

THE MINING LAWS IN FLINTSHIRE AND DENBIGHSHIRE

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Abstract: Customary laws to regulate mining are found in three places in Flintshire and Denbighshire in the 14th century. The laws probably died out soon afterwards, to be re-introduced in the early 17th century by miners from Derbyshire. A series of lawsuits in 1622-3 suppressed these customs, but some aspects of them lingered on until well into the 19th century.

Now the miner, if the vein he has uncovered is to his liking, first of all goes to the Bergmeister to request to be granted a right to mine . . . Further, the Bergmeister, on application being made to him, grants to one owner or company a right over not only the head meer, or another meer, but also the head meer or two adjoining meers . . .
Agricola, *De Re Metallica* (1556) Book IV

The traditional laws which operated in the mining districts of England have received a good deal of attention in recent years -- particularly those of Derbyshire, which were given a statutory basis in 1851-2, and have lasted into our own time. Less attention has been given to these laws in Wales, where they are also of great antiquity. This study aims to pull together the few references to them in the medieval period, and to discuss what appears to be their last use, in the early 17th century.

Lewis, in his standard history of the Welsh lead industry, considered that the north-east was by far the most active mining area of Wales in the middle ages (Lewis, 1967, p29). The lands between the Conwy and the Dee had changed hands between English and Welsh several times. They had been occupied by the Mercians in the eighth and ninth centuries. Offa's Dyke, or Wat's Dyke, which modern research suggests was a defensive structure, reaching the sea at Basingwerk, near Holywell, runs through the area (Hill, 1990). Place-names of English origin stretch along the north Wales coast as far west as Rhyl. Flintshire and most of Denbighshire were part of Cheshire when Domesday Book was compiled in 1086, although only east of the dyke was it divided into hides (Williams, 1961). After its reconquest by Owain Gwynedd in the 12th century it again became Welsh in speech and population. In 1277 Edward I invaded north Wales, and re-occupied the

north-east. The final war between the Welsh and the English crown, in 1282, ended with the death of Llywelyn ap Gruffydd, the last Welsh Prince of Wales. By the Statute of Wales, in 1284, the king created the county of Flint. It was made up of three separate parts. The cantref of Englefield or Tegeingl (which included Halkyn Mountain, the most important lead-mining area), and the town of Rhuddlan had been in the part of the kingdom of Gwynedd east of the Conwy, while two detached parts, Hopedale and Maelor Saesneg (English Maelor, east of Wrexham) had been in northern Powys, or Powys Fadog. Until the Act of Union of 1536, which united Wales with England, Flintshire was administered as the king's own possession as part of the palatinate of Chester.

Scattered references testify to an active lead-mining industry in north Wales from its conquest by Edward I until about the time of the Black Death in 1349. The six royal castles built by Edward I to subdue the Welsh, and the other lesser castles built by Marcher lords, were themselves significant users of lead from the local mines. Fifteen cartloads were needed to roof the great tower of Flint Castle alone (Lewis, 1967, p29). Lead was also needed in repairs to Valle Crucis abbey and the churches of Llangollen, Bryneglwys, Llandegla, Gresford, Overton and Hanmer, which had suffered great damage during the English campaign of 1282, and for salt works on the Flintshire-Cheshire border (Pratt, 1976, p120). Before the conquest, there is some evidence that the mines were less well developed. At least, lead had to be brought from the Peak District and elsewhere for the king's castles at Dyserth and Deganwy in 1245-6 (J.E. Messham, pers comm).

