

117 | **gendering markets, gendering food: women, law and markets in the New York City food system, 1800–1840**

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abstract

The history of market regulations provides an important perspective on the gendering of systems of food within the evolution of urban economies. This article addresses an important and distinctive period in this process, when New York shifted away from colonial and English-derived institutions in the first four decades of the nineteenth century. The legal status of women was unsettled during this time, introducing uncertainty into women's economic activities. New York City's public marketplaces were carefully regulated through a network of ancient and sometimes arcane laws that inscribed particular activities within well-defined spaces while prohibiting them elsewhere. While these laws were derived from traditional English practices, enforcement was becoming increasingly legalistic rather than customary. While these market laws did not specifically invoke gender, they produced a system that was less navigable to women due to their problematic status as legal subjects. Because the system's navigability differed by commodity, these laws significantly shaped the gendered identity of foodstuffs, such as meat and fruit. Carefully delineating these legal constructions allows us to better understand how women navigated the real and conceptual spaces of the food system, and to see how the changing legal realities of New York impinged on women's employment.

keywords

gender; law; markets; food

This article considers the impact of the legal construction of the marketplace on the gendering of food trades in the early nineteenth century. Since food was legally bound to the market in peculiar ways, this system of market regulation presumably had a significant impact on food culture. However, this has not been seriously considered by the literature on the gendered history of food in America, despite the clear linkages between gender, law and the market. This study focusses on New York City in the first four decades of the nineteenth century. This was an important period of transition in both the American economy and American law, which is well documented for the country's largest city.

gender and law

To understand the impact of market laws on women in early republican New York, it is necessary to take a step back and review the role of gender in the construction of legal subjects generally. Central to arguments over women's legal standing,¹ and also to questions of women's economic participation, is the doctrine of coverture. Coverture, in the Anglo-American law, was the loss of legal personhood upon a woman's marriage. 'By marriage', as the influential English jurist William Blackstone (1772, bk. 1 ch. 15, sec. 3) defined the system, 'the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband'. A married woman, a *feme covert* in legal terminology, was theoretically barred from property ownership or taking legal action without her husband's consent and participation. Coverture prevented a married woman from entering into a legally binding contract, which significantly restricted women's ability to buy and sell articles in the market. Both historical and contemporary feminists have identified these restrictions as central to the legal oppression of women (Stanton, 1881; Olsen, 1983; Wortman, 1985).

Coverture was, however, a legal fiction rather than a coherent system. Even under the theoretical system of coverture, unmarried women retained most of the legal rights of men, and in practice a variety of legal devices existed to extend these rights to married women who could make use of them. With an eye to the marketplace, the most significant of these were the institution of *feme sole trader* status and related borough customs. In some jurisdictions of England, most importantly London, married women who engaged in trade for a living were recognised as belonging to a special legal category, neither *feme covert* nor unmarried (*feme sole* in legal terminology). These *feme sole* traders were granted a single woman's rights to engage in trade, provided their husbands did not interfere with their professions (Salmon, 1986; Van den Heuvel, 2008). Beyond this formal legal category, many areas recognised by custom that certain married women engage in trade on their own behalf. In practice, there was no shortage of women trading in the marketplaces of Europe (see, for instance, Simonton, 1998; Phillips, 2006; Erickson, 2008), and legal systems adapted to this fact, at least in part.

This nebulous legal arrangement left female traders in a somewhat tenuous situation with regard to coverture. Coverture was not a monolithic institution, and 'served not to guide every transaction but

¹In both discussions of legal status and economic roles, the women discussed in this article are implicitly white. This is an unfortunate limitation, given that a large African-American population lived and worked in New York at this time, but their activities were largely constrained by a different set of legal and social restrictions that have not been well studied with respect to the food system. The intersection of race and gender in food-related occupations is an important area for future investigation.

rather to provide clarity and direction in times of crisis or after death' (Stretton and Kesselring, 2013, p. 8). Even where no formal legal exception to coverture was granted, female traders were not necessarily excluded (Tilly and Scott, 1978; Erickson, 2008; Schmidt, 2009; Schmidt and van Nederveen Meerkerk, 2012; Van den Heuvel, 2015). Coverture may, in fact, have presented certain advantages to married women in the marketplace (Hunt, 1996, pp. 138–139; McIntosh, 2005; Phillips, 2006, p. 55). All of these vagaries, however, possibly only increased the uncertainty surrounding women's economic activities.

