

## The Price of the Poor's Words: Social Relations and the Economics of Deposing for One's 'Betters' in Early Modern England<sup>1</sup>

The economic dynamism and insecurity of late sixteenth- and early seventeenth-century England generated unprecedented volumes of litigation, which enabled and alarmed contemporaries in equal measure.<sup>2</sup> More than any other social group, the ruling gentry were expected to litigate in a socially responsible manner. In the 1580s, William Cecil, Lord Burghley, advised his son to 'undertake no suit against a poor man without receiving much wrong for therein making him thy competitor; besides it is a base conquest to triumph where there is small resistance'.<sup>3</sup> For the gentry to initiate capricious legal action against their subordinates was not only a dereliction of their paternalist duty, but also a gauche use of their social power. Some gentlemen lived up to these ideals. Others did not. But even where the gentry were content to pursue opponents of comparable standing, they not infrequently enlisted the so-called 'meaner sort of people' to depose on their behalf. These witnesses could become collateral damage. Litigation arising from intra-gentry disputes and the subsequent litigation that it occasioned can be used to illuminate

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<sup>1</sup> Conversations with Jean-Christophe Agnew, Richard Bell, Paul Cavill, Michael Edwards, Peter Garnsey, Ed Legon, Joseph la Hausse de Lalouvière, Craig Muldrew, Sonia Tycko, Gabriel Winant, Andy Wood, and Keith Wrightson improved this article in various ways. I am grateful to them all. I would also like to thank the *EcHR*'s editors and anonymous referees for their suggestions; Heather Falvey for allowing me to consult an article of hers in advance of its publication; the National Archives' staff for carrying many boxes of depositions; and the Master and Fellows of Jesus College, Cambridge, and the American Council of Learned Societies for funding this research.

<sup>2</sup> For the increase in litigation, see Muldrew, *Economy of Obligation*; Stretton, *Women Waging Law*; Brooks, *Pettyfoggers*; idem., *Lawyers, Litigation*.

<sup>3</sup> Burghley, 'Certain precepts for the well ordering of a man's life', in *Advice to a son: the precepts of Lord Burghley, Sir Walter Raleigh, and Francis Osborne*, L. Wright, ed. (Ithaca, NY, 1963), p. 12.

obscured and neglected aspects of social relations, including the mechanics of domination and subordination in early modern England.<sup>4</sup>

When the ‘poorer sort of people’ testified for their superiors, the evidence that they provided was greeted with suspicion. It was widely assumed that dependent and subordinated individuals would bear false witness for anyone who was in a position to provide them with material compensation. Seemingly immune to variation over the course of the period, these attitudes were articulated in a variety of sources. As one late sixteenth-century legal treatise put it: ‘Yf it be moste true, that guiftes and bribes will perverte the Judgment, even of the wisest, then how can it be otherwise, but that the commune man shalbe drawn asyde, and corrupted thereby?’<sup>5</sup> In the estimation of a late seventeenth-century manual for Justices of the Peace, ‘poverty’ made individuals susceptible to ‘great Temptations of Bribery, [even] tho the profit that can come by it is very inconsiderable’.<sup>6</sup> Ministers made similar suggestions in their sermons to judges and juries at the assizes. In 1600, after comparing gifts to ‘birdlime,’ which ‘intangle the winges, and [made] that the receiver is not his owne man, but standeth in awe of the giver,’ William Westerman denounced those who would, for a ‘a peece of money’, not ‘refuse to justifie any thing upon their oath’.<sup>7</sup> As Alexandra Shepard and Laura Gowing’s work on the

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<sup>4</sup> Due to a combination of the available sources and an interest in showcasing the ‘agency’ of the labouring population, historians have tended to focus on comparatively exceptional aspects of social relations, such as riot and ‘resistance’ (broadly defined). See Walter, *Crowds and Popular Politics*; idem., ‘Public transcripts’; Braddick and Walter, ‘Grids of Power’; Wood, *Riot and Rebellion*. Deference and subordination have been comparatively neglected. For recent discussions, see Wood, ‘Deference and Paternalism’; idem., ‘Subordination’; idem., ‘Fear, Hatred’.

<sup>5</sup> British Library (BL), Add MS 24926, Anon., *A discourse of the courte called the Starre Chamber made the xxth daie of Marche, 1585*, fo. 18r.

<sup>6</sup> Edmund Bohun, *Justice of peace, his calling and qualifications* (1693), p. 15.

<sup>7</sup> William Westerman, *Two rermons of assize* (1600), p. 37; 47. For sermons discussing the relationship between penury and perjury, see John Allen, *Of perjury: a sermon preach’d at the assizes held at Chester*

ecclesiastical courts has demonstrated, these ideas were sufficiently hegemonic as to be employed by labouring witnesses to discredit their relative peers and the evidence they provided.<sup>8</sup>

To be sure, some common people were apparently happy to testify (and modify their stories accordingly) in exchange for payment. William Shepard, a miller in late sixteenth-century Devon, would depose for the highest bidder. He admitted to bragging that he ‘had 4s. a weeke of [a gentleman] for his wages [and that] if he had not good mayntenance...he wold tell another tale’ in court, one that would ‘do [the parish] twenty poundes worth of good’ in a dispute about grain-grinding tolls.<sup>9</sup> In the 1570s, an Essex woman reportedly said that she was ‘bought w[i]th mony to sweare her former othe’, adding that ‘she wold not have sworn’ as she had for nothing.<sup>10</sup> Others chose not to testify when promised rewards failed to materialize. In 1600, witnesses recalled that John Poole, a Lancashire saddler and ‘packett maker’ (who was also described as a ‘shiefte maker [who] liveth by his handes’), agreed to testify for a gentleman in return for an unspecified monetary reward. But when the gentleman ‘wold geve him none’ in the event, Poole ‘departed and woulde not sweare’.<sup>11</sup>

Considering evidence of this sort, Andy Wood has suggested that testifying presented opportunities ‘for the assertion of plebeian agency’, moments in which labouring individuals

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(1682); Edward Bowles, *Dutie and danger of swearing opened in a sermon preached at York* (York, 1655), pp. 11-12; Richard Parr, *Judges charge* (1658), p. 16; Anthony Scattergood, *Jethro’s character of worthy judges* (1664), pp. 14-15.

<sup>8</sup> Shepard, *Accounting for oneself*; Gowing, *Domestic dangers*, pp. 50-51.

<sup>9</sup> The National Archives (TNA), STAC 5/S15/15.17 ;14; 3.

<sup>10</sup> TNA, STAC 5/W5/26, Ellen Cornishe (deposition). For a labourer making a similar remark, see STAC 8/186/27, William Foster (deposition).

<sup>11</sup> TNA, STAC 5/A8/31, John Pendleton (deposition).

were able to parlay the interests of their litigious ‘betters’ against one another for their own gain.<sup>12</sup> But in suits in which there was a marked social disparity between litigants and their witnesses, focusing solely on rewards – whether in the form of ‘gifts’ or ‘bribes’ – offers a partial picture of the economics of testimony and their relationship to broader structures of social relations. It also risks reproducing pejorative contemporary assumptions regarding the correlation between poverty and dishonesty, insofar as it implies that the prospect of profit played a significant role in securing the ‘questionable’ testimony of labouring witnesses.

