

The Sadgill Dispute Maps, 1578-1582

The Sadgill Dispute Maps are three versions of a map of Sadgill Moor or Waste, now in the National Archives, but commissioned by and drawn for the Court of Exchequer, in connection with a dispute between the inhabitants of the hamlet of Sadgill, and the inhabitants of the neighbouring hamlet of Stockdale, both being in Longsleddale, in the parish of Kirkby Kendal, in Westmorland.¹

There is no indication on any of the maps as to the nature of the case, but several sets of ‘evidences’ (interrogatories and depositions taken for the Court of Exchequer) survive, allowing the story to be pieced together. The Bill which began the case has not been located, but was probably dated Michaelmas in the 19th/20th year of Elizabeth (1577). It would appear to have been in the names of Edward Sheppard and other tenants of the Queen, vs William, Matthew and Edmund Todd, tenants of James Leyburn, and Sheppard’s Bill probably involved an accusation by him that the Stockdale tenants had been grazing their animals on Sadgill moor, without having any right so to do.

The rights and wrongs of such cases are never clear cut, and this case was complicated by a series of prior events involving the various landlords, not all of which are mentioned in the depositions. What would appear most likely is that Sadgill had always been an intercommon, shared between two owners, but not

¹ TNA MPB 1/61, removed from E 178/2374.

physically divided. One moiety had been held since the 14th Century by the Leyburns of Cunswick Hall, near Kendal, who held estates in Longsleddale and neighbouring Skelsmergh, as well as elsewhere in the county.² The James Leyburn named in the case had inherited before 1567 whilst still a minor. He was a recusant, and in the late 1570s had begun disposing of his estates, either to pay recusancy fines, or more probably to remove his inheritance from the reach of the Crown, perhaps anticipating his end, as in March 1584 he was hanged, drawn and quartered at Lancaster for treason.³ William (later Cardinal) Allen, writing shortly after, was troubled by the case, as it went against his argument that contemporary executions of priests were about religion, not treason. He noted that ‘James Layborne, put to death at Lancaster’ was ‘a worshipful lay gentelman’, who had protested ‘that her Maiestie was not his laful Quene for two respects, the one for her birth, the other for the excommunication ... But none of al our Priests made any such answer’.⁴ Challoner similarly made a point of noting that he had omitted Leyburn from his list of Catholic martyrs ‘because his case was different from that of all the other Catholics who suffered at those times, for ... at his death he denied the Queen to be his lawful sovereign’.⁵ Certainly, it would appear that James took a very radical position on his faith, and it may be that this was a contributing factor

² William Wiper, *The Layburnes of Cunswick*, Tr CWAAS, vol x (1889), 124-157; Tony Cousins, *Skelsmergh, Draft Township History*, Victoria County History of Cumbria, <http://www.cumbriacountyhistory.org.uk/sites/default/files/Skelsmergh%20final%20%28landownership%2011.3.13%29.pdf> accessed 21 Feb 2014

³ Wiper, p.130-131.

⁴ William Allen *A True Sincere and Modest Defence of English Catholics that Suffer for their Faith*, (Rouen, 1584). (accessed via EEBO), p.29

⁵ Bishop Challoner, *Martyrs to the Catholic Faith: Memoirs of Missionary Priests and Other Catholics of Both Sexes that have Suffered Death in England on Religious Accounts from the Year 1577 to 1684*, (Edinburgh, Thomas Jack, 1878) (1st edition 1741), Part 1 p.265 & Preface xii

to the antagonism between his tenants and those of the Queen. However, soon after the time this case reached the Courts, Leyburn had sold his lands in Stockdale, together with his claims to Sadgill Moor, to Thomas Bellingham, of the family that owned Levens Hall.

Meanwhile it would appear the other moiety had for some time been divided into two quarters, with one quarter having belonged to William Parr, Marquess of Northampton, as part of the Barony of Kendal.⁶ This had been forfeit to the crown in 1553, but had subsequently been restored to the Marquess. However, as Parr had died without issue in 1571, the quarter share had gone to his wife as part of her dower, which she had then exchanged around 1574/5 with the Queen, who thereby came to hold what became known as the Marquis Fee of the Barony of Kendal. The other quarter share had belonged to the Chantry of St Anthony in Kendal Parish Church, and had therefore come to the crown when the Chantries were dissolved.⁷ Thus by 1575, the whole of one moiety of Sadgill Moor belonged to the crown; and as the inhabitants of the hamlet of Sadgill were all now tenants of the Queen, they perhaps felt themselves in a better position to take on their neighbours over their shared use of the common – and to take their case to the Court of the Exchequer.