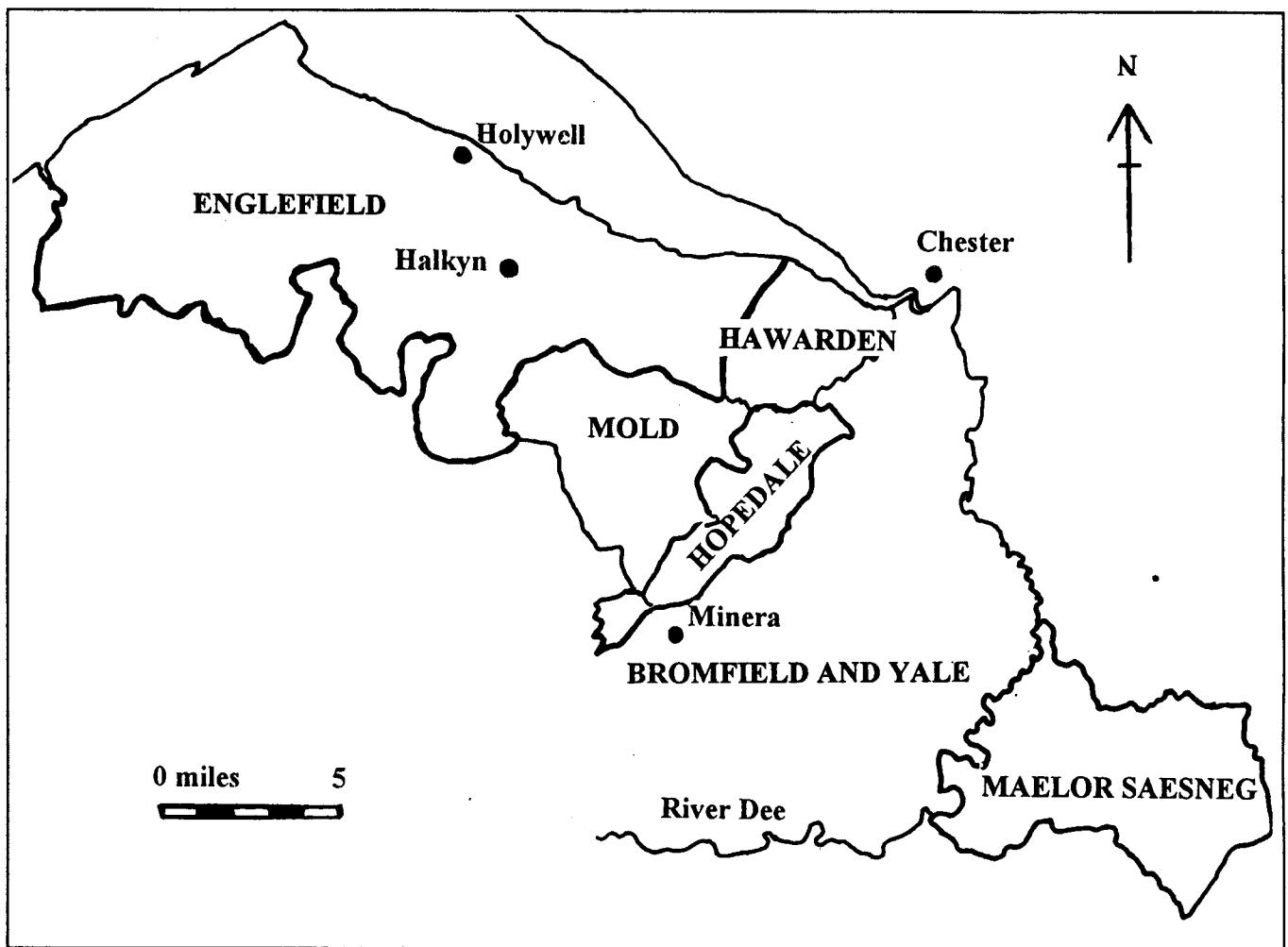
The Black Death led to a severe shortage of labour, but even before it struck there is evidence that the lead-mining industry was in a bad way. In his accounts for

1347-8 (ie. before the Black Death) the chamberlain of Chester noted that there was no income from mining in the lordship of Englefield, 'because the miners there have for the most part died, and the survivors refuse to work there' (Evans, 1929, pp19,45). The same phrase is used two years later, after the plague, when 4s only was received as the income from the mines of Englefield instead of the 100s of earlier years (Evans, 1929, p68). It is in the years immediately following the plague that we find the earliest known reference to the mining laws in Wales in the register of Edward, the Black Prince. The Prince, the eldest son of Edward III, was born in 1330; in 1333 he was made Earl of Chester, and so was lord of the county of Flint. He was created Prince of Wales in 1343. As he was a minor, the government of his lands devolved to his council, experienced royal officials appointed by the king. There is no evidence that the Prince ever visited Wales. He fought at the battle of Crecy in 1346 at the age of sixteen, and his later career was devoted to expeditions against the French and Spanish, and administering his new principality of Aquitaine. His councillors served him faithfully, and their activities are recorded in a register of his letters, memoranda, petitions received, etc (Evans, 1929, pp vi-vii). This register, preserved in the Public Record Office, and published in the early 1930s, is a well-known source, but certain features of the mining laws set out in it deserve examination and comment.

THE HOPEDALE LAWS

In 1351 the register recorded that mines in the wastes of Hopedale had been worked without permission. The justiciar and chamberlain of Chester were to take the profits of the mines to the Prince's use. Others might work the mines only if they were 'on their own soil', that is, on their own land, not part of the waste. An order, dated in London on 18 July 1352, was sent to the justiciar of Chester, and the Prince's clerk and chamberlain, in the following terms:

To Sir Thomas de Ferrers, justice of Cestre, and Master John de Burnham, the Prince's clerk and chamberlain there. It has been shewn to the Prince's council that certain miners have come before the justice and chamberlain and the auditors of accounts, and have offered to make a great profit for the Prince in a lead-mine within the lordship of Hope, claiming to have under the Prince's seal certain articles of franchises, a copy of which they, the justice and chamberlain, have sent to the council, who have shewn it to the Prince. The Prince assents to the articles and wishes the matter to be put in train. He therefore orders the justice and chamberlain to cause such letters patent, indentures, and other deeds and securities



Flintshire in the 14th century (after J. Messham).

as are necessary for the security of the miners and his profit to be made out under the seal in the chamberlain's keeping, the articles and franchises being the same as those sent to the council, (which he has retained, feeling sure that they have a copy), with this amendment, that after the words 'except in parks, meadows and sown fields' be inserted the words 'and wastes which the lord has set apart to be approved.' They are to certify the Prince of what they do in the matter and send him transcripts of all the deeds.