This article explores the social relations and economics of deposing for one’s ‘betters’ in late sixteenth- and early seventeenth-century England – a period when demographic pressure, inflation, and, at times, successive harvest failures bit into the labouring population’s living standards. It looks to answer several questions not previously examined. How willing were labouring people to depose for their superiors at all? When reluctant to do so – even when they had been offered remuneration – what reasons did they cite in their efforts at avoidance? Where socially superior litigants compensated inferiors who gave legal evidence on their behalf, what sort of payments were involved and for what, exactly, were they dispensed? Where subordinated individuals deposed for their ‘betters’, what was the relationship between the ‘pull’ of economic reward and the ‘push’ of extra-economic coercion? In explicating the social-structural and material factors that could militate against labouring people’s deposing, override their reservations about doing so, and colour the contents of the depositions they gave, this article aims to make two broader contributions to our understanding of the period. It presents a markedly more pessimistic account of the social relations involved in common people’s

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<sup>12</sup> Wood, ‘Subordination’, p. 50. For more on agency and deposing, see Gowing, *Domestic dangers*, pp. 52-54; 234.

experiences of the increase in litigation.<sup>13</sup> It also reappraises a category of source – depositions – that historians have long regarded as providing singularly privileged access to the expressions of social groups that left little trace in the historical record.<sup>14</sup>

## I.

Records from the court of Star Chamber offer a means of exploring these issues. Among other things, Star Chamber dealt with crimes related to the perversion of justice, including perjury and subornation – respectively, swearing falsely under oath and procuring witnesses to swear falsely. Although its jurisdiction was theoretically broad enough to encompass offences which had occurred in any court, in practice it primarily handled perjury and subornation that occurred in the common law and equity courts.<sup>15</sup> After perjury became a statutory offence in 1563, there was an increase in the frequency with which it was alleged to have happened.<sup>16</sup> Thomas Barnes estimated that allegations of crimes against justice – including perjury and subornation – featured in some twenty-five per cent of Star Chamber suits from James I's reign.<sup>17</sup> No estimate presently

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<sup>13</sup> For comparatively optimistic accounts of litigation and social relations, see Muldrew, 'Culture of reconciliation'; idem., *Economy of obligation*; Brooks, *Law, politics and society*. For a recent critique, see Stretton, 'Written obligations'.

<sup>14</sup> For a recent reconsideration of depositions as a genre, see Falvey, 'Relating early modern depositions'.

<sup>15</sup> Although some contemporaries claimed that Star Chamber had jurisdiction over perjuries that occurred in ecclesiastical courts, others maintained that the ecclesiastical courts were responsible for handling such cases. For select contemporary commentaries on Star Chamber's jurisdiction over perjury and subornation, see William Hudson, *A treatise of the court of Star Chamber*, in *Collectanea juridica: consisting of tracts relative to the law and constitution of England*, vol. II, Hargrave, ed., (1792), pp. 1-240; Richard Crompton, *Star Chamber cases: shewing what causes properly belong to the cognisance of that court* (1630).

<sup>16</sup> For the 1563 statute, see Gordon, 'Perjury statute'; idem., 'Invention of a common law crime'.

exists for the court's comparatively under-used Elizabethan caseload, primarily because it is poorly catalogued and ill-suited to systematic analysis. Based on my own work with this series, there is reason to suspect that the relative percentage of suits featuring such allegations was comparable, if not higher. A sizeable – though indeterminable – portion of these suits were almost certainly vexatious. For those with money to spare, perjury or subornation suits could be filed either as a legal delaying tactic, as a move in a multi-pronged campaign of litigation intended to wear down an opponent, or as in effort to have a verdict from another court overturned.

Perjury and subornation litigation, and litigation arising from allegations of legal corruption more broadly, has received little sustained attention from historians of early modern England.<sup>18</sup> The material examined here is drawn from 70 Star Chamber suits, which resulted in a total of 579 depositions being given by witnesses from across the social spectrum.<sup>19</sup> For all the richness of its contents, two relative limitations of this sample should be noted. It deals only to the period prior to 1641, at which point Star Chamber was abolished. After this date, the

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<sup>17</sup> Barnes, 'Star Chamber litigants', p. 13. Barnes further estimated that twenty-five percent of Jacobean perjury allegations related to land. For a qualitative assessment of perjury and subornation's frequency prior to 1558, see Guy, *Star Chamber*, p. 27, p. 29.

<sup>18</sup> There is presently little secondary material on Star Chamber perjury and/or subornation litigation, especially from a social relations standpoint. I plan to publish more on this in the future, but for an orienting discussion, see Hindle, *State and social change*, pp. 66-93. For contemporary concerns about oaths in legal contexts, see Shapiro, 'Oaths, Part One'; idem., 'Oaths, Part Two'. For perjury in relation to politics, see Spurr, 'Perjury'; idem., 'Prophane History'.

<sup>19</sup> This subset is based on a larger sample of hundreds of Star Chamber perjury and subornation cases. The Henrician and Jacobean material (respectively, STAC 2 and STAC 8) was collected from finding aids. The Elizabethan material (STAC 5) was collected by my reading thousands of suits, as the series is catalogued only by the surname of the complainant. I have made a special effort to quote from depositions that did not simply reproduce the interrogatories which were put to witnesses.

common law courts re-acquired jurisdiction over perjury-related offences.<sup>20</sup> It also represents only one subset of perjury litigation, which might or might not involve accompanying charges of subornation: namely, cases in which there was a marked socio-economic disparity between those accused of perjury and the individual on whose behalf they had testified.<sup>21</sup>

The allegations in these suits fit a rough pattern. A gentleman (or, less often, a yeoman or merchant) is involved in a dispute with a relative peer. While the dispute typically involves landed property, it might also involve wills, debts, or miscellaneous other controversies. The dispute goes to court, and the litigant acquires one or more subordinates to testify on his behalf. These social inferiors might have a direct relationship of dependency to the individual who sought their testimony: they might be his servants, labourers, or tenants; equally, the two parties might have an *ad hoc* relationship born of the litigant's immediate need. The witnesses might recount their knowledge of details regarding the boundaries of some land, of a deed, of a will that had been altered, of a debt that had been paid, and so forth. A verdict is usually (though not always) secured in the 'suborning' superior's favour. The losing party in the initial suit then sues the witnesses (and possibly the superior) in Star Chamber for perjury (and possibly subornation).

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<sup>20</sup> Although perjury also technically fell within the remit of the common law's jurisdiction by dint of the 1563 statute, Star Chamber acquired the lion's share of the litigation. See Barnes, 'Star Chamber and the sophistication', p. 324; Holdsworth, *History of English law*, pp. 515-519. The post-1641 history of perjury prosecutions remains obscure, but for the 19<sup>th</sup> century, see Schneider, *Engines of truth*.

<sup>21</sup> Star Chamber also handled allegations involving perjured jurors and perjured individuals from other social groups (e.g. gentlemen). Significantly, some gentlemen accused of perjury were described as downwardly mobile, morally profligate, or some combination of the two. See TNA, STAC 5/D12/16; STAC 5/D7/2; STAC 5/T1/20. For allegations that jurors perjured themselves for rewards, see STAC 2/24/13; for a contemporary commentary on this category of offence, see Cambridge University Library (CUL), Mss.Ii.6.22, Anon., 'On the jurisdiction of the Star Chamber' (c. 1635). For a cursory secondary discussion, see Hamilton, 'Star Chamber and juries'.

