Bulletin of the Peak District Mines Historical Society. Vol.10, No.4, 1988

THE HISTORY OF CUSTOMARY MINING LAW AT GRASSINGTON IN YORKSHIRE.

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Abstract: Within the context of early mining in Yorkshire, Grassington was a recent development. The orthodox model of its origins, which stresses links with Derbyshire, is questioned and the ties with Swaledale and Greenhow emphasised. The evolution, and eventual abolition, of Grassington's Barmoot system is examined and an alternative model proposed.

There are earlier indications of lead mining in Yorkshire, but a Royal Mandate of 1219 confirmed the Crown Protection which Northern miners had received from Henry II and Richard II and, when this was repeated, in 1223, Yorkshire was included (Record Commission). It is thought that this was a reference to Swaledale. There were two small King's Fields in Yorkshire, however, one at Grinton, in Swaledale, and the other on Forest Moor, in Nidderdale. The latter was thought to be of no significance but reinterpretation of monastic boundary disputes shows that it must have included the rich veins on Greenhow Hill (Raistrick and Jennings 1966 p33; Yorke MSS; Borthwick MSS). There is no evidence for a body of Customary Law at either Grinton or Greenhow but both produce references to "long established Customs of the Field".

From the mid 17th century, it was common for the Lord, or his farmer, to work the Swaledale mines directly, with a Steward in charge. Greenhow became part of the private liberty of Bewerley, during the 16th century, and followed a similar pattern, leaving Forest Moor with no large mines. The Appletreewick liberty, in Wharfedale, which was never a King's Field, had Yorkshire's first known Barmaster in 1617. A Barmoot was held in 1670 (Jennings 1967).

T.D. Whitaker, the antiquarian, established the orthodox model for the origin of mining at Grassington when he wrote that "he could find no evidence of mining prior to the Reign of James Ist when, from circumstances (one in particular which I do not hold myself at liberty to disclose), I believe them to have been first undertaken, and principally, by miners from Derbyshire" (Whitaker 1812 p560). This statement agrees with the start of mining, in 1604, and it has been used to support the introduction, by those miners, of the Customary Laws. In 1605, a few Derbyshire miners worked at Grassington for a while and, in 1630, the smelter was described as "William Badger, a smelter of Darbishire, but of late by me employed in the Earle of Cumberland his workes in Yorkshire" (France 1951 p95).

We must not be beguiled by this, however, because a study of land holding in Grassington shows that most of the early miners were from local families (pers. comm. R.T. Spence). Moreover, George, 3rd Earl of Cumberland, who owned the mineral rights at Grassington, and Philip Wharton, later the 3rd Lord Wharton, who had rights to minerals in large tracts of upper Swaledale, were great friends. Furthermore, Wharton married the 3rd Earl's sister, Frances Clifford (Spence 1959 p5). From the fore-going, it is clear that the Earl could have sought miners within Yorkshire, from either the Greenhow area or from those employed by Wharton, in Swaledale, to work at the Grassington mines. Family reconstruction confirms that, in the 18th century, miners migrated between Greenhow, Grassington and Swaledale.

The first known Barmoot at Grassington was in May 1642 but its confirmation of a fine is proof that it was not the first (Raistrick and Jennings 1966 p111f; Yorke MSS). We can only speculate on why the laws were codified but the Earl espoused the King's cause in the Civil War and it may be that the men sought to have their customs confirmed. At the court, the miners recognized the Earl of Cumberland as Mineral Lord and set down twenty basic laws for determining the rights, privileges and obligations of each other. The Grassington laws are similar to those of Derbyshire or Mendip, which has led to the latters' classification as an interesting, but inferior, version of the former (Raistrick 1936). It is strange, however, that men coming from Kings' Fields could only remember twenty crude laws when they must have been familiar with a greater number of sophisticated ones. The Great Barmoot held at Wirksworth in 1655 recorded fifty-nine articles and, by 1687, there were 106 Mendip laws! The term "by right and custom" in the second item suggests that Grassington's "new" laws may indeed have been based on vestigial ones. Title to ground was given by the Barmaster's measuring two meers, each of 21 yards, and receiving a dish of the first ore. Because the Lord ran the smelt mill and took duty in pig lead, rather than ore, there were covenants (Nos. 6, 16, and 18) which are not common in other areas. The somewhat anomalous status of females within mining law is interesting and, at Grassington, the term "man nor woman" was included in two items. Versions