Be it remembered that the articles mentioned above are entered at the end of this month
(Black Prince's Register, pp67-8).

The articles, duly entered in the register as instructed (see Appendix), set out at length the traditional mining laws, familiar in Derbyshire and in other mining areas of Britain -- the Mendips, Alston Moor and Grassington. Reading the 1352 Hopedale laws, one is struck especially by the resemblance to the Derbyshire laws, recorded in various printed and manuscript sources from the late 13th century (Rieuwerts, 1988).

The wording of the order quoted above is a little obscure, but the meaning seems to

be that unauthorised persons have been working mines on the waste of the lordship of Hope, and the Prince's officials are told to ensure that the profits come to him. The miners (either the ones who have been mining illegally, or others) show the officials articles under which they offer to work the mines. Whether the initiative to introduce these articles came from the miners or the Prince's officials is not stated. The lengthy section devoted at the end of the articles to the daily inspection of the mines by the barmaster 'in order that the works below ground may be better overlooked than they were in times past' is clearly the work of the Prince's officials, while an amendment restricting the use of 'wastes which the lord has set apart to be approved' is added at the last minute.

Despite the lengthy codification of the laws, the efforts to encourage mining in the lordship of Hope seem to have been unsuccessful; at least, no production from them is noted in the years following (Evans, 1929, p lxi).

THE HOLYWELL LAWS

In the same year, on 21 July 1352, the Black Prince's Register recorded that miners from Holywell in the hundred of

Englefield had complained of infringement of their own franchises, for which they had been paying the Prince 20s a year. Later in the year, on 20 November, we are told that they had represented to the Prince that 'they and their ancestors have held since the conquest certain franchises of miners' law, to wit, the right to have a steward and 'meaire' of their own, before whom all manner of pleas and other things shall be determined.' Nevertheless, the Prince's bailiff of the hundred of Englefield had summoned them out of the franchise 'and causes them great losses and distrains them grievously by wrongful amercements.' The Prince's officials were ordered to put matters right. They were to:

examine well the conditions and franchises granted to the said men, ascertain whether they do what they ought for them, and do them right so that they have no reasonable cause of complaint
(Black Prince's Register, pp66-7, 80-1).

Clearly the Prince was anxious to placate men in a useful industry, which had been severely disrupted. Some writers have confused the rights of the Hope and Holywell miners, and implied that the 'Laws and Customs of the Mine' entered in

the register applied to Flintshire as a whole (Lewis, 1967, pp29,32; Rees, 1968, p52), although a close reading makes it clear that these were to apply to Hope alone. The Holywell miners' privileges were presumably similar, although a 'meaire' rather than a barmaster is mentioned. (The maer was the bailiff of the Welsh laws (Evans, 1929, p lxx n.) The claim to have enjoyed their rights 'since the conquest' has been variously interpreted as referring to either the Norman conquest of 1066 or the Edwardian conquest of Wales in 1277-84, although the latter is probably meant (Lewis, 1967, p29; Rees, 1968, p52; Evans, 1929, p lxx). The miners had paid 20s annually to the crown for their privileges from at least 1302, and continued to do so throughout the century (Jones, 1913, p9; Evans, 1929, pp19,113; Booth and Carr, 1991 p lxxvii).

The Holywell miners complained not only of the infringement of their liberties, but also of the cost of ale in the town. Before the Black Death the price had been fixed by the Prince's ordinance at a halfpenny a gallon. Now the brewers charged more. This grievance met with a much less sympathetic response. The brewers had to live and pay their rent to the Prince, and it was ordered that a new price, having regard for this, be fixed. As Evans remarked in his edition of the ministers' accounts, 'we fear that the days of half-penny ale at Holywell were gone, never to return' (Evans, 1929, p lxxv; *Black Prince's Register*, p67).

THE LOCATION OF THE MINES

The mines in Holywell were probably to the south or south-west of the town, where numerous shafts indicate an active mining history. The place-name Pen-y-ball ('ball' being the English 'bole') testifies to a bole smelter on the top of the hill (Davies, 1959 p129), on a site now occupied by a monument erected to commemorate a royal wedding in 1893.