The ensuing Star Chamber bill of complaint recounts common knowledge: people who work for their livings are poor and, as a result, will lie under oath for anyone who will compensate them for doing so.<sup>22</sup> The witnesses might be described as ‘idle persons’ who would depose ‘in any matter that should be required...eyther for a hope of gayne [or] a promise of recompense’.<sup>23</sup> They might be persons of ‘meane or no estate or abilitie’, the sort who lived ‘by the almes of the parrish’ and would testify for ‘mony and other promises’.<sup>24</sup> They might be ‘men geven to such devises [that seemed] moste meete to supplie there wante’.<sup>25</sup> They might be ‘men of nessytye and corrupt conscience [desiring] thire owne luker and advantage’.<sup>26</sup> They might be ‘men of lytle credyt or such as myght be p[ro]cured to testyfe anye thinge a man would haue them for a verye small matter’.<sup>27</sup> They might be the sort who would ‘for want of habilitye the more easelye by rewardes and fayre promyses [be] corrupted and brought to consent to every wickednes’.<sup>28</sup> They might be ‘lewd persons of loose lyfe and conversation, men for money and reward [who were] apt and reddy to sweare and take falce oathes’.<sup>29</sup> As the evidence previously provided by such persons is almost certainly bogus, the complainant requests that action be taken against them.

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<sup>22</sup> For conterminary comments in this vein, see Shepard, *Accounting for oneself*, pp. 133-145.

<sup>23</sup> TNA, STAC 8/153/25.

<sup>24</sup> TNA, STAC 8/71/14.1.

<sup>25</sup> TNA, STAC 5/W5/22.

<sup>26</sup> TNA, STAC 2/11.43-44.

<sup>27</sup> TNA, STAC 8/46/7.10.

<sup>28</sup> TNA, STAC 5/S3/8.3.

<sup>29</sup> TNA, STAC 5/M14/5.

This subset of suits allows for a reconstruction of the processes whereby labouring witnesses might come to testify for their superiors in the first place. In suits that advanced to the deposition-taking stage, the accused and witnesses of comparable social position provided accounts of their relationship with the litigious superiors in question, or commentaries on the perceived risks and benefits of giving evidence. They discussed the economic dispensations (or the promise thereof) which they had been given, or the coercion which had been used to extract their testimony. All of these accounts are of course partial (if not partisan). Whether the narratives provided by witnesses were strictly true or not, they had to be plausible, even recognizable, in the circumstances they described. This article is not concerned with sifting through the morass of claim and counter-claim in an effort at retroactive adjudication. Nor does it aim to establish whether the evidence provided by allegedly perjured witnesses in previous rounds of litigation was indeed ‘false’. Rather, the goal is to reconstruct the structural and material conditions under which labouring people testified for their ‘betters’ and their own understandings of these conditions.

## II.

For those who were dependent upon others for their livelihoods, being accused or found guilty of perjury was potentially no small thing. One seventeenth-century commentary on Star Chamber noted that the offence was punished ‘sometime by fine to his Majesty, sometime by pillory, sometime by whipping, sometime by losse of an eare or eares, sometimes by imprisonment, and sometimes by more of these punishments joyned together, according to the quality of the offence

or the person'.<sup>30</sup> In another's estimation, in 'some notorious offence as [perjury], the credit and testimony of the party is by the sentence forever disabled'.<sup>31</sup> The convicted were also barred from deposing ever again (not, one supposes, that the prospect of doing so would have been particularly appealing). In theory, if not practice, ear cropping or nailing was a socially-specific punishment. According to a 1630 notebook for Justices of the Peace, a perjurer would be fined '£20 and [serve] six months imprisonment...and if not worth £20 [he would] have his eares nayled to the pillorye'.<sup>32</sup> As recent work on probate inventories and statements of personal worth has demonstrated, £20 was beyond the means of much of the labouring population.<sup>33</sup>

Frustratingly, as the majority of its decrees have been lost, it is difficult to gauge the frequency with which corporal punishments were meted out by Star Chamber. Fragmentary evidence survives. In the late sixteenth century, a man called Bireham was convicted of perjury 'and because he openly acknowledged that he was not worth £20 he was enjoined to the pillory at Westminster and also in the country where the offence was committed'.<sup>34</sup> In 1597, Robert Pittes confessed to perjury in a suit in which he was deemed to be *in forma pauperis*. Pittes, 'being a poor man', was sentenced to have one ear nailed to the pillory at Westminster, the other nailed to the pillory in Somerset, and fined £40.<sup>35</sup> Some plebeians appear to have been resigned to the prospect of ear-related punishments being meted out to them. In the 1590s, a Cornish

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<sup>30</sup> Crompton, *Star Chamber*, p. 7.

<sup>31</sup> CUL, Mss.Ii.6.22, fo. 94r.

<sup>32</sup> CUL, Mss.Dd.14.3, fos. 122v-123r.

<sup>33</sup> For labourers' inventories, see Muldrew, *Food, energy*; for labourers and other occupational categories' worth, see Shepard, *Accounting for oneself*, pp. 35-81; idem., 'Poverty'; Shepard and Spicksley, 'Worth'.

<sup>34</sup> *Reports from the lost notebooks of Sir James Dyer*, vol. II, J.H. Baker, ed. (1994), p. 332.

<sup>35</sup> *Les reportes del cases in Camera Stellata, 1593-1603: from the original ms. of John Hawarde*, W.P. Baildon, ed., (1894), pp. 83-84. I have been unable to locate this case to establish Pittes's occupation.

labourer recalled encountering a husbandman called John Symon. During their exchange, Symon was chained to the door of the town hall awaiting examination about various crimes (including perjury) that he may or may not have committed at a gentleman's behest. The labourer asked: "What, are you here yett? Have not you lost your eares yett?" Symon 'laghed' in response to the question. Given that his ears were subsequently cut off prior to his being hanged, his laugh might well be described as gallows humour.<sup>36</sup>

Equally frustrating is the fact that, in the absence of contemporary comment on the issue, it is impossible to determine whether a stint in the pillory or having disfigured ears permanently dampened one's prospects. In discussing why punishments for perjury should be more severe, one late seventeenth-century writer breezily remarked that anyone with sufficient disposable income to purchase a wig was unaffected by the 'disgrace' occasioned by ear loss.<sup>37</sup> Labouring people felt otherwise. In 1613, a 'poore man' of unspecified occupation was in a Dorset alehouse discussing evidence he had given in a testamentary dispute. He supposed that while allegations of depositional impropriety posed no great inconvenience for those who 'lived of their owne', the situation was rather different for those who depended on others for their livelihood. Were he to be tainted by the 'shame' associated with perjury, he expected to be 'utterlie undone, for then noe man would entertaine [him]'.<sup>38</sup> If the details of private conversations that were subsequently recounted in depositions are taken at face value, the prospect of losing their ears occasioned

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<sup>36</sup> TNA, STAC 5/B84/15, John Hicke (deposition). For more depositions related to this case, see STAC 5/B107/24; STAC 5/H15/26.

<sup>37</sup> Anon., *Third commandment, an essay on perjury tending to prove that [it] deserves not only the pillory but a much severer punishment* (1685), p. 11.