The doctrine of coverture and its English manifestations were of great importance to women in early nineteenth century New York, because the first New York State constitution had established the English common law as the basis of all law in the state, thereby formally incorporating the English system of coverture into American law (Gunderson and Gampel, 1982; Salmon, 1986, pp. 44–45; Fernandez, 2013; Moore, 2013). As the nineteenth century progressed, this incorporation not merely of coverture but of the common law in its entirety, proved a key point of contention in New York legal politics. A rising tide of classically liberal sentiment objected to the feudal and medieval origins of the common law and argued that its doctrines were fundamentally at odds with the rights of individuals under a modern republican government (Rabkin, 1975; Basch, 1979; Speth, 1982). Coverture came in for particular criticism, at least with regard to property rights, with one prominent jurist and senator arguing that the system of coverture was so antithetical to the terms of the state constitution that 'the common law of England, by which the property of a married woman is taken from her and given to her husband, is not and never was the law of this state' (Hertell, 1839, p. 8).

Even as the doctrine of coverture was being questioned in the statehouse, New York women found themselves with few formal legal protections. While South Carolina and Pennsylvania had enacted formal recognition of *feme sole trader* status, New York women still relied on custom for the right to trade (Gunderson and Gampel, 1982; Salmon, 1986, p. 45). The existing legal safeguards for women seemed insufficient, and women felt insecure with regard to property and livelihood. Ultimately, New York would produce the most significant women's property legislation in nineteenth-century America, noteworthy both for its content and its mode of passage. While the New York campaign to extend property ownership to married women relied heavily on the movements to codify and modernise American law, unlike some earlier legislation in Western states, the New York law came about in part through the political action of women. The famed Seneca Falls Convention of 1848 was the most notable example, but Ernestine Rose and other activists had been working specifically towards recognition of married women's economic agency since the 1830s (Stanton, 1881; Rabkin, 1975; Basch, 1979; Speth, 1982). Despite the importance of this campaign in the history of American feminism, the law itself was still in many ways the product of legal paternalism cast in new economic language (Basch, 1979). This need to recast legal paternalism is an indication of a new economic and legal regime in the state. With the passage of a new, more liberal state constitution in 1846 and of the *Married Women's Property Act of 1848* (1848), it is clear that New York's period of transition out of colonial legal institutions was complete by the late 1840s.

During this period, then, what real impact did legal status have on women's everyday lives? While law seldom impinged directly on a woman's working life, it clearly had an important role in moulding the structures of that life. Women's activism against coverture and other economic restrictions makes it clear that they did not feel secure within the existing legal system. No matter how abstract or ill-enforced these laws may have been under normal circumstances, they could always be invoked *against* women (Stretton

and Kesselring, 2013). Most importantly, this system required women to approach the law *as women* in economic matters, a reality that the unique structure of the food economy in New York City rendered particularly salient. As will be discussed in following sections, this urban food system required traders to continuously navigate a particularly *legalised* set of norms during this transitional period.

food, markets and law

As with state law, the economic system of New York City in the early nineteenth century was a hybrid of European, particularly English, customs and emerging forms more readily identifiable as 'liberal' or 'capitalist'. On the one hand, economic activity was subject to the wide range of regulation found in English law. Market and licensing laws were strictly enforced, and a traditional assize of bread would be maintained into the 1820s. These were not simply artefacts of the incorporation of the English common law into the laws of the state. Traditional economic regulations were highly valued by the people of the city and were the subject of substantial political and legal activity (Tangires, 2003; Fisher, 2012). On the other hand, significant features of early modern European urban economies were not present in New York; most notably, guilds were totally absent. While many trades maintained the terminology and many practices of the traditional apprenticeship system, they had no corporate regulatory power. The important roles that guilds played in regulating European urban economies (Ogilvie, 2003; Crowston, 2008; Schmidt, 2009; Van den Heuvel, 2015) were thus either not present or assumed by the municipal government. These hybrid institutions significantly impacted women's ability to establish themselves in the food trade.

In early nineteenth-century New York, the market was central to all trade, but most particularly to the buying and selling of food, and the city's market laws were a key component of the food system. The 'market' referred to is not the modern economic abstraction but rather a very real place or, more properly, set of places, within the city in which the bulk of economic activity occurred. At least until the Civil War, these markets served as physical clearinghouses for almost all food products in the city; the locations where food passed from the farmer or his agent to the retailer and, in many cases, the final consumer. In abstract economic terms, these spatial concentrations were logical outcomes of the efficiencies gained by clustering similar or related economic functions—and markets retaining the role of centralised clearinghouses for food still exist in New York and many other major cities (Freidberg, 2004; Graddy, 2006; Cohen, 2010). The nineteenth-century food market, however, was not only central in terms of economic function; it had an important social centrality granted to it by both custom and law.