Where the Hopedale mines were is much more difficult to decide. The lordship, which comprised the three modern civil parishes or communities of Hope, Llanfynydd and Higher Kinnerton, is not a place readily associated with lead mining. No mines here are mentioned in Bernard Smith's magisterial survey of the area in the Special Reports on the Mineral Resources of Great Britain series (Smith, 1921), nor is there evidence of mines or shafts on early editions of the Ordnance Survey 6-inch and 25-inch maps. Nevertheless, small areas of Carboniferous Limestone occur within the parish, north of the Bala Fault, as an inlier four or five miles east of the main outcrop, and there are two possible sites for the 14th-century mines. The first, and more

likely, is on Hope Mountain, between Llanfynydd and Caergwrle. In 1798 the ironmaster, John Wilkinson, requested a lease of lead and copper mines here from the Earl of Derby, the then owner of the lordship. According to Wilkinson, there was a vein which came through Lord Derby's liberty into some adjoining land on which he had a lease to get limestone. He was prepared to spend £500 to make a trial of the ground (Lancs Record Office, DDK 447/9). In 1881-3 *Mineral Statistics* record a Hope Mountain Silver Lead Mine Co, which employed up to a dozen men underground, but without raising any ore (Burt, 1992). A decade later, a draft lease of lead ore and stone at Rhewl farm, near Llanfynydd, was drawn up (Clwyd Record Office, D/DM/322/29). In neither case is any production recorded. A second possible site is in the south-east corner of the lordship, in Nant-y-Ffrith, a valley where the stream was the boundary between the parish of Hope (Flintshire) and Brymbo township in the ancient parish of Wrexham (Denbighshire). That lead mines had been worked here was recorded by the antiquary, Edward Lhuyd, writing in the 1690s (Lhuyd, 1909). The mines in this valley were active in the 18th century, and reputedly date from Roman times. Wilkinson worked mines here by hushing (Palmer, 1903, pp128-30), and in the 19th century the North Minera Mine had levels on both sides of the stream.

MINERA

Two miles south-west of Nant-y-ffrith, in the lordship of Bromfield and Yale in Denbighshire, lies Minera, the third place in north Wales to have medieval mining laws. Minera, whose name is Latin for mine (its Welsh name, Mwynglawdd, has the same meaning) is the subject of two detailed studies (Pratt, 1962,1976). The importance of the mines here led to the creation of a separate township of Minera within the parish of Wrexham, with boundaries virtually the same as those of the modern civil parish or community. In the 18th century the mines were worked by Chester merchants and by Wilkinson, the ironmaster. Water problems forced their abandonment from 1824 until 1849, when the Minera Mining Co was formed. This company, managed by John Taylor & Sons, worked very profitably and successfully until final closure in 1914 (Williams, 1986, pp14,17).

Whether these mines were active under the Welsh Princes is not known, but mining on a small scale was being carried out in Bromfield and Yale within six years of the English conquest of 1282 (Pratt, 1976, p118). The Minera mines were worked regularly from 1301 to 1315, but less frequently thereafter. The Black Death spread into Minera from Hopedale, and virtually extinguished lead mining in

Bromfield and Yale. There is no mention of mining in the documents until 1388, when Minera ore was being smelted in the lord's park of Coed-y-glyn, near Wrexham, seven miles away (Pratt, 1976, pp120-1).

In 1391 a survey of Bromfield and Yale was carried out on behalf of its owner, the Earl of Arundel (British Library, Add MS 10,013; Pratt, 1962,1976). In the extent of the township of Minera it is mentioned that 'there are certain underground lead mines':

... And when the said mines shall be found there or elsewhere they ought to be worked according to this form of law and customs below written, and merchants as well as miners shall raise [ore] and assess for lot in respect thereof as follows (Pratt, 1976, p131).

There follow, in Anglo-Norman French, the laws of the mines, almost word for word the same as those set out in the Black Prince's Register in 1352. References to the Prince are altered to the lord, although in one place (Para 10 of the 1352 laws) a reference to the crown is left, apparently accidentally. The specific reference to Hope in Para 8 is omitted, as is the amendment relating to wastes set apart by the lord, added in the Black Prince's Register. One new article is added, to follow Para 11 in the 1352 laws:

And none of the miners' beasts ought to be grazed on the meadows, wastes or pastures unless they be enclosed by a sufficient hedge.

Pratt (1976) provides a detailed study of these laws in the context of Minera. Mining was a part-time occupation, combined with farming, and seasonal and discontinuous in operation. The miners followed the vein along the surface, although shallow shafts are implied by the reference to the stows or windlass, and to inspecting the work below ground (Paras 13-14). On geological grounds he makes a case for locating these early workings at the west end of the mines, in the Eisteddfod area, where traces of early mining can still be seen. The mines were evidently much less active in 1391 than earlier in the century. Immediately following the mining laws, the survey records rather lamely that there were no profits from mining 'because no ore has been dug there' (Pratt, 1976, p135). The 1391 population was 55 per cent lower than that of 1370. Most of those mentioned have Welsh names, the English ones being of Cheshire origin. Several families can be linked with the English borough of Holt, ten miles away to the east. Pratt suggests that they moved to Minera from April to August, mining perhaps 30 cwt or two tons of ore, providing a cash income of 18s to 35s, depending on prices (Pratt, 1976, pp 144-7).