elsewhere are drafted in the masculine but it is clear that this did not preclude women from becoming shareholders in, or owners of, mines. Whatever the practice, mining shares and profits were inheritable and dowerable, remaining at the disposure of the wife. There are several examples of women with large share-holdings at Grassington, plus others who worked wastes for themselves. The Earl of Burlington inherited the liberty in the 1660's and, despite a gap in the archive, it is clear that the laws underwent an unrecognised evolution. About 1680, the common system for allocating ground, whereby the first finder of a vein got two meers, with the next meer reserved to the Mineral Lord, was adopted. The meer was increased from 21 to 30 yards, which was used in Swaledale. Duty was decreased, from one-third to one-fifth, with no apparent diminution of the Earl's obligations, and, on the 12th June 1634, several persons forfeited their meers for not working them effectively (Raistrick MSS).

When, in 1703, the miners complained that Lady Bridgewater was monopolising ground under a lease formerly granted to the Marquis of Winchester, later Duke of Bolton, they had recourse to the Burlington's Steward, not a Barmoot. The Duke of Burlington was the first known major adventurer from outside the liberty. He had an extensive grant of unknown veins and, in 1683 he asked the Earl of Burlington for an extension in the term of his lease to 100 years. The Duke also had extensive mining interests at Hurst, in Swaledale, and owned large parts of Wensleydale.

The agent's answer was, nevertheless, to restate the supremacy of the Laws & Customs (Anon. 1980; Bolton MSS). Output increased after the settlement but it soon declined and remained low throughout the 1720's. A Barmoot, of which no memorandum survives, was held in 1719 suggesting that problems may have arisen. This is supported in 1729, when a court was to have been held "with the intent to settle all disputes of this nature and have an inquisition taken by a jury of 9 miners as a future rule in all such cases" (Chatsworth MSS). It never took place, however, and when a serious dispute arose, in 1731, about the rights to title of grants on Ripley and Castaway Veins, the Barmoot was unable to impose its authority.

The above dispute, which has been outlined by Raistrick, showed that the rich adventurers were inclined to resort to the Court of Chancery, at York (Raistrick MSS). In 1737, however, a set of thirty-three laws, based on those of 1642, was agreed. Some of the original items had been split-up and made more precise, whilst most of the new ones dealt with the procedure for calling and holding a Barmoot. The laws were published under the title Rara Avis in Terris and applied to all the Burlington liberties within the West Riding of Yorkshire. Other Wharfedale liberties adopted similar laws, but Rara Avis did not apply to them because they were owned by the Freeholders or by individuals, as Trust Lords.

In **Rara Avis** the new covenants are mainly administrative and could be the work of an attorney. Two lists of potential jurors show that, in addition to men from the Earl's liberties, some prominent agents and stewards from Swaledale and Greenhow were considered (Falshaw MSS). None were from outside Yorkshire. Examination of the list of twenty-four jurors who attested the Barmoot's verdict shows that fourteen came from Burlington liberties and the other ten had local names.

Raistrick held that the re-assertion of the Mineral Laws did not promote a period of peaceful exploration and work (Raistrick 1968 p5). This, however, over-emphasises the effect of disputes amongst an avaricious few and ignores the majority of adventurers who respected the rules. For a time, an ambitious new Barmaster, called Soloman Bean, put affairs on a more rigorous footing. The standard of record keeping improved and a note was kept of all new grants, forfeitures etc. Bean came from the Ripon area, where his family were land agents, and may not have had experience in mining. His name does not appear in the list of Yorkshire Stewards mentioned above.

No Barmoots were held until 1762 but all was quiet until the mid 1750's when rich finds were made at Coalgrovebeck and Coalgrovehead. These, and the high price of lead, increased pressure for shares in grants, be they new or old, as emulatory speculators attempted to benefit. For the unscrupulous, this was all too easy because, following the Earl's death, the Burlington estates were in limbo and their new owner, the Earl's grandson and the Duke of Devonshire's eldest son, was a minor.