<sup>38</sup> TNA, STAC 8/90/26.

considerable amounts of anxiety for some labouring witnesses.<sup>39</sup> If one had few skills in an overstocked and seasonally variable labour market that placed a premium on ‘honesty’, it is difficult to imagine that being physically marked as ‘dishonest’ did one any favours.<sup>40</sup> Indeed, in a society in which one’s reputation – a nebulous concept laden with moral (and moralizing) overtones – bore directly upon one’s material prospects, negative consequences may well have befallen labouring witnesses who were merely *accused* of committing perjury.<sup>41</sup>

That an undercurrent of disquiet informed labouring people’s thinking about the possibility of being accused or found guilty of perjury is supported by evidence which suggests that many were reluctant to depose at all. Their reluctance may well have been born of an awareness that doubt was likely to be cast upon their testimony by dint of their subordinated and dependant position, which lent credibility to accusations that they had sworn falsely for compensation. More immediately, it reflected concerns about the socio-economic repercussions that they expected to follow from commenting on the affairs of their ‘betters’. Here, deposing did not involve momentary empowerment or an opportunity to narrate themselves into the centre of a legal drama. On the contrary, the thought of testifying for one superior against another was a stressful proposition, and best avoided.

In imagining the possible outcomes of deposing, prospective witnesses made a number of calculations. Salient variables included their precise positions in their local social hierarchies, their places within networks of dependency and obligation, and how they earned their livings. In

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<sup>39</sup> TNA, STAC 8/83/18.

<sup>40</sup> For ‘honesty’ in relation to labour discipline, see Muldrew, *Food, energy*, pp. 298-318. For labouring witnesses emphasising their ‘honesty’ when scrutinized, see Shepard, *Accounting for oneself*, pp. 180-190.

<sup>41</sup> For credit and the ‘currency of reputation,’ see Muldrew, *Economy of obligation*, p. 3; pp. 148-172.

early seventeenth-century Nottinghamshire, a group of husbandmen and labourers noted – somewhat vaguely and formulaically – that they were ‘poore men’ and hesitant to testify for one gentleman against another in a land dispute for fear that the latter would subsequently ‘do them an ill turne’.<sup>42</sup> Others cited their precarious economic circumstances and dependency upon others for employment. In 1593/4, a tailor from King’s Lynn observed that ‘he was a poore inhabitant of the towne of Lynne where he gott his lyvinge’. If he testified for a gentleman against the mayor as requested, ‘he could never after inhabit there in quiet’.<sup>43</sup> In 1607, another Norfolk tailor – resident in Halstone – ‘refused’ to become involved in a suit (though he later deposed against the yeoman who had approached him about doing so). He justified his refusal on the grounds that ‘he was but a poore man and loth to bringe himself to trouble about anie matter in regard that he lived onely by his trade’.<sup>44</sup> In the early 1580s, a labourer, shepherd, and husbandman from Gloucestershire were asked by their neighbours whether they would give evidence in a dispute between two gentlemen regarding their respective claims to graze sheep on a piece of land. The trio’s knowledge apparently worked against one of the gentlemen, Henry Berkeley. Discussing the prospect of deposing, they allegedly made some variation on the following comment: they ‘durst not [speak their knowledge] because [they] held lande of Mr Barkley’. If they testified, they feared being ‘put besydes [their] lyvinge[s]’.<sup>45</sup> For individuals in these or similar circumstances, the prospect of long-term socio-economic damage was more significant than the offer of short-term gain.

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<sup>42</sup> TNA, STAC 8/197/5, Edmund Wymondfould (deposition). For similar suggestions, see STAC 5/R7/12.

<sup>43</sup> TNA, STAC 5/S37/28. For similar remarks about ‘living in quiet’, see STAC 8/186/27, John Lyme (deposition).

<sup>44</sup> TNA, STAC 8/145/21.3.

<sup>45</sup> TNA, STAC 5/J3/37, interrogatories for Richard Cole, Thomas Engels, and William Freeman.

Indeed, for some, the imagined consequences of deposing conjured up prospects of actual or social death. In 1599, a husbandman from Kirkburton (Yorkshire) sought to avoid testifying because ‘yf [he] should affirme such an untruth against Sir John Saville, he must eyther goe snagg a tree and hange him seelfe or run [the] country, for it were no living for him here’.<sup>46</sup> Earlier that decade, a widow from Garboldisham (Norfolk) who was threatened with a subpoena, said ‘that before she wold testifie anie thinge eyter against [a local gentleman] or anie that belonged unto him, she wold be torne in peces [by] wyld horses’.<sup>47</sup>

Significantly, statements about the anticipated consequences of deposing were often made by persons who were not accused of a crime. In some instances, witnesses were commenting on the testimonies of accused perjurers or recounting why they or others had refused to testify when asked. Many noted that the inconveniences that they expected to arise from deposing were not worth material or monetary rewards.<sup>48</sup> Some cited figures that were comparatively modest. Discussing an exchange in which a gentleman had asked him to testify, a Cornish blacksmith remembered having announced that he ‘would not saye [as requested] for all the good he was worthe’.<sup>49</sup> Others referenced fantastic sums for someone of their social position. In 1580, a Leicestershire labourer remembered a conversation in which he and a companion discussed how they ‘would not have taken sutche an oathe as the defendents did...for one

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<sup>46</sup> TNA, STAC 5/S10/16, John Saunders (deposition).

<sup>47</sup> TNA, STAC 5/B2/16, Thomas Barwick (deposition).

<sup>48</sup> For a witness who was later accused of perjury observing that he ‘had rather bene in debt of all that ever he had, that he had not bene soe deposed’, see TNA, STAC 5/G24/35.

<sup>49</sup> TNA, STAC 5/B84/15, Edward Richard (deposition).

hundred poundes'.<sup>50</sup> About a decade later, an Oxfordshire husbandman remarked that he would not have deposed as others had done for all the manorial lands in the area.<sup>51</sup> Such commentaries were often not obviously tactical; they did not accompany statements which were intended to discredit and cast aspersions on the integrity of those who *had* deposed. As such, they might be taken as comparatively disinterested examples of plebeian thinking about the figurative and literal price of testifying.

Labouring people understood that their testimony would not be given in a vacuum. As many suggested, the economic incentives *not* to depose often outweighed the incentives *to* depose. In their efforts to avoid testifying for superiors who approached them about doing so, many labouring individuals cited the negative socio-economic consequences they expected to befall them in the wake of their testimony. Some reckoned that, by dint of their dependency and subordination, saying anything at all about the affairs of those more affluent and powerful than themselves – especially if it was likely to be called into question – could be ruinous. Such projections were not merely the stuff of paranoid plebeian speculation. In 1601, a carpenter from Iver (Buckinghamshire) called Christopher Badger had put his mark to a statement defending the character of a gentleman, Arthur Wright. Wright had been sued for barratry by a faction of gentlemen and yeomen after he prevented them from imposing a stinting arrangement on the common to, as many locals claimed, the ‘damadge of the poorer sorte and to the comoditie of the riche’. Badger recalled that one of Wright’s opponents approached him and said: ‘You have had my woorke and the woorke of divers’ other pro-stinting individuals. To discourage Badger from

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<sup>50</sup> TNA, STAC 5/A15/39, Ralph Fodeme (deposition). For a similar comment, see STAC 5/C19/15; for a man saying he would not depose for £20, see STAC 5/W5/26.