Traders went to the public marketplaces not simply for the efficiencies they presented, but because they were expected, and in many cases legally bound, to perform their duties there. The creation and control of public markets was one of the most important duties of early American municipalities, and the legal regulation of the economy took place in large part through this municipal control (Novak, 1996; see also McCluskey, 2005). The legal construction of the market brought forward a very old conception of the well-regulated public market as a bulwark of the poor, with a central emphasis on the 'moral economy' of food provision (Thompson, 1971; Tangires, 2003). This moralistic municipal market system was intended to facilitate a particular set of economic behaviours. Markets were heavily regulated in an

effort to drive out speculation and profit-seeking, with the understanding that these restraints on trade would produce preferable economic outcomes. While this system of regulation was incredibly complex and in many ways arcane, the particular restrictions it placed on the places of commerce and the persons engaged therein are especially important to an understanding of women's roles in the food system.

The old English common law that underlay much of early American law, particularly municipal law, placed substantial strictures on the places in which commerce could occur. The public marketplace was not simply a public space provided for the practice of commerce: it was the space in which commerce was legally sanctioned. Buying and selling certain goods, particularly essential foodstuffs, was prohibited outside the legally defined marketplace (cf. Blackstone, 1772; Tucker, 1803; Dane, 1823). Selling controlled goods outside of the marketplace warranted substantial fines against the trader. To purchase goods outside the marketplace in order to sell them again, seemingly an innocuous activity, was considered to be an even more serious crime known as 'forestalling'. Forestalling was such a serious offence against the public standards of economy that the City of New York excluded any individual who had been convicted of forestalling from the public markets and thus, effectively, from public trade (City of New York, 1845, p. 99). Taken together, these laws represented a substantial spatial regulation of trade that significantly shaped the food system.

Where the market laws regulated the spaces of commerce, municipal licensing regimes regulated the persons engaged in commerce. Licensing was taken very seriously and New York licensed an astonishing number of trades. The ordinances in force in 1845 include licences for keeping intelligence offices, taverns and junk shops; for driving hackney carriages, stage coaches or carts; for working as a pawnbroker, butcher, porter, handcartman or chimney sweep; and for dealing in second-hand goods, operating a dirt cart, soliciting customers for boarding houses and transportation lines, or selling charcoal, fish, fruit or vegetables from a cart or wagon (*ibid.*). The most significant licensing regime, as far as the markets were concerned, was that of butchers, which will be discussed at length below. This extensive licensing regime has a double significance to the current argument. First, it indicates that in the legally constructed world of the actually existing nineteenth century, economy traders did not meet as equals but as highly differentiated individuals imbued with different bundles of rights based on the various licences they had received from the municipal government. Secondly, by directly regulating the persons engaged in economic activity, the licensing regime imposed gendered legal categories onto the trade in food.

the markets of New York

The city government of New York exhibited its substantial commitment to the formal public market in several ways. The most visible of these was the city's investment in the physical infrastructure of the markets themselves. The public market system was one of the few physical components of the city directly controlled by the municipal government, and was perhaps second only to the streets themselves in defining the public space of New York. In fact, the Common Council (the city's central governing body during the period) saw the two systems as intricately connected, and planned the extension of the street network around the growth of the market system (Bridges, 1811; Beal, 1998; Tangires, 2003). The city was

conceived of as a series of comprehensible districts, each surrounding a market, with public thoroughfares designed to facilitate market access for both vendors and customers (Lemon, 1996, p. 114). This system reached its height in the 1830s, when New York was served by thirteen public markets (Imbert, 1833; Greene, 1837; De Voe, 1862).

While the market infrastructure represented a substantial municipal investment in the market ideal, the ordinances of the city represented an even more significant commitment to the legal construction of the market. The Common Council framed a set of market ordinances designed to standardise, reinforce and supplement the generalised market rules drawn from the common law. An omnibus market law for the city was included in the revised ordinances issued in 1833, which would be repealed and replaced by a new market law in 1839. This new law substantially reorganised and slightly emended the previous market regulations, only to be altered further in 1843 (*Laws and Ordinances*, 1833, ch. 2; City of New York, 1845, ch. 12). New York's market ordinances created a specific enforcement mechanism that straddled the boundary between formal and informal law. Crucially, enforcement was in the hands not of the courts but of the clerk of the market, an individual appointed by the Common Council and required to 'attend constantly in their respective markets, from sunrise to the close of the market, in order that the citizens may have it in their power to make known their complaints and to obtain redress' (Hardie, 1827, p. 184). In practice these powers descended to the individuals who were deputised by the clerk. These deputy clerks reported to the clerk, who in turn was required to report to the Common Council. These reports were little more than formalities, and enforcement matters rarely reached the Council. While the clerks' enforcement powers rested on formal law, the practice of enforcement generally happened in a face-to-face, informal manner which left substantial room for negotiation. The dollar amounts of the fines levied indicate that enforcement was taken seriously, but most issues were resolved on the spot without producing a paper trail.²