The crisis came in 1760, when a case of working by trespass was brought and the regulatory system faced its first major test, which showed its failure to cater for more comprehensive working of the mines. From December 1760, when the discharge was issued, the behaviour of the Earl's Steward was said to be partial (Oakes Deeds). It was claimed that one company was discharged but not the other and that he ignored the Lord's order to do so, as he did one to sequester all ore raised in the disputed ground. The atmosphere of distrust was such that the Barmoot of April 1762 became the subject of alleged subornation, perjury and other malfeasance. Once again, contrary to the 32nd covenant (No.3 in 1642) of **Rara Avis**, matters fell into the hands of lawyers and went to Chancery.

It was not until July 1763, that a hearing, at York Assizes, agreed on the appointment of three arbiters; two by the court and the third by the Duke of Devonshire. The arbitrament was made in December but it was rejected by the defendants, who countered by taking out a bill of complaint against the original plaintiffs. Preparations for a fresh, or resumed, trial were being made early in 1765 (Raistrick MSS; Raistrick 1963).

The Marquis of Hartington became Lord of the Field in 1764 and was a contrast with the Burlingtons who, perhaps through lack of interest, had seemed unable, or unwilling, to sort out the problem. A new Barmaster, George Bradley, was appointed in May with orders to set matters straight. His report on the field was critical of earlier practices. From it, we learn that there had only been one Barmoot, in 1762, "these 20 years" and that the whole moor was claimed, but not one tenth of it was being worked (Oakes Deeds). Not one mark of possession was to be seen on all the meers claimed, making it impossible to grant new meers safely, though a recent survey of the moor revealed 155 such meer stones (Raistrick 1963). It concluded that "For want of these or some better regulations Grassington Liberty is in the utmost disorder, and the disputes that are now subsisting, seem only to be the beginning of troubles; it is much to be wished that whatever disputes may henceforward arise, that they might be determined by the Lord or his Steward or the 24 from this liberty, without calling in other people, or going into any other court".

After the first discharge, the Steward imposed a moratorium on all new grants of ground, which lasted for 15 years. This gave Sir Anthony Abdy, the Duke's Accomptant, time to devise a plan for the future conduct of mining, which would rationalise the grants (Chatsworth MSS; Oakes Deeds). The views of the adventurers were sought on proposals for them to surrender their old ground and take up fixed-term leases. As an incentive, the quarter cord was extended to 75 yards. New, administrative covenants were added but, with the exception of the fixed-term, the lease was very similar to the customary laws. As a formal contract it could be rigidly enforced, however, and was a more precise way of regulating affairs. From 1774, the old partnerships began to surrender and retake their ground on the new conditions. It was quite clear that, whilst the adventurers were invited to contribute to the detail of the leases, the nature of the new regime was such that their introduction was never in question.

Lead mining in Yorkshire has a long history but the only evidence of Customary Laws, before the 17th century, is the vague declaration of royal protection. Without laying too much stress on etymology, the miners' terminology is very similar to that of other areas where such Customs were known. The meer and fodder both appear, but are of quite distinct values to those used elsewhere. At Grassington, with the exception of capital, after 1774, no strong link with Derbyshire has been identified. On this basis, a new, as yet untested, model is emerging, which sees the early lead mining industry of Yorkshire as much more independent than has hitherto been imagined.

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DISCUSSION

Q. (Lynn Willies) When you say that the links between Derbyshire and Grassington were only through capital, is that not of great importance?

A. The Duke of Devonshire introduced leases after 1774 and the adventurers were not in a position to change anything. At that time, it appears that Derbyshire entrepreneurs were encouraged to take up ground. Hitherto, capital had mainly come from fairly local sources. The increase in the size of grants was an encouragement to activity but the mines had already been strangled under the meer system and badly needed an adit.

Q. You mentioned mining in Nidderdale and that the gritstone there was essentially barren.

A. Most of the ore at Grassington was raised from the Grassington or Bearing Grit with only a small part from limestone. At Greenhow, there was a mix but much of the ore came from three limestone domes. The core of one of these, at Coldstones, is still being quarried. Gillfield and Cockhill Levels were both driven through steeply dipping grits and shales but the workings were in limestone. At Merryfield Mine, however, most of the ore came from the grits and only the very deepest levels were in limestone.