THE ORIGIN OF THE WELSH MINING LAWS

The Hopedale laws, detailed in the *Black Prince's Register* in 1352, bear a close resemblance to those of Derbyshire, codified by the Ashbourne inquisition of quo warranto of 1288 (Gordon, 1988). The opening words are strikingly similar:

When the mine is newly found in a field, the merchants and miners shall choose a barmaster, and the barmaster shall deliver to the finder of the mine two finder meers, and the lord of the field shall have the meer nearest to those finder meers

(*Black Prince's Register*, 1352).

When the miners come to the field for ore they will come to the bailiff, who is called the berghmayster, and will seek from him two meers, if it should be in a new field, and have [one for their handiwork] and another according to the custom of the miners ... And the king shall have the third meer nearby (Ashbourne Inquisition, 1288).

The vital elements of the Ashbourne laws, present in those of Hopedale, are the barmaster, and the two meers granted to the finder, and the third to the lord (Para 1). Also identical is the fine of 5s 4d (equivalent to 16 groats (Hoozon, 1747, under 'Bloodwipe')) for the spilling of blood. The lord's lot (the thirteenth dish in Derbyshire) is mentioned, but rather surprisingly it is not defined. Presumably it varied according to circumstances as royalties later did in mineral leases. Usually, when mining laws are codified, they are not being introduced, but rather form is being given, often selectively, to a long-established system of custom and practice. In the case of the Ashbourne inquisition, it is explicitly stated that the liberties have been enjoyed 'from time immemorial'. Rieuwerts (1988) has pointed out that certain Derbyshire customs were not mentioned in 1288. Of the six he lists, four are present, at least in part, in the Welsh laws. These are: provision for marking (or 'nicking' in Derbyshire) mines not being worked (Para 5), working the mine progressively from meer to meer (4), a standard dish, although not defined (6), and the right to timber, but not water (7). To these may be added the frequently commented on (but never, apparently, recorded) punishment of nailing a thief's hand to his windlass:

And if any miner ... be attainted a third time his right hand shall be pierced with a knife through the palm and pinned to the stowes up to the handle of the knife, and then he shall forswear the franchise of the mine, and if he have a meer it shall be forfeit to the lord (*Black Prince's Register*, 1352).

The thief that's taken fined twice shall be,

But the third time that he commits such theft, Shall have a knife struck through his hand to th'haft,

Into the stow, and there till death shall stand, Or loose himself by cutting loose his hand; And shall forswear the franchise of the mine, And always lose his freedom from that time. (Edward Manlove, *The Liberties and Customs of the Lead-Mines within the Wapentake of Wirksworth* (1653).

The Hopedale and Minera laws also include provision for a jury of 'six of the most substantial merchants and miners', akin to the barmoot court juries of Derbyshire. Indeed the Hope and Minera laws are a codification of 'Derbyshire' practice, set out in detail earlier than one finds it in Derbyshire itself. From this follow two questions: how old are the Welsh mining laws, and how can the similarities with those of Derbyshire be explained? The answer to the first question is that the Holywell laws had been in existence for a lengthy period -- certainly from the Edwardian conquest or earlier. It is tempting, when considering the mining laws, to postulate a common origin for them -- usually in Germany. Certainly, even a casual reading of Agricola shows that Germany was far in advance of Britain in mining technology in the late medieval period. There are similarities between the Derbyshire laws and those described by Agricola, particularly in the use of the term barmaster, which must surely be the German Bergmeister. There is a close resemblance between the opening words of the Ashbourne and Hope laws, quoted above, and those of Agricola, which appear at the head of this article. But the similarities between the Derbyshire laws and those of Agricola are not nearly as great as between the Derbyshire and Welsh laws. Some of the former come from the Derbyshire terminology which the Hoovers decided to adopt when translating Agricola (Agricola, 1556, pp77-8 n). The mining laws of Alston Moor were confirmed in 1235 (Salzman, 1923, p43) and those of the Mendips were codified only in the 16th century, although they were probably much older (Gough, 1930, pp69-82), but most recent work assumes that those of Derbyshire pre-date the Norman conquest (Ford, 1988, p195). But Pliny, in a reference cited by Lewis (1908, pp82-3) which has received little attention, described how the lead miners of Britain in the first century AD were governed by certain rules of their own making. Perhaps the answer is that miners working in primitive societies form communities set apart from their fellows which are naturally self-regulating -- in medieval Wales just as in the California of 1849 (Dempsey, 1988). Evans recognized this when he wrote of the Hopedale laws:

There was nothing in these customs which we can trace back to Welsh origin. The leadworkers were not Englishmen or Welshmen. They were miners; in

Hopedale they enjoyed their privileges as members of a mining community and not as Englishmen, and the restrictions were those imposed on them as miners and not as Welshmen (Evans, 1929, p lxi).