The market clerks could command substantial cooperation in an informal manner because they controlled access to the markets and, therefore, essentially to the food trades themselves. The trade in foodstuffs outside the marketplace was severely circumscribed by both law and custom. Vegetables, fish and most importantly meat could not legally be sold from a store outside the market. Eggs, cheese and some other dairy items were generally available, but these were in competition with fresher articles available in the markets. It was imperishable foreign goods—coffee, tea, sugar and spices—as well as liquor that supported the city's large grocery business. This made grocery stores notably unpopular among poorer New Yorkers, who viewed them as purveyors of luxuries and vices at prices not overseen by the watchful eyes that maintained the public markets (Eaton, 1813, p. 52; Greene, 1837, p. 188; Greenberg, 2008). While such stores could bring their operators good incomes (and seem to have been particularly popular sources of support for widowed women³), they were decidedly secondary to the market system in the city's food economy.

²Market records for New York City are incomplete, but there is no reason to believe that deputy clerks were required to make any formal report of their activities before they were ordered to do so by the Market Commissioner in the 1860s (*Thomas De Voe Papers*, 1837–1885; Tangires, 2003, pp. 134–156).

³In the 1812 directory, thirty-four of the fifty-five identified widows employed in the food trades were grocers (Longworth, 1812). Only fifty-six of 139 widows listed in 1834 were grocers, with the fruit trade (thirty widows employed) having gained in prominence (Longworth, 1834).

Outside of the formal markets, individuals could legally sell foodstuffs door to door or in the street, provided that they worked in conjunction rather than in competition with the formal market system. As long as peddlers were suitably licensed by the city, they were allowed to purchase goods at the market and then sell them again at a suitable distance, usually a few blocks, from the marketplace. It is difficult to estimate how substantial the impact of street selling was on the overall trade in foodstuffs. Street sellers loomed large in the popular imagination when it came to the food economy, spawning a substantial contemporary literature (e.g. Osgood, 1846; Robinson, 1854; Day, 1977 [1825]), but the state of record-keeping makes it almost impossible to estimate the number of peddlers or the volume of the trade they carried on. If accounts from other cities are any indication, however, it was substantial. Henry Mayhew's (1968 [1851]) study of the street trades of London estimates that more than 9,000 individuals made their living selling fruits and vegetables in that city in 1850. He further estimates that for popular fruits like strawberries, cherries, apples and pears, at least one-half of all produce brought to the markets was eventually sold in the streets by these itinerant vendors (*ibid.*, p. 80). Because these individuals were bound to the market system and its rules, they properly represent an extension of the marketplace. That extension involved a decidedly secondary space of trade, however, and as such proved particularly significant to female involvement in the food economy.

women and the food economy

To understand the role of women in the early nineteenth-century food economy, the structure of employment in the food trade must carefully be considered. Unfortunately, reliable historical occupational data for New York City during the period is rather sparse. Occupational data was not collected by the Census until 1850, and census takers would not be directed to collect such data on women until 1860. Early tax rolls were based on voter lists, and thus excluded many New Yorkers, including all women (Eichholz, 2004 [1989]). While the city's licensing regime was extensive, responses to petitions are recorded too infrequently to determine patterns of licensing. Despite their flaws, this leaves city directories as the most comprehensive sources on occupations during the period.

City directories were commercially produced attempts to catalogue the addresses of individuals in a given city; as such, they had a definite bias towards wealthier individuals with more permanent residences. They generally included limited occupational data on individuals, made available for commercial purposes, and thus had a pronounced bias towards heads of households and other individuals engaged in a public trade. Married women were usually not included, being implicitly included in their husbands' entries along with any children; however, single women serving as a head of their own household were included, particularly widows. The latter were helpfully labelled as such in Thomas Longworth's (1812, 1834) New York directories, the most comprehensive directories published for the city in the early nineteenth century. The following observations are drawn from Longworth's directories for New York in 1812 (the year of the city's new market plan) and 1834 (the year that plan reached its fullest development). Longworth adopted an active data collection model well in advance of his European counterparts, sending out agents to collect personal information door to door in a sort of annual private census (Longworth, 1812; Rose-Redwood, 2006; cf. McGeevor, 2014). This made Longworth's directory

representative of a larger portion of the urban population than English directories of the same period. Between one-fifth and one-sixth of New Yorkers were listed by Longworth, a ratio that remained remarkably stable over time. The 1812 directory listed 17,750 individuals, 18.3 per cent of the 1810 census population of 96,373 (Longworth, 1812). The 37,070 individuals listed in 1834 represented 18.4 per cent of the city's 1830 census population of 202,589 (Longworth, 1834). By contrast, the English directories used by Hannah Barker (2006, p. 51) in her study of female enterprise represented a much smaller portion of the populations of their respective cities; most represented less than one-tenth of the population, with none higher than 13.3 per cent and one as low as 1.9 per cent. English directories would not reach Longworth's level of representation until the 1850s (Burnette, 2008; McGeevor, 2014). While obviously flawed as a source on female employment overall, these directories begin to indicate the areas in which women could establish themselves in a trade, and as such provide valuable information on female livelihoods not otherwise available.