<sup>51</sup> TNA, STAC 5/D12/16, William Curson (deposition). For prospective witnesses saying that they would not testify for ‘all the goodes in the world’, see STAC 5/G7/30; or would ‘not bee sworne for all this towne’, see STAC 8/139/12.1.

further involvement, he added a thinly veiled threat: ‘This might be an occasion that you maie have lesse worke then heretofore you have had’.<sup>52</sup> For members of the labouring population, material circumstance often militated against opening their mouths.

### III.

But if material circumstances explained why some labouring people were disinclined to become involved in the legal affairs of their ‘betters’, they simultaneously accounted for why others were susceptible to doing so. In suits where there was some pre-existing socio-economic relationship between superior and subordinate, one rarely finds suggestions that rewards or payments were offered in return for their ‘false’ testimony. Rather, details regarding material inducements (or promises thereof) more frequently appear in suits in which there appears to have been little or no pre-existing relationship between superior litigant and subordinate deponent. Otherwise anonymous members of the labouring population were transformed into valuable legal assets after details of their employment history and the knowledge that accompanied it had been divulged to their ‘betters.’ When a relationship developed at the former’s initiative, it was the result of a self-interested need to acquire witnesses to support a claim in court.<sup>53</sup> In such instances, material dispensations were lubricants which created a bond (of sorts) where there was otherwise none.

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<sup>52</sup> TNA, STAC 5/W17/32, Nicholas Bradwaye and Christopher Badger (depositions). Badger was also reminded that he had ‘but a little’ work from Wright; the implication being that he was more obliged to those who employed him with greater frequency.

<sup>53</sup> For estate stewards’ correspondence being used to reconstruct the processes involved in procuring witnesses, see Churches, “‘Most unconvincing testimony’”.

Subordinates could become ensnared in these instrumental relationships as a result of their neighbours' garrulousness. In early seventeenth-century Norfolk, a gentleman called Richard Browne was involved in a dispute with another gentleman, Thomas Holl, regarding a thirty acre stretch of heath in Heigham. Holl claimed that his ancestors had exclusive right to graze sheep there and had done so for the past eighty years. The controversy arose after Browne's sheep had been put on the heath. A weaver informed Browne of the existence and work history of Alice Goodson, an 'olde' and 'pore woman'. Goodson had been married to a shepherd who worked for Holl's father. As she recalled to Browne and later deposed on his behalf in King's Bench: 'her husband leavinge her to keep the sheepe in his absence willed her not to suffer the sheepe to feede uppon the sayd thirtie acres...for that her husbände thenn toulde her the sheepe ought not to feede there, but if they did that then it was but by leave'.<sup>54</sup> Holl subsequently sued Goodson for perjury. Similarly, when witnesses were needed to depose about the affairs of Thomas Hawker, a Somerset grazier who had 'absented himself from his credittors', litigants were reminded of the existence of John Pawpitt. Pawpitt 'had bin hyred and much employed by Hawker about his husbandrie...about the tyme Hawker became decayed in his estate'. Pawpitt was found, sent to London to testify, and subsequently accused of perjury.<sup>55</sup> He confessed to Star Chamber, but his punishment remains unclear.

Prospective witnesses' employment histories could also be divulged by their peers.<sup>56</sup> In the early seventeenth century, a gentleman called Thomas Bird came to Yorkshire's East Riding from his residence in Derbyshire to find witnesses to testify about a deed. Bird was apparently

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<sup>54</sup> TNA, STAC 8/181/26.1-2.

<sup>55</sup> TNA, STAC 8/139/22.3.

<sup>56</sup> For plebeians informing on their peers in political contexts, see Wood, "'A lyttull worde ys tresson'".

having difficulty doing so until a number of locals, including labourers, informed him of the existence of two labourers called Martin Woodhouse and Stephen Rokesby.<sup>57</sup> According to the informants, the pair might be able to say something useful: decades previously, in their youth, they had both been servants in husbandry to the man who had allegedly received the deed in question. A yeoman who witnessed an exchange between Bird and the informants later deposed that, in his estimation, this was the first time Bird had ever heard of the labourers ‘because he was so glad of the newes [and] did intreate [them] to enquire forth and helpe him to the speache of the labouring [men]’.<sup>58</sup> He eventually found the labourers (one of whom he repeatedly called by the wrong name) and convinced them to depose to commissioners from the Court of Wards and Liveries. When Woodhouse and Rokesby were subsequently sued (not once, but twice) for perjury, their peers’ indiscretion caused rifts to form within East Riding labouring circles. A yeoman recalled that Rokesby was ‘discontented’ with another labourer called John Hodson ‘for bringing him into the companie of Bird’. Rokesby told Hodson that he would have preferred never to have met him and would certainly not have accompanied him on a walk that resulted in his meeting the gentleman who made him testify.<sup>59</sup>

Elsewhere, litigants used social networks to identify and then locate prospective witnesses who had migrated beyond the area in which a dispute was taking place. In 1607, a gentleman procured a tailor from Cawston (Norfolk) to return to Potter Heigham to recount his

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<sup>57</sup> In this case and most others involving individuals whose occupation was listed as ‘labourer,’ there is insufficient evidence to establish the precise terms of their employment situation (e.g. whether they were hired by the day or on longer terms, the frequency with which they were hired by particular employers, whether they lived ‘in-house’, had access to commons / smallholdings, and so forth). For agricultural labourers, see Muldrew, *Food, energy*; Hassell Smith, ‘Labourers’; Everitt, ‘Farm Labourers.’ For urban labourers, see Woodward, *Men at work*; Stephenson, “‘Real wages’?”.

<sup>58</sup> TNA, STAC 8/83/18.4.

<sup>59</sup> TNA, STAC 8/200/17.7.

knowledge of land on which he had done occasional harvest work some sixty years previously.<sup>60</sup> The tailor deposed in Chancery and was later sued for perjury. In the 1580s, Edmond Tyrrell was attempting to reclaim the title to Columbine Hall near Stowmarket (Suffolk), which his father had sold decades previously. Tyrrell was alerted to the existence of a Colchester (Essex) labourer called Richard Barker. As a ‘boy’, Barker was in service at Columbine Hall. Tyrrell found Barker in Colchester; in the estimation of the gentleman who employed him, it ‘dyd seme as thoughe [Tyrrell] knewe not or had not any great acquaintance with [the labourer]’ because of the way that he addressed him.<sup>61</sup> Tyrrell convinced Barker to depose about a title he had allegedly seen change hands while tending cattle in his youth; the labourer was later sued for perjury.

If litigants used payments to secure the testimony of social inferiors with whom they appeared to have no prior relationship, what sort of sums were in play? Some suits involved what might be termed subsistence dispensations. In such scenarios, witnesses were promised, and occasionally received, comparatively modest compensation for their testimony. That such offers were reckoned to be appealing at all is suggestive of the precarious socio-economic positions in which many prospective witnesses found themselves. When they agreed to testify in such circumstances, their moral scruples or reservations about deposing often appear to have been eclipsed by the dictates of material necessity.

