whatever the bishop's motives, the issuing of these orders indicates a willingness and a capacity to influence the terms of tenants' land transfers and their enrolment in the Winchester pipe rolls. On other estates, too, the first third of the 14th century was marked by an increase in the number of new tenant buildings, albeit to a relatively modest degree.[41]

The introduction of a requirement to build, however, does not explain why the detailed terms of retirement agreements should no longer be recorded in the pipe rolls. After all, the retirement of a customary tenant may have been a good opportunity for the bishop's steward or bailiff to insist on the construction of a new house, which was also likely to have been in the best interests of the elderly peasant. A maintenance contract from Bishops Waltham (Hampshire) in 1334–35 makes the arrangement explicit: Henry Court and Agnes Thurban

40 S. Pearson, 'The Chronological Distribution of Tree-Ring Dates, 1980–2001: an Update', *Vernacular Architecture* 32 (2001), 68–69.

41 G. Watts, 'Medieval Tenant Housing on the Titchfield Estates', *Hampshire Studies* 57 (2002), 55; Pearson, 'Chronological Distribution of Tree-Ring Dates', 68–69.

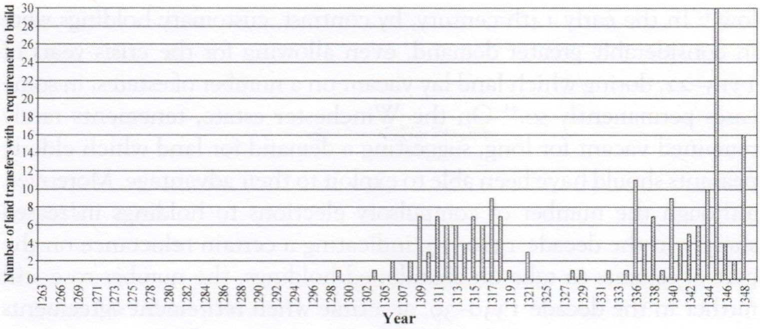

Figure 3: The Number of Land Transfers with a Requirement to Build recorded on the Winchester estate, 1263–1349

agreed to surrender to Olive wife of William Steeple the moiety of a mill and half a yardland, on condition that Olive granted to Henry and Agnes a plot of land for their lives, on which she would build them a dwelling-house at her own cost. The agreement also itemized the grain that Olive was to provide for the old couple.

Nevertheless, that the use of retirement agreements was restricted by Bishop Woodlock is suggested by another unusual feature of the early 14th-century land market: the abandonment of holdings, presumably by elderly peasants who were no longer able to continue farming. For example, at Cheriton (Hampshire) in 1307–8 William Albod took on a house and five acres which his mother Joan had abandoned during her widowhood. Similarly, at East Knoyle (Wiltshire) in 1316–17 John son of Richard Cras was granted a house and yardland which Cecilia Sharp formerly held but which she abandoned because she was no longer able to maintain the buildings or perform the services.

The pipe rolls record 24 such cases of abandonment during Woodlock's episcopate (1305–16), whereas very few can be found before that time. Of these cases, about a fifth involved the transfer of land to a relative of the former tenant. Apparently these peasants were unable to reach an agreement with family members or neighbours to supply them with food, clothes and shelter for the remainder of their lives, or even to sell, lease or mortgage their land, but were forced instead to abandon their holdings into the lord's hands. The phenomenon of the tenant unable to obtain assistance during old age was a feature of the period after the Black Death, when land was plentiful and the population was low.[42] In the early 14th century, by contrast, customary holdings were in considerably greater demand, even allowing for the crisis years of 1315–22, during which land lay vacant on a number of estates, in some cases permanently so.[43] On the Winchester estate, tenements rarely remained vacant for long, suggesting a demand for land which elderly peasants should have been able to exploit to their advantage. Moreover, although the number of compulsory elections to holdings increased sharply in the decade 1310–19, indicating a certain reluctance on the part of tenants to take on abandoned holdings, the number rose still further in the decade 1330–39, at a time when retirement agreements were once again recorded in the Winchester pipe rolls.[44]

Perhaps the explanation for these cases of abandonment under Woodlock lies in his restriction of written retirement agreements, which left elderly tenants with no choice but to give up their land to the lord. The bishop's officials then transferred it to new tenants, possibly of their own choosing, and thereby ensured that no fragmentation of the holding occurred. Retired tenants may still have received informal support from family or neighbours, but as far as the bishop was concerned those arrangements were not dependent on the surrender of customary land.

The evidence does not suggest, therefore, that the fall in the number of retirement agreements in the period 1305–33 can be associated with the economic difficulties of these years or a lack of tenants willing to support the elderly. This conclusion is strengthened by the coincidence of those manors on which a considerable number of retirement agreements were recorded before 1305 – such as Bishops Waltham and Taunton – with those on which the demand for land remained strong in the decades immediately preceding the Black Death.[45] Instead, the disappearance of retirement agreements on these manors was likely to have been the result of seigneurial intervention. Certainly the bishops of Winchester showed no unwillingness to interfere in the land transfers of their tenants. For example, during the episcopate of Henry

42 Dyer, 'Peasant Holdings in West Midland Villages', p. 289.

43 I. Kershaw, 'The Great Famine and Agrarian Crisis in England 1315–1322', in R.H. Hilton (ed.), *Peasants, Knights and Heretics: Studies in Medieval English Social History* (Cambridge, 1976), pp. 113, 118–29.

44 M. Page, 'The Peasant Land Market in Southern England: the Estate of the Bishops of Winchester, 1260–1350', in L. Feller (ed.), *Le Marché de la Terre au Moyen Âge* (Rome, 2005), pp. 336–38.