⁶ Deposition of Oliver Sheppard of Staveley, January 1578: TNA E134/20ELIZ/HIL7 : The Queen vs Wm Todd et als, re Sadgill Moor

⁷ TNA E134/20ELIZ/HIL7

There had clearly been issues simmering for many years. The Leyburns seem to have regarded themselves as Chief Lords of Sadgill Moor, with the right to agist foreigners' beasts – and Sir James Leyburn (who died in 1548), whilst accepting that the inhabitants of both Sadgill and Stockdale had the right to common their own beasts without stint, had in the 1540s built a pound at Sadgillthwaite and had impounded the beasts of the Sheppard family when they had taken other men's beasts onto the moor. At the time, though, Sir James was also Steward of the Barony, and it may not have been entirely clear in which role he was acting.⁸ He had also, at some date in the 1530s, broken up an enclosure that had been made on the moor. However, during the minority of James, the grandson of Sir James, it would seem that the Sheppards had sought to exclude the Todds from those parts of the moor which they claimed for their own.⁹ Subsequently, in or around 1574, James Leyburn had ridden the bounds 'because off the contraversie nowe for the said Comen'.¹⁰ Then in an incident probably at Easter 1575, Richard Sheppard had assaulted Matthew Todd, accusing him of driving off his sheep: but the Todds equally claimed the Sheppards had caused them a hundred marks worth of damage, by 'bayting slaying bytyng and kylling and dryvyng off their cattle & sheipe'.¹¹

⁸ TNA E134/22AND23ELIZ/MICH9

⁹ TNA E134/20ELIZ/HIL4

¹⁰ Deposition of Oliver Sheppard, TNA E134/20ELIZ/HIL4

¹¹ TNA E134/20ELIZ/HIL4

Faced with a large number of unfamiliar place-names following the first set of depositions of January 1578, conscious of the fact that the Queen was in effect the plaintiff, and probably also unsure about the difficult concept of an undivided intercommon, in June 1578 the Exchequer ordered a map (*discriptionem ... vocat a plott*) to be made of the moor or waste of Sadgill, stating that it was believed to contain 300 acres, by estimation.¹² The task was given to two commissioners, Edward Braddyll and Robert Bindloss, the former of whom had recently taken over from his father as Surveyor of Woods in the North Parts for the Duchy of Lancaster, in which role he was subsequently to commission a number of maps: but this map of Sadgill may be the first in which he was personally involved other than as assistant to his father, while the lettering style suggests it may even have been drawn by Edward himself.¹³

The first of the three maps was certified by the two commissioners on the 10th September 1578, following a jury verdict as to the bounds.¹⁴ The map, entitled *Discriptio More sive Vasti de Sadgill* (using the same Latin word for a map as in the Commission), is a simple picture map, not a scale map, approximately 43 x 29cm in size, drawn on paper using a limited palette of colours, mainly browns, with green for trees, a blue wash for the rivers and some red on the houses. It is contained within a drawn border, within which the four cardinal points are named, in Latin, north being at the top. At the bottom of the map is the hamlet of Sadgill, with six

¹² TNA E178/2374 Commission re Sadgill 18 June 1578

¹³ William D. Shannon, 'Dispute Maps in Tudor Lancashire', *The Local Historian*, 42:1 (Feb 2012), 2-15

¹⁴ TNA MPB 1/61 map 1: TNA E178/2374 Inquisition at Kendal, 10 September 1578

houses shown to the west of Sadgill Beck, while east of the beck is a road leading to the moor, terminating in a gate at the limit of the 'severall' or enclosed land. East of the road is the house of John Lickbarrow, while five of the six houses to the west are associated with the names of Henry and John Sheppard, William and Richard Gilpin, and Mr Bellingham, probably as owners rather than occupiers. The latter is presumably the Thomas Bellingham who had bought, or was shortly to buy, the whole of the Leyburn estate in the area, although he is reported to have died by late 1580, while the case was still in progress.