The ‘rewards’ of testifying might lessen labouring witnesses’ material burden by enabling them to secure needed consumables. One winter, a London labourer called John Codnor was approached by a dyer about deposing on his behalf in a testamentary dispute. Codnor

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<sup>60</sup> TNA, STAC 8/81/11, Richard Sweetinge (deposition).

<sup>61</sup> TNA, STAC 5/G18/2. For the protracted litigation involving Columbine Hall, see Copinger, *Manors of Suffolk*, pp. 231-234.

agreed, apparently with reservation, and was sued for perjury in 1606. According to Codnor's wife, Kathryn, the dyer's servant had brought an 'olde rugge or some other clothe to keepe [her family] from the colde' as they had 'nothinge to lie upon them on ther bed but a thynne blankett'.<sup>62</sup> Kathryn Codnor implied that this had been a charitable distribution unrelated to her husband's testimony. However, another labourer deposed that John Codnor told him that 'he had coles and wood given him by Parke to sey as he woulde have him'.<sup>63</sup> In 1612, Margery Ameris, a single woman from Woodbridge (Suffolk), recalled that she and a companion had once gone round asking 'for victuals and amongst many other places came to the house' of a gentlewoman whose son was involved in a dispute with another gentleman. In Ameris's telling, the charity they received was not without cost: the gentlewoman 'gave hir a peace of bread and willed them to speake the truthe concerning her sonne in this matter and tould her that she whould never want when she came to her doore but she should be releevd'.<sup>64</sup> Charity could be used to manipulate – if not coerce – the poor and to extract statements from them on future occasions.

Some labouring witnesses were induced to depose after receiving offers which promised a degree of self-sufficiency or a buffer against economic difficulties. In 1590, Joan Sadon was allegedly offered 'a cove by gyfte' to go to the Derby assizes and recount her knowledge of a deed she had seen sealed while she was in service.<sup>65</sup> In 1601/2, a Yorkshire labourer admitted

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<sup>62</sup> TNA, STAC 8/103/10.24.

<sup>63</sup> TNA, STAC 8/103/10.1. Wood – as against coal – was a comparative luxury for London's poorest inhabitants. Cavert, *Smoke of London*, pp. 25-28.

<sup>64</sup> TNA, STAC 8/139/12, Margery Ameris (deposition).

<sup>65</sup> TNA, STAC 5/G3/3, complainant's interrogatories. For cows' role in the economy of labouring households and estimates of the (declining) percentage of labourers who owned them, see Muldrew, *Food, energy*, pp. 250-1; Shaw-Taylor, 'Labourers, cows and common rights'.

that he had been offered a cow.<sup>66</sup> Others agreed to depose after receiving promises of secure long-term employment, notwithstanding their protestations that they had not witnessed or had no memory of the relevant incident. Rokesby and Woodhouse, the aforementioned Yorkshire labourers, were both ‘knowne to be aged’; the former was ‘somewhat lame,’ but ‘still able to doe a reasonable daies worke’.<sup>67</sup> They supported themselves by undertaking unskilled agricultural work for local yeomen. As Rokesby recalled, the gentleman for whom he testified told him that after a favourable verdict had been secured, he would ‘keepe cattell and bee kepte in worke winter and sommer’ and would ‘haue worke enough’.<sup>68</sup> In a world in which seasonal under- and unemployment posed considerable difficulties, such offers – especially for individuals on the far end of a labourer’s occupational life-cycle – were presumably not unappealing.<sup>69</sup> Other labourers’ accounts of their promised rewards might be read as fantasies about a life freed from precariousness and a future reliance on charity. In the 1590s, a sixty-year old Yorkshire labourer called John Harrison was procured to depose that he had seen a two-hundred-year lease (at an annual rent of 4*d.*) sealed and delivered some thirteen years previously. As he subsequently told Star Chamber, he had been promised that ‘he showld never lacke nor wante any’ thing if he testified. In the event, Harrison received a ‘harden [i.e. coarse linen] shirte,’ ‘6*d.* in money’ (presumably for lost wages), and trial for perjury.<sup>70</sup>

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<sup>66</sup> TNA, STAC 5/T9/38.

<sup>67</sup> TNA, STAC 8/83/18.12

<sup>68</sup> TNA, STAC 8/200/17.1.

<sup>69</sup> For under- and unemployment, see Wrightson, *Earthly necessities*, pp. 308-320.

<sup>70</sup> TNA, STAC 5/A12/16, John Harrison (deposition).

Such offers of security often failed to materialize. Indeed, many labouring defendants stressed that the only compensation they received was in return for wages lost on the day(s) that they had testified, despite the fact that they had been promised additional perquisites. For witnesses who had some form of steady employment, an arrangement may have been made between the litigant and their employer which enabled them to miss work in order to depose. But this was not always the case. Piecemeal evidence suggests that some employers sought to prevent (and perhaps shield) their subordinates from becoming involved in instrumental relationships with those who sought their testimony. One of the Yorkshire yeoman who employed Martin Woodhouse became angry with a man who met with the labourer on multiple occasions about his deposing. The yeoman allegedly threatened to sue him for ‘drawing his servant away’.<sup>71</sup> Perhaps the yeoman’s anger was occasioned by a sincere concern for the labourer’s wellbeing and an awareness of the annoyances which might arise from involvement. Perhaps it was born of his own annoyance at the prospect of being inconvenienced by the loss of the labourer’s work.

Accused individuals provided accounts of payments they received in exchange for their testimony. Rather than discussing undifferentiated compensations that were meant to cover the ‘charges’ associated with being involved in legal proceedings, they discussed payments in relation to their work. The aforementioned Norfolk widow Alice Goodson was initially given *2d.* for ‘the losse of her tyme and worke’ on the day that she walked the gentleman round the disputed land and recounted her knowledge of its boundaries and usage to him. After helping to secure a verdict in his favour, she was given an additional *6d.* for the ‘losse of her worke and no

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<sup>71</sup> TNA, STAC 8/83/18.

more'.<sup>72</sup> John Pawpitt, the Somerset husbandman who was taken to testify in London, was paid 20s. 'for the losse from his worke, duringe that tyme, he being a poore labouring man and not able to spare soe much tyme without great losse unto himself'.<sup>73</sup> Elsewhere in Somerset, in 1618, a labourer called John Shorte allegedly committed perjury for a yeoman when he accused an attorney of stealing £40 worth of his crops. When Shorte deposed in his perjury trial, he claimed that he had received no 'reward' from the yeoman, but had been given 6*d.* 'a daye from the tyme he went forth [to testify] untill his returne hoome againe, [he] being a labouring man and losing his worke'.<sup>74</sup> In 1607, a group of 'poore' and landless 'daily labourers' and octogenarian broadweavers from greater Gloucester deposed in support of a gentleman's claim to have right of way through a squire's land. Each was given 12*d.* – an admittedly generous wage, for the time and their age – on the day they testified, and one of the weavers 'had 12*d.* more than the rest in respecte...of the losse of his fellowes or servantes worke duringe his beinge at the assizes'.<sup>75</sup> For such witnesses, the 'rewards' of deposing were negligible; they had simply been remunerated for time that would otherwise have been spent in other forms of labour.<sup>76</sup>

Discussions of what, and how much, witnesses had been given for deposing could occasion controversy outside of court. When the accusations surrounding him evolved into something of a local imbroglio, a number of people insinuated that Rokesby, the East Riding

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<sup>72</sup> TNA, STAC 8/181/26.1.