Alan Williams drew attention to the old mining laws in North-East Wales. W.J. Lewis had said that after the Black Death there was a shortage of miners and, in 1352, the **Laws and Customs of the Mine** were written in the Black Prince's Register. The laws appear, however, to have been fairly short-lived.

Q. (Jim Rieuwerts) The various lengths for the meer that you give are interesting. For example, in Swaledale it was 30 yards. Have you any suggestion why it should originally have been so short at Grassington (21 yards)? In Wales it was 22 yards (67 feet). Are we certain that the yard was a constant unit because the mile was not.

A. Yes, the constancy of units is an interesting problem. For example, at Grassington, a ton of pig lead was 20 pieces, each with a nominal weight of 123 lbs. It may well have been that the yard varied likewise. The similarity of many Yorkshire units (the meer at Grassington and Swaledale was 30 yards. At the former, a ton/fother was 2460 lbs and in the latter it was 22 cwts or 2464 lbs) does not readily support diffusion of mining practice or laws from Derbyshire.

Q. (Roger Burt) Clearly, in that case, mining laws developed independently in different regions. What are the factors that permitted this to happen? For example, there must have been an administrative benefit to the Mineral Lord who handed over control to the people who actually worked the mines.

A. Yes. This must have been especially so in remote areas like the North Pennines. Most of the Mineral Lords in Yorkshire either lived close by or had large estate outposts, like the one at Bolton Abbey. The small degree of autonomy which it gave the miners probably encouraged their enterprise and compliance.

Q. Why do you feel that miners did not diffuse knowledge?

A. I do not rule it out as one mechanism for spreading knowledge. The wider argument for diffusion is, however, a cop-out. Basically, it saves one having to justify the invention and adoption of, say, a particular technique by saying that it was imported from elsewhere. This may be Germany, as with blasting and stamping. I have looked for evidence of the influence of Derbyshire on the Grassington mines and can find very little until the 1770's. Before then, the Bagshaws had some interest, which was inherited from a local man called Drake. When the latter died, his estate passed to his godson, who was one of the many William Bagshaws.

Q. Given that individual areas faced similar problems, very few people were involved and the absence of any centralised body of law that was acceptable or affordable here was a way of regulating it, something that worked.

A. The few workmen who came to Grassington from Derbyshire were miners, not managers. They were paid a lodging allowance and there was no general infusion of labour. There were long established mining fields, within Yorkshire, at Swaledale and Greenhow. Furthermore, there was a family connection. The Earl of Cumberland was Lord Wharton's (owner of large parts of upper Swaledale, including the Old Gang) brother in law. So why did they need to look outside the county for expertise?

Q. In all areas there is mention of ancient law. If it did not ultimately diffuse from Derbyshire then where did the law come from? It does not stop one's speculation.

A. Yes, the laws in Derbyshire, Yorkshire and elsewhere are undoubtedly old and their origins must always be a nagging question. Perhaps today, we will learn of similar German or Roman laws but we must not take the easy option of assuming that the English laws were brought here by their miners. Mining historians in each country must construct an accurate chronology of their laws and only then will it be permissible to propose diffusionist or other models.

Q. The Duke of Devonshire is also the Earl of Burlington - they are the same man. Therefore, the estates which the Duke of Devonshire had in Derbyshire and Yorkshire would have employees in common.

A. Richard Boyle, the 'last' Earl of Burlington, died in 1753. The estates were run by his wife until her death in 1757 and then they passed to his daughter's son, who was also the Duke of Devonshire's son and called Cavendish. The Burlington title appears to have been resurrected in the early 19th century. They are now, therefore, the same person but during the period in question they were two separate and distinct families.

Appendix: **BARMOOT LAWS IN GRASSINGTON, YORKSHIRE, 1642**

This 19th of May 1642

Wee Whose Names ar Under Written Doe Find Henrie Earle of Cumberland to bee Chief lord of the Manner and Myns of and with in the lordsheep of Grissington: and Mr Pulman to bee barmaister within the afforsaid Myns and Gorg Smeth to be Debitie Barmaister.

1. Ytem wee set Doune that the Myners shall have but 21 yeards to His Maier and Further if any myner will Make their venter not to wronge my lord. nor any that is in possessyon and otherwys adjoying to bee free and further opon their ferst ure Findeng to have their ground messurd by the barmaister and hes to have a desh of the ferst ure that is gotten and the ferst finder of any new vaine to have 2 mairs of length set forth by the barmaister.