In 1812, there were 2,273 individuals listed as practising food-related trades in the City of New York (Longworth, 1812). Of these, only 126 were women, just 5.5 per cent of the total. By far the most common trade among these was grocer, accounting for 60 per cent of the women in the food trades (seventy-six individuals). By 1834, the number of people listed as working in the food economy had doubled, rising to 4,547, of whom 201 were women (Longworth, 1834). This growth in overall food employment lagged slightly behind the growth of both the directory (roughly 17,750 to 37,070, a 209 per cent increase) and the city as a whole (96,373 to 202,589, a 210 per cent increase). While the number of women employed had grown substantially, it had not kept pace with overall growth, falling to only 4.4 per cent of food employment. Again, grocer was the most common trade for women, but a number of other trades also had become prominent. Employment in the emerging restaurant business had become another important source of employment for women, perhaps helping to displace the grocery trade from its previous position of dominance. This reflects, however, not so much a change relative to women but rather the massive growth of the industry, which was just as pronounced among men.

These figures are particularly interesting when the distribution of employment among the various foodstuffs are compared (see Figure 1). In many respects, employment for women followed the same trends as overall employment in the food trades. Restaurant employment was slightly more prevalent among women than in the general population, while grocery employment was slightly less significant for women. The percentage of women involved in the baking trades was similar to their representation in the whole food economy. However, two areas stand out: trades related to meat appear to have been amongst the most important for men in the food economy, with only grocers and restaurants employing more individuals; in contrast, women appear to have been almost wholly absent from these trades in New York. In 1834, only one woman was listed as working with meat, a widow described as a sausage maker (Longworth, 1834). In 1812, the situation was similar, with a single widowed woman listed as a butcher (Longworth, 1812). By contrast, employment working with fruits and vegetables was much more common for women than for men. This was almost entirely due to female dominance of the fruit trade, with 75 per cent of all fruit sellers being female (fifty-one out of sixty-eight).

As most women acting as heads of households existed in a makeshift economy where household budgets were pieced together from many disparate sources of income (Hartigan-O'Connor, 2009), much food-related work being done by women already listed under other occupations in these directories may have

Based on listings in *Longworth's American Almanac: New-York Register and City Directory, 1834*

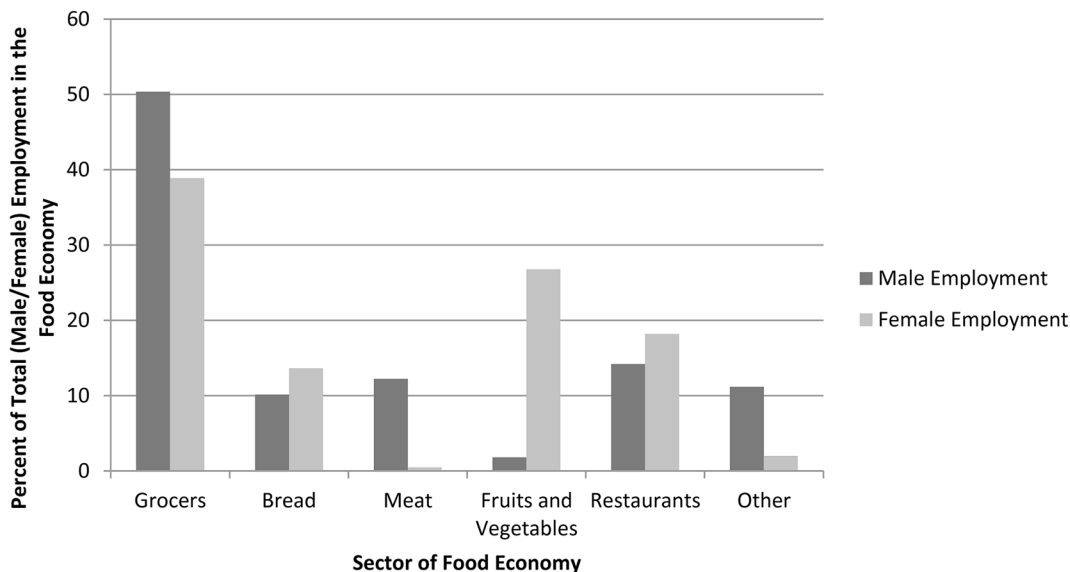


Figure 1 Division of male and female employment between sectors of the New York City Food Economy, 1834

gone unreported. But it is meaningful that these women were able to support themselves in these particular trades. A listing in the directory under a given occupation indicated significant stability, and areas in which women could thus establish themselves warrant particular attention. In a food economy dominated by men and masculine norms, trades like fruit selling were clearly particularly open to women, while others such as butchering were just as obviously closed.