The Hopedale and Minera laws seem to be more recent than those of Holywell, codified deliberately in order to stimulate mining. How much they owe to the Holywell laws we do not know. Evans (1927, pp83-4) suggested that the Hope miners may have been survivors from Holywell; this may well have been so, although there is no actual evidence for it. In any case, to answer the second question posed above, it is still possible that the Hopedale laws owed something to practice in Holywell, even if the Derbyshire laws served as a written model. There is no difficulty in seeing why the Black Prince's officials might turn to Derbyshire. Both were crown possessions; Derbyshire was not far away, and was a more productive orefield (Kirkham, 1968, p100), making it a natural model. North-east Wales had been open to English influences for centuries. The names of men whose origin lay in Derbyshire and Yorkshire crop up in contemporary documents. The most influential of the Chester merchants who controlled the lead industry in the early 14th century was William of Doncaster. Mayor of Flint and of Chester, he farmed the lead mines of both Englefield and Minera, as well as purchasing lead himself (Jones, 1913, p xlv; Pratt, 1976, pp119-20). Another farmer of the Englefield mines in 1326-7 was Richard de Birchover, while a mixture of Derbyshire and Welsh names is found in Ithel de Birchover, who appears in ministers' accounts of the 1350s and 1360s (Booth and Carr, 1991, p 192). Flintshire men were indicted after the Black Death for working in Derbyshire (PRO Chester 25/25, ex inf J.E. Messham). In 1303 four German miners were employed unsuccessfully to work copper mines in Dyserth; two miners called Henry de Asshebourn (Ashbourne) and Richard de Asshebourn were also employed (Jones, 1913, pp95-6).

Hoozon, in his *Miner's Dictionary*, claimed that mineral customs would have been more common in Wales if the veins had been found at surface as in Derbyshire (Hoozon, 1747, under 'Brazen-dish'). He does not seem to have been aware of the 14th-century Welsh mining laws, but in the preceding century Sir John Pettus certainly was, for in his *Fodinae Regales* (1670, pp85-9) he prints them, more or less as they appear in the Black Prince's Register, although omitting the lengthy last two paragraphs about inspection of the workings. The first paragraph of the 1352 laws runs on from his version of the Ashbourne inquisition, and other mistakes are made, eg 'as the mine goeth between two coals' instead of 'two walls' in Para 2. At the end he states that:

These been the Laws and Customs of the Mine used in the highest Peak, and in all other places through England and Wales, for the which to be had the wise miners sued to our lord the king that he would confirm them by his charter and his great seal by way of charity (Pettus, 1670, p89).

THE DECLINE OF THE MINING LAWS

From the close of the 14th century, no more is heard of the mining laws in north-east Wales for over two hundred years. They may have fallen into disuse with the decline of mining in the 15th century. In 1400 Owain Glyndwr, who had quarrelled with his neighbour Reginald Grey, lord of Ruthin, attacked Ruthin and was proclaimed Prince of Wales. His rising spread rapidly, and by 1405 his power extended from his bases in the castles of Aberystwyth and Harlech over most of Wales. The repressive efforts of the English crown to reassert itself probably brought mining to a standstill. The Holywell miners paid their 20s a year for their privileges until 1403, when the men of Flintshire went over to Glyndwr. It was not until 1413 that the rising was fully suppressed. In Minera, the English tenants, who had formed three-quarters of the inhabitants in 1391, withdrew either to Holt or across the border into Cheshire (Pratt, 1976, p122).

THE MINING LAWS IN THE SEVENTEENTH CENTURY

The mining laws reappear in the early 17th century, at the time when the Grosvenor family was becoming involved in the lead-mining industry. Lead was to play a part, if only a small one, in the rise of this remarkable family from the Cheshire gentry to becoming one of the richest families in the world. Their successful attempts to end the mining laws on Halkyn Mountain have been referred to briefly (Bevan-Evans, 1963, p101 n; Rhodes, 1970, p12; Rees, 1968, p449; Rhodes, 1968, pp340-1; Bevan-Evans, 1966, pp13-14), but are worth considering in detail.