The bounds named in the depositions, confirmed by the jury and shown on the map commence at a gill called *Gape in the Woolle*, then follow the watershed ('as heven water dealithe') north to Harter Fell, and continuing round to the east, but then taking a major detour by descending down to *Grengreve*, (not named on the modern OS map) then back up to *Buckbarrowe* (Buckbarrow Crag) before continuing on round to the start of the several land. However, within a matter of days, on 3rd October, the commissioners produced and certified 'as we thinke a moore prefecte plott of the saide landes' possibly based upon their own perambulation, as well as upon a further examination of witnesses, including re-examining some who had already testified.¹⁵ The new map, very similar to and in the same hand as the earlier one, but now signed by both Braddyll and Bindloss, differed mainly in removing the detour and continuing the circuit of the watershed.

¹⁵ TNA E178/2374 Examinations at Kendal, 3 Oct 1578

Filling the blank on the earlier map there is now a circular tarn decorated with a fish, while *Grengreve* and *Buckbarrowe* have gone. The tarn is named on the map as *KnoyteTarne* and in the depositions as *Knowetarne*, while on the modern OS map it bears the name of Greycrag Tarn, despite these days being a marsh rather than a lake. The significance of the original exclusion of the area round the tarn may well be related to the fact, revealed in later depositions, that it was hereabouts that the men of Stockdale had their turbary, and it would seem there was some argument about whether this area was in fact part of Sadgill Moor, or was the exclusive possession of the owner of Stockdale.¹⁶ The same five tenants to the west of the beck are named on this map as on the previous one, as is John Lickbarrow to the east, but in addition, a note adds ‘the names of the Quenes ma’ties tenanntes not nom[in]ated on this plote viz George Shippde, Ric Shippde, Crist Shippde, Rallande Mickley & Edwarde Shippde’ – the latter, of course, being the first named plaintiff.¹⁷

Unfortunately, this map did not allow the Exchequer to settle matters, and in June 1580 Bindloss and two other commissioners (but not Braddyll) were required to go back and get more evidence. By now, the case is seen as being between the Queen and Thomas Bellingham, and further answers were sought on behalf of the Queen as to whether or not the Queen was sole lord of Sadgill Moor,

¹⁶ ‘The tenanntes of the said James Laburne... have used to get peates at a certen place called the great hough [Great Howe] towards the topp or heighte thereof’, Deposition of Robert Nicholson, TNA E134/22AND23ELIZ/MICH9

¹⁷ TNA MPB 1/61, map 2

and whether the tenants of Sadgill had the right to agist - at the same time asking whether places such as Buckbarrow, Great Howe and Know Tarn were within the moor or not.¹⁸ By the time the deponents responded, at Kendal on 24 September 1580, Bellingham was dead; but the responses were that the Queen owned an undivided half of the moor, that the tenants had agisted in the past, and that the named places were within the moor (although there was some doubt over Great Howe). At a further hearing in November 1580, witnesses on behalf of the Todds swore that the tenants of Sadgill had common rights on Sadgill Moor, but had only agisted there by licence of Leyburn, while the named places were not in Sadgill Moor, but were within Sleddale (that is, that they belonged to Stockdale alone).

At this stage it would appear a new piece of evidence turned up in the shape of an old deed of *Rob'to de Layburne* which named the bounds. A new commission was set up, again under Bindloss but not Braddyll, to enquire again as to the bounds, and make a new 'platt'.¹⁹ In the Verdict of October 1582, the jury reported that the size of the Sadgill Moor was 1000 acres, which assuming a large local acre is being used is far nearer the 1990 acres of Sadgill Common enclosed in 1968 than the 300 acres mentioned in the original commission.²⁰ The Verdict makes it clear that the jury had been shown a copy of a deed of c.1238, which has been transcribed in the *Records of Kendale* from a document which at that date (1923)

¹⁸ Interrogatories, TNA E134/22AND23ELIZ/MICH9

¹⁹ TNA E178/2374 Commission 23 May 1582.