the masculine world of meat

Why was the meat economy almost wholly male? The answer lies in large part with the particular legal landscape that defined the butcher's trade. Butchers were more tethered to the marketplace than any other trade. Both municipal ordinances and the more general market laws of the period required that fresh meat be sold exclusively in a public market. These requirements were taken quite seriously, even in the face of rising protests in the early nineteenth century. At least twice, challenges to such laws reached the New York Supreme Court, and both times they were upheld. In the 1811 *Bush v. Seabury* case, the village of Poughkeepsie had taken action against a trader for selling meat out of an open wagon in the streets, while in the 1833 *Buffalo v. Webster* case, a farmer had been convicted for trading a quarter of lamb for tea in a Buffalo grocery. The Supreme Court upheld not only these individual actions but such regulations broadly. 'The fixing the *place* and times at which markets shall be held and kept open', wrote the *Bush* court, 'and the prohibition to sell at other places and times, is among the most ordinary regulations of a city or town police', while the *Webster* court stated that 'Laws relating to public markets must necessarily embrace the power to require all meats to be sold there' (Novak, 1996, pp. 99–100). For a market infraction to reach the level of a formal court case was extremely rare, so the absence of comparable cases for New York City

is no indication of any difference in the law or its enforcement. Thomas De Voe (1862) reports occasional actions taken against traders operating in the markets without licences, and makes it clear that while the market committee may not always have been vigilant in prosecuting such offences, they did take them seriously. Having been petitioned to forgive the fines of two offenders owing to their poverty, the committee returned the opinion 'That as the conviction of persons is frequently attended with great trouble and difficulty, and as the laws should not be violated with impunity, your Committee reports against both' (*ibid.*, pp. 380–381). Both at the state and local level, the strict legal regulation of fresh meat was still fiercely defended. While the Common Council would allow for the 'private' sale of meat outside the public markets on occasion, this was clearly still thought of as a part of the regulated market system. To open a 'meat store' required explicit approval from the Common Council, including approval of the store's location. Justification for these approvals generally invoked the need to bring meat into residential areas not currently served by established markets, and the stores themselves were treated as satellites of those markets. The Common Council was still uncertain of these exceptions to the market rules, however, and from time to time would retract the privileges it had granted.⁴ Most retail butchers chose to remain in the formal marketplaces, where they rented stalls from the city. Of the 220 butchers in the 1812 directory, 143 (65 per cent) held individual stalls (Longworth, 1812). In 1834, the figure had fallen slightly to 61 per cent (220 of 357) (Longworth, 1834), a drop likely driven by the growing employment of assistant butchers by stallholders. The traffic that the markets attracted was an important factor in locating there, and it seems clear that butchers understood that certain markets, and even particular stalls within those markets, were particularly profitable (Fisher, 2012, pp. 244–245). Butchers with official stalls in the market were quite proud of them, and are listed with both their stall and their home address in the directories. They are the only food trade (and one of the few trades of any sort) to have separate places of work listed in the directories during this period.

This requirement to comply with city rules regarding place of business was only one part of the regulation of the butcher's trade. Additionally, every butcher had to be personally licensed by the city in order to practice their trade. The licensing process was heavily dependent on personal attestations as to a would-be butcher's character and ability, and thus was reliant on the personal connections of each candidate. To successfully obtain a licence, an individual had to be able to marshal an assortment of other butchers to speak in his favour (De Voe, 1862, pp. 360–361; Rock, 1989, p. 169). The system of apprenticeship practised in the trade provided some support for promising youth in this regard, but family connections appear to have been even more valuable. The trade was clearly handed down from generation to generation, and certain families are unusually prominent in the rolls of licensed butchers. In 1834, for instance, eleven members of the Underhill family, seven members of the Valentine family, and five members of the De Voe family were butchers, and the majority of butchers appear to have been related to at least one other butcher (Longworth, 1834). The importance of family connections points to changes internal to the apprenticeship system as the organisation of the butchering trade changed. Butchers with their own retail outlets increasingly employed assistants drawn from the growing number of other butchers who could not maintain their own stalls. Apprentices with connections typically secured their own businesses, while those without connections moved into wage labour for others, a system that

⁴See, for instance, the Common Council's vacillations over Peter Crawbuck's various attempts to sell meat outside of the market system (*Minutes of the Common Council of the City of New York*, 1917, pp. 8:482, 9:298, 393, 414, 10:577, 12:386, 465, 516). Helen Tangires (2003, pp. 71–94) has investigated the later battles over general extension of the right to sell meat outside the public markets in the 1840s and 1850s, and in so doing has uncovered a very different conception of the public/private divide.