At the end of the 16th century the crown owned the mineral rights of the lordships of Bromfield and Yale (Denbighshire) and Coleshill and Rhuddlan (Flintshire), which between them covered a substantial part of the Flintshire and Denbighshire orefield. The Bromfield and Yale rights were granted in 1587 to Nicholas Hilliard, the court painter and miniaturist. He assigned them to Richard Grosvenor, who came into possession in 1601. In the same year Grosvenor purchased the mining interests of William Ratcliffe, a London man who in 1589 had been granted the mineral rights of Coleshill and Rhuddlan. Ratcliffe had erected a smelting mill in

Holywell in 1590, and in 1597 leased another mill in Leadmill, Mold (Williams, 1988, p3). The mines of Coleshill and Rhuddlan were not very active. They were let out at farm for £3 6s 8d yearly, but this rent was frequently not paid as the mines made no profit. Richard Grosvenor recovered the works at his own expense, and took a lease of them from the king's receiver from year to year. In 1612 he requested a longer lease, and a warrant was issued to grant him one, but instead a lease was granted over his head to one of the king's huntsmen, Richard Gwyn (Chester City Record Office, TCP/4/3). (It was common for courtiers to act as middlemen in such transactions.) Shortly afterwards, Gwyn assigned half of his lease to Richard Grosvenor, and another half to William Dymock of Willington, Flintshire, who in turn assigned it to Grosvenor (Jeffreys Jones, 1955, p205). Grosvenor went into partnership with Thomas Jones, who owned an estate in Halkyn later (in 1704) to be purchased by the Grosvenor family. Jones erected a smelting mill, and the partners each paid half the rent to the crown. They employed labourers to work the mines, taking one tenth of the ore themselves, and paying the labourers for the remainder (Jeffreys Jones, 1955, pp202-3).

Richard Grosvenor seems to have been anxious to develop the mines. It was claimed that he spent over £2,000 on them. On his death in 1619 he was succeeded by his son, also Richard, who was made a baronet in 1622. At about the latter date, or perhaps a year or so earlier, Sir Richard seems to have fallen out with his father's partner, Thomas Jones. A series of lawsuits ensued, in the county court, Great Sessions (equivalent to the assizes in England), Exchequer, and Star Chamber. The case for Jones and the miners is put in a petition c1622 to the Prince of Wales from Nicholas Hartley, miner, 'and many others'. He claimed that Sir Richard Grosvenor had forbidden them to work the mines, although they had paid their dues of one tenth to him, 'in ore and sometimes in money'. As a result, 'your supplicants to the number of 300 persons or thereabouts are utterly undone, their wives and children, and void of all other relief, but only are likely to become suitors to your highness for means to live.' Sir Richard had caused one of their dwelling houses to be broken into and had taken ore from it. He had had writs served on them out of the Exchequer, and had stated that he would spend £3,000 to compass his purpose (Chester City Record Office, TCP/4/4). It was later claimed by the miners that Grosvenor had compelled them to sell their ore to him, and instead of being paid on Halkyn Mountain they had to go to his smelting mill or his man in Mold. He also paid a lower price than others would give (Chester City Record Office, TCP/4/9). From papers putting Grosvenor's side of the case it is evident that Jones and the miners were claiming the right to work the mines under the

traditional mining laws. It is significant that the names of the miners given show that they were mostly Derbyshire men -- George Stubbing, Godfrey Bright, John Dennis alias Cornish John, Nicholas Rawley, Nicholas Hartley, William Glasebrook and Thomas Willington. It is clear that these were newcomers. Even the defendants stated that they had worked for less than three years, and the Halkyn parish registers show that Derbyshire men were not migrating into the area at this time, although they undoubtedly did so later. Grosvenor claimed that these Derbyshire miners had tried to introduce Derbyshire mining laws:

Thomas Jones hath brought strangers out of Derbyshire. Stubbin and Bright and others persuade them [the miners] that these mines were subject to the customs of Derbyshire, and thereupon the miners have gotten and delivered the ore from the farmer [Grosvenor] and sold the same to Stubbin (Chester City Record Office, TCP/4/19).

Grosvenor claimed that the miners were acting in concert, led by Jones and Stubbing. Jones had erected a smelting mill of his own; he and others took their ore to it, and as a result the Prince's mill in Grosvenor's possession stood idle. Jones countered that he had only moved the mill, erected ten years earlier when he was Richard Grosvenor's partner, 'for more convenience of watercourses'. Stubbing was his tenant at this mill. When the case reached the Exchequer the miners claimed that it was the ancient custom of Coleshill and Rhuddlan that any miners might lawfully enter into the mines and dig and smelt the ore, provided that they paid their one tenth to the crown. They found that they could not prove such a custom, and so disclaimed any right to dig. 'They were misinformed by one George Stubbins and crave the favour of the court' (Jeffreys Jones, 1955, p205). This was not the end of the matter, for the dispute ended in the court of Star Chamber in 1623. Despite its fearsome reputation, the court acted at this time as a court of appeal from local and central courts, and was much used by those who had cause to complain of the rapacity of the local gentry (Edwards, 1929, pp iii-v). No decrees and orders of the court have survived, but it is evident that Sir Richard Grosvenor won his case here too, and that the attempt of the Derbyshire miners to introduce their mineral laws was short-lived.