2. Ytem we set Doune that Every Workeman shall follow His warke after they have begune according to Reight and Custom whearby the worke may goe forward and not the worke stayed by any partner without good Cause and to the Judgment of workemen.

3. Ytem Wee set Doune that noe Myner shall sue one another Nether for Dept nor trispas Which may faull among them selves concerning the Myner but in the barmot Court upon paine of everie such default xx s.

4. Ytem Wee set Doune that it shall bee lawfull for any man to sell Hes Worke to any man without an Danger to ether them that byeth or heem that selleth being freed from the barmaister and according to law and then to acquent the bar Maister therwith.

5. Ytem Wee set Doune that Noe Man Conseall any lead Whear by to Wrong the lord or the workes or Workemen in paine of everie such Default xx s.

6. Ytem We set Doune that the barmaister shall keep true and lawfull weights at the melne and not to alter them to wrong the myners With out consent of this jurie in paine of ever such Default xx s till next court.

7. Ytem We set Doune that Noe Man shall take any other Mens toules from his work without the owners lysence in paine of everie tyme soe to take them iijs iij d.

8. Ytem We set Doune that Noe Man shall absent heem self from his worke to the lose and Hendrans of his partners but shall come with in thre weeke tyme and make his account and paie his Charges for his absence or else forfeet his part to his partners.

9. Ytem We set Doune that Noe Man nor Woman shall purchas in any Mans ground With out leave of the owners of that worke in paine of everie such Default x s and to be put out of those lyberties.

10. Ytem We set Doune that Noe parson Man nor Woman shall take away any tymber from any Workes or uncover their workes Whear by mens goods may be lost in paine of such Defalt xis.

11. Ytem We set Doune that Noe Man shall Conseall any ure or other thing with in the ground to the heendrance of the next taker and if any man Deny his next Nebor for going in to his worke the Barmaister or hes Debitie shall appoynt 2 or 4 of the jurie to goe in and if they Doe Deny them they shall upon everie Deniall forfet to the lord 3s 4d and they that is to goe to bee paid by the barmaister for their pains out of the sain Fynes.

12. Ytem Wee set Doune that if any man wrong his neighbor within the ground they shall be punesht accordinge to the law provided in that Cace.

13. Ytem We set Doune that noe Man shall stop the water nor set the watter upon his nebor to his lose and Heendrance or let their Dams goe provided for their use of budling or washing their ure for everie such Default 6s 8d.

14. Ytem Wee who ar workemen with the lords liberti is to have by a grant from his honer to have tymber at 4d a Dozen being at Cost to make it our selves.

15. Ytem Wee ar to have as a grant from my lord for Coe tymber Corfwood peeckshafts budlebords Coe Dars and stoprice washing fats for the more paying for working theis our selves.

16. Ytem Wee set Dowen that thier shall be at ether meelne a good washing fat provided at my lords Charge and a gallan to feell the same withall in paine of everie Default iijs.4d.

17. Ytem We set Doune that every Man shall have his own wasts to dris up at his owen pleasure not wronging my lord.

18. Ytem Wee set Down that when their is a new workestone laid it shall have the pan fild at my lords Charg with lead according to former custom and everie man to leave it as full as he findes it in paine of 6s. 8d.

19. Ytem Wee set Doune that the smelters shall be Chosen one by the Consent of the barmaister and the other by the Jurie.

20. Ytem Wee set Doune that for this Jurie being in paneld and sworn that it may appear that any of them shall Revaill the agrement mad at thid tym shall for everie such Defalt pay x s.

Defaltes for not appearing at this barmot Cort

Jarves Gaskin	-	6d
Henrie prockter	-	2d
John Hynd		
James Hynd		pardoned
Homfra Ibbotson		

We find philep Marshill guiltie to That fine Whech former Jurers have formerly set Doune Which is 40 s. fortie shillin

[on dorso]

Richard Roberts	John Canuer
Thomas Dancer	William Ibotson
John Allison	Henrie Mangham
Samwell Robenson	Robert Robinson
William Eadie	Rouland Wood
John houlgat	Gorg Mangham
Thomas humfra	Francis Hollis
Roger Wild	