clearly served to perpetuate multigenerational vocations (De Voe, 1866; Milne, 2002; 'Letter from Alfred Monroe, January 10, 1862' in *Thomas De Voe Papers*, 1837–1885).⁵

Given this situation, it is unsurprising that so few women worked with meat. Although New York had no formal rules preventing women from being licensed as butchers, the process, with its strict scrutiny of individuals and high social capital requirements, was decidedly unfavourable for outsiders seeking entry. It is surprising, in fact, that a single woman labelled as a butcher can be found. However, a closer examination of the circumstances of the woman—Elizabeth Crawbuck—further reinforces the general picture of the trade. Elizabeth Crawbuck was the widow of Peter Crawbuck, a long-time New York butcher, and the mother of Michael Crawbuck and Peter Crawbuck Jr., two other licensed butchers, and thus part of one of New York's butchering families. There is no indication that she was ever licensed during her brief tenure as a 'butcher', and there is no record of any request to the market committee regarding licensing or other approval. She seems, instead, to have continued the operation of her husband's stall during the remainder of its lease following his death. As long as a licensed butcher oversaw the operations, this appears to have been allowable under New York City law, and her family connections meant that she could draw on a number of individuals in this capacity. In fact, such situations occurred with some regularity. The following year, Peter Jr. appeared before the Common Council to complain that a particular stall he wanted to rent had been unfairly conveyed from another butcher's widow to her son (*Minutes of the Common Council of the City of New York*, 1917, p. 8:13). A few years earlier, in 1809, another butcher's widow had asked the Common Council for permission to move the stall where she was allowed to sell meat, as the old location was no longer convenient for her (*ibid.*, p. 5:609). The presence of these women in the butchers' market suggests that formal barriers to entry were more important to the exclusion of women from the trade than any expectation about women's contact with the work itself. During the period in which widowhood gave women a claim on entry to the meat market, attempts to exclude them do not appear to have been significant. Constructing a permanent claim to access under the regulatory system controlling the markets at the time, however, was not tenable.

Studies of European cities indicate the significance of New York's particular regulatory system on the exclusion of women from the meat trades. Female butchers were much more common in Europe, even in England where many of the same market laws were in effect (Tilly and Scott, 1978; Simonton, 1998; Ogilvie, 2003; Barker, 2006; Van den Heuvel, 2008). In contrast to New York, in fact, women working independently in food trades during the late eighteenth and early nineteenth centuries were more likely to work with meat than any other particular foodstuff (Barker, 2006, p. 66). European butchers' wives were more likely to work alongside their husbands (Tilly and Scott, 1978; Van den Heuvel, 2008), performing many of the tasks New York butchers assigned to apprentices or assistants. While this transition away from the household or family model of industry (*cf.* Davidoff and Hall, 1988; Hall, 1992; Hunt, 1996) helps to explain why relatively few widows established themselves as butchers after their husbands' deaths, it does not explain why those who did so failed to establish a lasting presence in the meat trade. These New York butchers' widows had social connections to other butchers and a pre-established stall, yet were either unwilling or unable to remain in what was a lucrative trade for their male counterparts. While their European counterparts could make claims on custom or guild rights (Montenach, 2013; although see Van den Heuvel, 2013), New York faced a municipal regulatory

⁵There is reason to believe that wage employment in butchering was further divided between those who assisted in the markets and those who worked in the slaughterhouses; African-Americans seem to have been limited to the last category (Milne, 2002).

scheme that encouraged competition between individuals for both licences and stalls. Burdened with legal and civil disadvantages, women were unable to compete in this liberalising system.⁶

the feminine world of fruit

Fruit selling was structured very differently than the butcher's trade. While both existed within the regulatory field of the municipal economy, the city's control over fruit assumed a trade that was much more open and dispersed than that in meat. The market was central to the trade in fruit, just as it was to that of meat, but that centrality played a very different role. There was an expectation that fruit would be initially sold at public market, with all of the market regulations that implied. Traders of all market produce, including fruits and vegetables, could be called upon by the clerk to either demonstrate their ownership of the produce or procure written authorisation from the owner allowing them to sell the produce. Failure to do so would lead the trader to 'be considered a forestaller in said market' (*Laws and Ordinances*, 1833, p. 28), and thus risking expulsion from the entire market system in addition to hefty fines. Such market regulations were taken as seriously for fruits and vegetables as they were for meat, and in 1819 at least one protest reached the Common Council complaining of the forestalling of vegetables (*Minutes of the Common Council of the City of New York*, 1784, pp. 10:484–485). Once fruit had formally passed through the marketplace, however, it entered a retail world entirely unlike that of meat. Fruits and vegetables were among the few foodstuffs that could be sold in the streets. As long as a cart was not used in the practice, no licence was required. In fact, fruits and vegetables were the only commodities that could be sold in the street without a licence from the market committee (*Laws and Ordinances*, 1833, p. 32). The transit of produce through the markets satisfied the city's desire for regulation in this regard.