<sup>73</sup> TNA, STAC 8/139/22, Richard Collier (answer).

<sup>74</sup> TNA, STAC 8/83/20.3-4. For a Kentish husbandman being paid 12*d.* because he 'lost his daies worke' when recounting his knowledge to a litigant in advance of a trial, see STAC 5/P13/4.

<sup>75</sup> TNA, STAC 8/92/7, Richard Bird and Richard Aston (depositions).

<sup>76</sup> For a carpenter and a labourer describing deposing as a form of 'labour,' see TNA, STAC 5/P8/21.

labourer, had received gifts from the gentleman for whom he had deposed. When another gentleman approached him on the street in Bridlington and suggested as much, Rokesby lost his temper. He said that Bird should ‘be hanged for he had not hyred [me] at all and [I] had neuer had any monie of [him] but one time 6 pence’, presumably in compensation for the wages lost on the day of his initial testimony.<sup>77</sup> Insofar as Rokesby and other witnesses received compensation that approximated a labourer’s daily wage, they were fortunate. In the 1590s, a Bedfordshire labourer was given a few pence by a gentleman for whom he had testified and told that ‘was enowghe for [his] dayes work’. But he reckoned that he was entitled to at least 4*d.* more because the amount that he had been given ‘was too littell because [he lost] that dayes worke’.<sup>78</sup>

It is of course possible that these details about their having received no payments in excess of their regular wages were tactically emphasized (or fabricated) by the accused in an effort to bolster their integrity and the credibility of the evidence they had initially provided. Such assertions might serve a dual function in court. On the one hand, they suggested that the accused were typically engaged in some sort of employment and were not (as was often implied) scrounging off the parish or idling away their time in an alehouse. On the other, they suggested that the accused had not corruptly ‘sold’ their testimony for reward; rather, they had deposed in good faith and received deserved compensation as a result. By emphasising such points, they may well have hoped to secure a comparatively lenient verdict. But at the same time, there is a ring of sincerity to these accounts of the remunerations involved in testifying. If litigants gave their socially inferior witnesses a few pence for lost wages, that was decent of them. They were, however, under no obligation to do so. Indeed, one labourer remarked that he expected to receive

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<sup>77</sup> TNA, STAC 8/200/17.14.

<sup>78</sup> TNA, STAC 5/W10/36.

nothing more than ‘a flappe with a ffox tale’ – a contemptuous dismissal – from the man for whom he had deposed.<sup>79</sup> Were litigants so inclined, they could employ more economical means to extract their subordinates’ testimony: namely, pressure.

#### IV.

Testifying for one’s ‘betters’ was often not about real or anticipated rewards. If remuneration in the form of missed wages was given to some subordinated witnesses for their testimony, others appear to have received neither promises of reward nor any form of compensation (however modest). To understand how other members of the labouring population came to depose for their superiors, we need to look to extra-economic factors.

Coercion (or the threat thereof) was more common in suits in which there was some pre-existing relationship of socio-economic dependency or obligation between witness and litigant. Indeed, such a connection was arguably necessary in order for the latter’s threats to be most effective; the personalized tincture of these relationships augmented whatever power litigants derived solely by dint of their superior socio-economic position. These pre-existing subordinate-superior relationships can be divided into a few broad categories: master-servant, landlord-tenant, and creditor-debtor.

Contemporaries considered testimony which was given by servants or tenants on behalf of their masters or landlords to be suspect. The ecclesiastical court lawyer Henry Swinburne outlined the logic underpinning these suspicions: ‘affection doth reach unto those witnesses which be...tenants, servants or of the household of the party producing them’. Where affection was not at issue, Swinburne supposed that ‘the feare of the tenant or servant at the displeasure of

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<sup>79</sup> TNA, STAC 5/P8/21, Robert Pitt (deposition).

his Lord and master' could serve a similarly compromising function.<sup>80</sup> Allegations arising from suits in which servants or tenants testified for their masters traded on such notions. One complainant's bill alleged that a servant called Matthew Skinner, 'a man of small honestie and less consyence', testified for his master regarding a neighbour's damaging £10 worth of his grain.<sup>81</sup> Another bill alleged that Sir Henry Long, 'a man of greate authoritye, myght and power' in Wiltshire, 'caused dyvers of his tenantes...and serventes to give feyned and untrue evydence' regarding a murder which he claimed another gentleman had committed.<sup>82</sup> A Norfolk gentleman who deposed for the complainant (also a gentleman) claimed that Elizabeth Costens had approached him and voluntarily confessed that she had 'forsworne herselfe against [the complainant]', before adding that she had been 'drawne and persuaded soe to doe by...hir mistris'.<sup>83</sup> Such examples could be multiplied.<sup>84</sup> That evidence of this sort was often provided by complainants or their privately produced witnesses arguably speaks as much to contemporary prejudice as reality.

However, other suits deviated from formulaic legal scripts in their level of detail, simultaneously providing a window into the pressures which could be brought to bear on recalcitrant witnesses and suggesting that contemporary stereotypes regarding the pressures that

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<sup>80</sup> Henry Swinburne, *Briefe treatise of testaments* (1591), pp. 187-188.

<sup>81</sup> TNA, STAC 5/C20/22, bill.

<sup>82</sup> TNA, STAC 2/18/1, bill.

<sup>83</sup> TNA, STAC 5/B2/16, Edward Barwick (deposition). Costen's case suggests that there could be a gendered pressure involved in subornation: Costen herself was approached about testifying by her mistress, Mrs Lovell, and her husband was approached by Mr Lovell. But the evidence does not permit a more thoroughgoing exploration of this issue.

<sup>84</sup> For allegations that servants, apprentices, or journeymen had perjured themselves for their masters, see TNA, STAC 4/2/39; STAC 4/3/24; STAC 7/7/6; STAC 8/75/8; STAC 5/T27/27; STAC 8/181/28; STAC 8/151/4; STAC 8/62/12.

could be involved in these relationships were not without some basis in reality. In 1579/80, a London draper's servant called William Lockett offered an account of the coercion that could underwrite paternalism. Lockett said that he had been pressured by his master, Robert Brydges, to depose about a debt which Brydges claimed to have paid. On multiple occasions, Lockett protested that he knew nothing about the debt in question. Brydges then told him: 'Thow muste remember howe I saved thee oute of Brydewell, where thow shouldest have remayned had I not [helped] thee. Therefore thow muste not denye me'. After this reminder of his figurative debts and a series of beatings, Lockett agreed to depose. Brydges generously told him that he would give him a statement to memorize and the 'leysure to learne the same'. Prior to his testimony, Brydges gave him 'a hatt ... to make him seame like an honest and substantiall person'. Discussing the deposition that was later called into question, Lockett remembered that he had 'stammer[ed]' while speaking, presumably due to some combination of nervousness and an inability to remember the exact letter of his script. His case suggests that blunt power could override prospective witnesses' attempts to act according to their knowledge and conscience: he had, as he remembered, 'resisted [his master] so nere as he coulde' in his efforts to avoid testifying.<sup>85</sup>

Elsewhere, witnesses' deliberate or unintentional noncompliance when deposing – for instance, deviating from the preferred script – could occasion post-deposition distress or backlash. A servant from Chester remembered the anxiety she felt after her master threatened to

