

DIFFUSION AND DETERMINISM

Letter to the Editor by
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Attractive though it would be to erect a "pre-Copernican universe" with Derbyshire at its centre (Gill 1989 p355), denying other areas such as Yorkshire any history of independent thought, Gill's methods of arguing just will not do. He has erected a cockshy of his own, attributed it to me and others, and then proceeded to knock it down. Please let me clarify my view of the "accepted viewpoint".

(a) The Derbyshire laws, and probably those of Yorkshire too, are part of a corpus of mining law which developed in medieval times, no doubt borrowing from, or inheriting, concepts of even older legal systems.

(b) Real and concrete evidence for this shared corpus is especially evident in both concepts and language, which Gill himself shows. There were for example three areas of Yorkshire, like the two (or even more) in Derbyshire, which had been Kings' Fields. They thus had a possible common origin for their laws which long predated the Derbyshire links of the late 18th century which Gill implies were the only possible occasion for diffusion. As he also cites, terms such as meer or fodder also emphasise common origins.

(c) Law is dynamic, capable of adaption in face of technical, political, economic, and social needs. We can see this in the variations in the fodder and meer and many other points of detail in Derbyshire, both between the two main areas and other customary liberties, and in the case of customary duties, within the same (High Peak) area, depending on whether liberties were north or south of the Wye. We should hardly be expected to be surprised therefore to find yet other variations in Yorkshire.

(d) Areas with different ownership, different geological conditions, beginning or restarting exploitation at different times, had thus a variety of concepts on which to draw, which with the agreement, or in the absence, of authority, they were free to adapt or negotiate to resolve their own circumstances.

My views are not very different from those of Gill, or Sherwood with whom the debate began. Diffusion of a widely known corpus of legal possibilities is facilitated by easy adaption to suit the "deterministic" features of the local area. It is, I hope, unarguable, that miners or lawyers would draw on widely known existing knowledge, rather than totally re-invent the law. It certainly does not need business or ownership links to take place.

Gill seems to imply a series of discrete mining areas, "much more independent than hitherto imagined". His evidence is a valuable contribution in itself, but falls entirely within the normal dynamics of diffusion that I at least would find unsurprising. The origins of mining law, are, to paraphrase a well known comment of D.E. Bick, likely to be much older than we think. There is, as I stated in my recent article (Willies 1988), enormous scope for further research.

REFERENCES

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