This openness allowed for women to enter the trade in fruit in ways that they could not enter the world of the butchers. A woman with a small amount of capital and a willingness to spend a long day pacing the streets of New York could go to a nearby market and arrange with a fruit dealer to sell his or her produce door to door. There was no need to secure a licence from the Common Council, or to arrange for other fruit sellers to attest to one's character. While widows like Elizabeth Crawbuck might occasionally parlay their husbands' rights into a temporary place in the butcher's trade, a woman like the anonymous author of 'Needle and garden' (*Atlantic Monthly*, 1865), a multipart memoir of the strawberry trade published in the *Atlantic Monthly* in 1865, could simply purchase a basket and enter the fruit trade. If a woman did well enough selling fruit, or if she entered the trade with sufficient capital, she might move up the hierarchy and become a fruit dealer herself. The relatively light requirements to sell fruit in the markets facilitated this as well; it was necessary to rent a stall from the city but not to undergo the licensing process required of butchers. It is clear that some women did so, with nineteen of the fifty-three women in the fruit trade listed as proprietors of 'fruit stores' in 1834 (Longworth, 1834), and in time women became well established in the trade. By the mid-nineteenth century, one Philadelphia-based author found that the trade in fruits and vegetables in the public markets had 'become an inheritance of the poor women ever abounding in a great city' (*Atlantic Monthly*, 1865, p. 54).

It is possible that pre-existing stereotypes about fruit and femininity attracted women to this trade, but these do not appear to have been particularly strong at the time. The popular children's books

⁶This effect, in which a supposedly more open, liberal system functionally worked to exclude women bears some resemblance to the political paradoxes presented to women by the French and American Revolutions (Landes, 1988; Zagari, 2006).

illustrating street sellers and their 'cries', for instance, do not tend to depict fruit selling as a female trade despite the prominence of women in this area (cf. *New York Cries in Rhyme*, 1812; Wood, 1814, Osgood, 1846; Day, 1977 [1825]). The relatively low amount of economic and social capital required to enter the trade had a clear influence on women seeking to support themselves. In the well-regulated world of the early nineteenth-century economy, these requirements depended heavily on law, a fact further brought home by legislative attempts to further attract women to these trades. Support for widows and other single women was an important public question in early nineteenth-century America (see, for instance, Zakim, 2003), and the movement of women into self-sufficiency via the fruit trade appears to have been encouraged as one solution. 'Needle and garden' was written in large part to encourage this path; the author concluding that the fruit trade 'was so simple an art that any woman who had sufficient good sense to keep herself tidy could successfully practice it', and that 'the true reason why women had not engaged more extensively in this employment was because no one had taken pains to call their attention to it' (*Atlantic Monthly*, 1865, p. 57). This encouragement took a legal form as well. In 1839, the Common Council reset market fees with separate scales for men and women. Under the new system, the cost to operate a fruit or vegetable stall in the public markets was only 25 cents per day for women, half of the 50 cents per day that men were charged for the same privilege (City of New York, 1845, p. 105). While most of the lower barriers for entry to the fruit trade were accidental to the complexity of the market laws, this was a clear and paternalistic incentive to women. In such a regulatory environment, it is no surprise that women became strongly linked with fruit.

conclusion

The trade in foodstuffs in early nineteenth-century New York was highly gendered, with a particular concentration of women working with fruit and an almost complete exclusion of women from butchering and related trades. While many factors contributed to this, the enforcement of the market laws that structured the urban economy was of central importance. Although these laws only rarely invoked gender directly, the overall framework created was more navigable to women in some areas than others due to women's particular legal status at the time. Butchering, with a legal requirement to hold both a licence and rent a stall, presented a significant barrier to women's participation. The system that enforced these requirements demanded legal and economic agency which women had difficulty claiming, and even those women with relative access to the trade did not persist as butchers. These barriers were largely absent from the trade in fruit, making it particularly attractive to women and, eventually, a socially approved avenue for female self-sufficiency. In addition to shaping the economy of the city, the gendering of these trades may have contributed to the gendering of the foods themselves, which became strongly coded as masculine (meat) and feminine (fruit) in American culture (Innes, 2001; Parkin, 2003). The ways in which regulation of the food system shaped the complicated ways in which women have negotiated their gendered surroundings thus give us insight on continuing legacies in food consumption and suggest new avenues for research on in the interplay between gender, identity and the food system.

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