²⁰ Mary Wane, Longsleddale, Jubilee Digest, Cumbria County History Trust, <http://www.cumbriacountyhistory.org.uk/township/longsleddale> accessed 22 Feb 2014

was in Levens Hall, suggesting it had passed with the property from James Leyburn to Thomas Bellingham.²¹ The deed records a grant by William of Lancaster III of a shieling (*unam scalingam*) in Sleddale at Sadgill, with three and a half acres of meadow *ex altera parte aque adjacentibus* (out of the other side of the adjacent waters), plus the pasture below the boundaries. These begin at *Galtescove*, (which is probably now Goat Scar, and is identified by the Jury as a place they call *Gotecove* above the Readgill which flows into Sadgill Beck from the west), and then follows the summits of the mountains (*sequendo summitatem montis*) as far as *Suancoue* (unidentified, but likely to be the point named *Snawcove* in the Jury's verdict, *Snawcongh* on the first map and *Snawcave* on the second, a point somewhere on the watershed between Sadgill and Kentmere) and then following the boundaries of Patrick son of Thomas and Robert de Conyers. These boundaries puzzled the jurors, although they considered Patrick's boundaries to be those of Sir Henry Curwen, in other words the boundary between Sleddale and the manor of Shap to the east. They were able to identify the meadow, which they 'have sett down in the platt ... on the other syde of the watter lyinge benethe Sadgill in Sleddall'.²² They were unsure of the site of the 'scaling', but suggested it might be the 'old walls whiche as yett do beare the name off Fletcher Howse', which they also had marked on the new map, a place which had incidentally been mentioned in an earlier deposition as being where at one time Leyburn's 'hyrd dyd dwele & dyd kepe the

²¹ William Farrer & John F Curwen, *Records of Kendale*, Vol. I (Kendal, Titus Wilson, 1923, Appendix of illustrative documents, XXIII
<http://www.cumbriacountyhistory.org.uk/sites/default/files/Skelsmergh%20final%20%28landownership%2011.3.13%29.pdf> accessed 21 Feb 2014

²² TNA E178/2374 Jury's Verdict, 11(?) October 1582: TNA MPB 1/61, map 3

said Mr Layburne Cattle & Sheipe upon the comen ther'.²³ The site of these old walls may possibly be the feature marked *biold* (a refuge or shelter) to the east of Sadgill on the First Edition Ordnance Survey map of 1863, and still visible on the ground.

This new, third, map is unsigned, but is drawn by a different hand to that of the earlier two, and unfortunately it is now in much poorer condition than its predecessors, being illegible in places.²⁴ It is clearly closely based upon the earlier maps, but differs in its treatment of the beck, in its naming of one of its feeders as Reade Gill, and in the inclusion nearby of a new feature, not named in any of the documentation, the 'wath at ynge hedde'. The moor is coloured in a green wash, the only colour used upon this map apart from black ink. On the common is shown the site of 'fletchers house steade', and the tarn too is included within the common, with the south west part of the boundary shown running from the height above the tarn following a 'dyke' to *Brokcrage* and on to *Saleside Knott* from where a stone wall is shown separating the several land from the common, as far as the gate on the highway. This wall survives to today and is quite different in character to the dead straight enclosure walls higher up the valley.

²³ Deposition of Humfray Gylpynge, 6 Jan 1578, TNA E134/20ELIZ/HIL4

²⁴ TNA MPB 1/61, map 3

It would seem that further depositions were taken at Kendal in September 1583, but these add nothing to what we already know.²⁵ The maps, especially the last one, would have provided the Barons of the Exchequer with the visual and spatial information they needed to understand the arguments: but of themselves they were not enough to resolve the case. Reading these depositions today, however, the position would seem fairly clear cut – the moor, comprising the whole of the upper valley of the River Sprint north of the hamlet of Sadgill from the valley floor to the surrounding watershed, was an undivided intercommon. Both the landlords involved, and their tenants, had equal rights to access all parts of the moor with their herds and flocks without stint - but no man had the right to agist foreign cattle without licence. Yet nevertheless, as Healey has shown, the dispute rumbled on between the feuding neighbours well into the next century.²⁶

William D. Shannon, February 2014

²⁵ TNA E178/2374 Depositions, Kendal, 20 September 1583

²⁶ Jonathan Healey, 'The political culture of the English commons c.1550-1650', *Agricultural History Review*, vol 60, II (2012), 266-287