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<sup>85</sup> TNA, STAC 5/P50/23, William Lockett (answer). For reluctant witnesses having physio-psychological difficulties when they deposed, see STAC 5/A45/11; STAC 5/F6/11; STAC 8/239/18. For stammering and social relations, see Taylor, "Branded on the tongue".

make her 'goe a begginge' because she had given evidence that was injurious to his cause.<sup>86</sup> In the 1570s, after deposing to Exchequer on his master's behalf, a man of unspecified occupation told a husbandman that 'he had his masters displeasure...for that he had said so muche as he did and wolde nott saye as others woulde saye'.<sup>87</sup>

Witnesses offered accounts of the processes whereby tenants might come to depose for (or not depose against) their landlords. In 1587/8, Roger Shorte of Kenwyn (Cornwall) was accused of suborning two 'Irishmen' of 'no creditt or accounte' to give false evidence about the title to land which a Mr Arundel claimed was part of his demesne. Shorte conceded that his witnesses had been suboptimal: in addition to their being 'alliens', he knew one to 'goe a begginge', while the other was 'but a scutter'.<sup>88</sup> But Short maintained that the pair had longstanding knowledge about the land; furthermore, he could 'gett no other hitherto to swear...in this matter that knowe it, but suche as are Mr Arundel's tenantes whoe will not or rather darest not to testifye against him'.<sup>89</sup> Elsewhere, tenants commented on deposing for their landlords. In the 1590s, an Essex yeoman recalled an occasion in which he spent thirty minutes overseeing two husbandmen he had hired to ditch his ground. He asked one of them, George Valliant, if he knew anything about the progress of a suit in which Valliant's landlord was engaged. Valliant replied that he did not and 'after a little pawse, fetch[ed] a great sighe,' before adding, 'I was once forsworne for my landlord, god forgive me for it'. When the yeoman said, 'the more shame for thee', Valliant again asked god's forgiveness and remarked that he would

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<sup>86</sup> TNA, STAC 5/G30/10.

<sup>87</sup> TNA, STAC 5/G40/40, John King (deposition). For a labourer who remarked that he would 'not bee suffered to putt in any answer excepte he wold make it as pleased' his master, see STAC 5/H49/10.

<sup>88</sup> The meaning of 'scutter' is obscure; it was likely a status or occupational term specific to Cornwall.

<sup>89</sup> TNA, STAC 5/A29/18, John Shorte (deposition).

‘never doe soe more for none of them all’.<sup>90</sup> Their understatement notwithstanding, Valliant’s responses speak volumes. They suggest a belief that *all* relations between husbandmen and their landlords were marked by a latent coercive potential. They suggest a degree of resignation to this reality. They also suggest that witnesses could internalize the blame for sins (that is, perjury) which they had been made to commit by dint of their socio-economic position.

Elsewhere, litigious creditors could leverage outstanding debts in an effort to extract testimony from individuals to whom they had loaned money. In 1591, Ralph Driver, a Kentish husbandman owed an unspecified debt to a yeoman called John Alchorn. Alchorn threatened to have Driver arrested if he did not testify on his behalf. Driver agreed – apparently going against his conscience – and was subsequently sued for perjury.<sup>91</sup> Ten years later, a Yorkshire labourer was sued for perjury after deposing at the assizes for one of his creditors.<sup>92</sup> William Hayne, a ‘poore man’ and ‘day labourer’ from Dorset who may or may not have been qualified to depose about a disputed rack of hay, was told by Ralph Harding, a gentleman who regularly employed him, that ‘yf he would not depose...[he] woulde put him in the shyre courte’ for a relatively modest debt of 12*d*. Hayne avoid testifying by stalling for time; when he went to Harding’s house to tell him once again that he did not remember anything about the hay and could not testify, Harding told him to be gone ‘like a knave as he was’, adding that he had already ‘gotten one to serve his turne’ at the Dorchester assizes. No information survives about this alternate witness’s occupational status or employment.<sup>93</sup> Given that he was apparently qualified to

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<sup>90</sup> TNA, STAC 5/A27/35, Jerome Gerrard (deposition).

<sup>91</sup> TNA, STAC 5/A45/11, complainant’s interrogatories.

<sup>92</sup> TNA, STAC 5/T9/38.

<sup>93</sup> TNA, STAC 5/T7/32, complainant’s interrogatories.

comment plausibly on the hay and Harding's sheep and cattle, he may well have been a similarly harried labourer.

## V.

In the last fifty years, historians of early modern England have tended to regard depositions as expressions of the 'voice of the people'. Of course, none would argue that these sources represent the literal 'voice' of the labouring population; they were shaped by the elisions and omissions of the clerks who transcribed them. By this logic, depositions are at best mediated approximations of the labouring population's speech and should be used with care. Furthermore, any analysis of depositions should be cognisant of the fact that they were frequently partisan statements that were intended to narrate the details of an event or a claim so as to render it plausible in the eyes of the court. Such caveats notwithstanding, most would agree that depositions offer singular insights into the sentiments and expressions of social groups that otherwise left little trace in the historical record.

But for all this sensitivity, another set of comparatively unacknowledged assumptions has informed historians' use of depositions: the 'voice of the people' is often employed as shorthand for the 'agency of the people'. Testifying in suits in which they were not accused of some wrongdoing provided subordinated individuals with a rare opportunity not only to speak, but also to make statements of consequence. On the one hand, deposing could provide labouring people with opportunities to craft narratives that manipulated the dominant ideas of their age to their own advantage. On the other, it could transform the anodyne knowledge of otherwise insignificant persons into something of import that might – however modestly – alter the course

of affairs. In valorizing the empirical possibilities presented by labouring people's depositions – and arguably the act of deposing itself – historians have been reluctant to acknowledge that these sources were inextricably linked to the structural and material conditions in which they were produced and the social relations to which those conditions gave rise.

As this article has sought to demonstrate, the early modern English labouring population had a keen sense of the politics of testimony. On one level, these politics were born of an awareness that – as a result of their social position – the evidence that they provided might well be called into question. On another, they were born of the calculations required to earn a living in a dynamic and exacting economy. As many prospective witnesses observed, whatever gains they stood to make by deposing for their superiors were miniscule in comparison to the material consequences which they feared would follow. These might result from the damage occasioned by acquiring a reputation for 'dishonesty', or from the actions of vengeful superiors whom they had 'wronged' by testifying against. Rather than creating opportunities for labouring people to assert themselves by speaking about the legal affairs of their 'betters', such considerations incentivized maintaining their anonymity, comparative irrelevance, and silence.

But there was an irony to the politics of testimony, which was not lost on the labouring population. If structural and material conditions made some prospective witnesses reluctant to depose for (or against) their 'betters', they compelled others to do so. In some instances, labouring people's poverty rendered the rewards – a bit of coal, a cow, work that was not dictated by the vagaries of seasonal employment, or nebulous offers of a life freed from want – that they were promised (and less often given) in return for their testimony appealing. In others, the dependency, subordination, and obligation that characterized the labouring population's relations with their "betters" necessitated that they speak as required, or risk the consequences. In

the face of such pressures, a given individual's reservations about testifying were all but irrelevant. If some depositions were expressions of the 'voice of the people', others were expressions of the blunt inequalities that underwrote early modern English society.

### Footnote References

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