45 Page, 'Peasant Land Market before the Black Death', pp. 70–72; Titow, 'Some Differences between Manors', 1–9.

Woodlock in 1314–15 at Esher (Surrey), William Wexford recovered one acre from Henry Firth 'which was his land of old and which he surrendered into the lord's hands for the use of Henry, which surrender was not allowed because it was by dismemberment'.

A number of bishops, including Woodlock, also sought to prevent the accumulation of holdings by wealthy tenants. The bishops opposed accumulation because holdings which remained separate generated more income than those which were combined, and buildings were less likely to be run down.[46] The effectiveness of these injunctions may help to explain the transfer of tenements outside the family in cases when heirs were available to inherit.[47] Indeed, some tenants deliberately declined to inherit family holdings in order to avoid falling foul of these regulations. At Witney, for example, in 1347–48 Walter son of Richard Dodd inherited the house and yardland of his grandmother Isolda, for which his father had 'refused to fine because he holds one other house and yardland of villein land and according to the manor it is not possible to hold two villein tenements'. On this occasion, as on others, a combination of custom and lordship was applied to assert the lord's authority.[48]

V

The evidence presented so far demonstrates that retirement agreements were recorded in the Winchester pipe rolls in large numbers after 1290, as a result of changes in conveyancing procedures introduced on the estate. The more detailed record of peasant land transfers which followed from these developments may have alerted the episcopal administration to an alarming increase (as the bishop saw it) in the number of subdivided customary tenements. Henry Woodlock, elected bishop in 1305, initiated a number of reforms intended to cut costs and increase investment on the Winchester estate. As part of this reform agenda, Woodlock may have attempted to limit the fragmentation of customary holdings, which included restricting the use of retirement agreements. Certainly the bishop is known

46 Page, 'Peasant Land Market before the Black Death', p. 76; Page, 'Peasant Land Market in Southern England', pp. 333–35; Mullan and Britnell, *Land and Family*, pp. 42–44.

47 M. Page, 'The Peasant Land Market on the Bishop of Winchester's Manor of Farnham, 1263–1349', *Surrey Archaeological Collections* 90 (2003), 173.

48 P.D.A. Harvey, 'Initiative and Authority in Settlement Change', in M. Aston, D. Austin and C. Dyer (eds), *The Rural Settlements of Medieval England* (Oxford, 1989), p. 36.

to have issued at least one injunction against what was called the 'dismemberment' of tenements, as well as interfering in other aspects of the peasant land market. For example, it was during Woodlock's episcopate that a requirement to build was made a condition of some tenancies. This was probably an attempt to increase investment in tenant housing, to coincide with rising levels of expenditure on buildings of the demesne. An additional motive may have been to provide peasants who wished to retire with adequate accommodation without the need to subdivide customary holdings.

There seem to have been few attempts to compel the bishop's tenants to retire before the Black Death. But for those who did wish to withdraw from farming their lands, the apparent restrictions imposed on drawing up retirement agreements may have led to the abandonment of a number of holdings. In some cases, especially during the crisis years of 1315–22, there was likely to have been a temporary shortage of tenants willing to enter holdings on particular manors. For the most part, however, land remained in great demand and vacancies rarely lasted long. Nevertheless, the bishop may have preferred to arrange a new tenancy himself, thereby ensuring that the holding remained intact, rather than permit the parties involved to divide the tenement among themselves. There is evidence to suggest that tenants on the Winchester estate obeyed episcopal injunctions, for example, in relation to the accumulation of customary holdings. However, it is unlikely that family and community would have allowed tenants who withdrew from their holdings to become destitute. Some informal arrangements must have been in place to support elderly peasants who chose to retire, which were not recorded in the Winchester pipe rolls because they were no longer directly connected with the formal procedure of 'surrender and admittance'. Tenant dissatisfaction with the loss of their ability to record in writing the detailed terms of retirement agreements may have led the episcopal authorities to reintroduce the practice, at the start of Adam Orleton's episcopate in 1333.

The reasons behind the decision to allow tenants once again to record retirement agreements in the Winchester pipe rolls cannot be known for certain. Perhaps Orleton felt more concern than his predecessors for the needs of his elderly tenants. Certainly some bishops were more charitable towards their tenants than others, although there is little in Orleton's biography to suggest that this was the case.[49] Another

49 Dyer, *Standards of Living*, pp. 241, 313; Titow, *English Rural Society*, p. 96; R.M. Haines, *The Church and Politics in Fourteenth-Century England: the Career of Adam Orleton c.1275–1345* (Cambridge, 1978).

possible explanation is that the limitations imposed on the use of retirement agreements failed to have the desired effect. In a similar way, the stewards of the bishopric were not entirely able to resist the fragmentation and accumulation of customary holdings on every manor of the estate.[50] To that extent, the experiment to restrict the use of retirement agreements and to limit the subdivision of tenements may be judged to have been a failure. Nevertheless, this paper would argue that the power of the bishops of Winchester should not be underestimated. There is an implicit assumption in many studies of retirement agreements, and maintenance contracts in particular, that their use emerged out of peasant society and was dictated by peasants' needs, and that the lord was merely a passive observer. On the basis of the Winchester evidence, this assumption needs to be challenged. Whatever the explanation for the chronological distribution of retirement agreements on the episcopal estate, it is clear that there was intervention by the bishop or his officials. Thus, in the case of the retirement of customary tenants, it may be concluded that both seigneurial authority and personal choice played an important role in the half-century before the Black Death.

50 Page, 'Peasant Land Market before the Black Death', p. 77; Mullan and Britnell, *Land and Family*, pp. 55–56.