A curious feature of the case is that Thomas Jones had in his possession a book containing the mineral laws. Writing in 1620 to Sir John Wynn of Gwydir, who was developing his mines in the Conwy valley, Jones sent him a 'book of the statutes and orders of miners' for him to copy and return (Calendar of Wynn Papers, 1926, no 905). Presumably these were manuscript Derbyshire laws, for if they were Welsh ones they would surely

have been produced as evidence in court two years later.

Sir Richard Grosvenor was no doubt anxious to stifle any attempts to establish customary working, because his father's appearance on the scene marked a step up in the way the mines were worked. Even if one takes with a pinch of salt the claim that his father had spent £2,000 (a suspiciously round sum) on the mines, there is no doubt that more capital and effort was being put into them than before. Hooson, a conservative observer of the mining scene a century later, recorded his thoughts on the advantages of customary liberties 'where all things seem to be done with due consideration upon oath', compared to open liberties, 'where there is nothing but a loose way of dealing'. Customary liberties, he believed, favoured the miner. The man with a lease was 'at full liberty to use what arbitrary power he pleases over his miners, because they have him not tyed up by any customs'. The fairest play was between miners, 'but where great men get footing amongst 'em, there is as great knavery ... perjury and injustice, as in any court, law or business whatsoever . . .' (Hooson, 1747, under 'Bill'). There is evidence elsewhere that men were anxious to do away with the traditional laws when large investments were made. The Marquess of Hartington abolished customary working at Grassington when he became lord of the field in 1764 (Gill, 1988, p208), as did the Duke of Rutland when Hillcarr Sough was driven in Derbyshire (Willies, 1988, p151). According to Hooson, determined attempts were made in 1743 to destroy the customary laws throughout the High Peak of Derbyshire by abolishing the jury or body of the mine. '... Some base and degenerate miners for a little present interest, were ready to give up their rights and privileges, delivered to them by the care and industry of their forefathers, and [would have] ruined their posterity, had not one particular gentleman (being a good miner and maintainer in mines) stood up to vindicate their good old cause, and recover'd them from a total destruction' (Hooson, 1747, under 'Farmer').

THE LAWS AFTER 1623

Although the laws were formally suppressed at Halkyn in 1622-3, some aspects of them lingered on. The mear (or mear) continued to be used as a unit of measurement, 30 yards in length. Hooson claimed that it was introduced by miners from the Peak District (Hooson, 1747, under 'Mear'). It may have come in with the Derbyshire customs introduced c1620, but as has been mentioned above, the mear was the unit used (although for a length of 67 feet) in the Hopedale laws of 1352. The evidence is lacking to show whether it survived or not between the 14th and 17th centuries. Certainly the

Grosvenor estate (but no other) used it in many of its leases, which were granted from about 1700. The last lease to be granted using the mear was in 1824, when a twenty-one year grant was made of mines at Foel Boeth or Pothole in the parish of Llanarmon-yn-Iâl, Denbighshire. The Grosvenor estate was well known for its readiness to grant annual bargains of small mines to working miners. Bargains were granted, many of them using the mear, on all parts of the estate, but mostly in the Halkyn area of Flintshire. They were granted or renewed on the first Monday in May, generally for a piece of ground two mears (60 yards) in length and one (30 yards) in width, and a royalty of 25s per ton for lead ore and 10s for calamine was paid to the estate. The miner was given a small, printed parchment form recording his bargain, including a map showing his grant. John Taylor, who began to advise the Grosvenor estate in 1821, commented favourably on these annual bargains in a report he wrote on the mines on the estate in that year. The annual bargains, he wrote, were very numerous, but produced a smaller quantity of ore than he expected. Nevertheless, they were important in that they employed a great number of people, contributed a certain revenue, and might lead to discoveries. For these reasons they were to be encouraged, provided that they did not prevent more important grants. George Hughes, the estate's mineral agent, gave details of these annual bargains in his evidence to the Kinnaird Commission in 1863. By this time they had declined in numbers, and were being swallowed up by twenty-one year leases. They were granted on veins which were numerous, close together, and bore shallow, and were almost always worked by men who worked a six-hour shift in a larger mine (Kinnaird Commission, p474). Six-hour shifts were traditional in mines in Flintshire, and John Taylor's attempts to do away with them and insist on eight hours resulted in a series of strikes from the 1820s (Williams, 1980, p89). The system of annual bargains was not universally popular. 'A Hard-Working Miner' wrote to the Mining Journal to complain of them in 1850 (Mining Journal, 11 May 1850, p227). He claimed that the system encouraged men to steal stores such as candles, powder, etc, and even to conceal ore on their persons when coming from underground to pay for their second shifts in their own bargains. The letter's wordiness, and praise for the Taylors and their eight-hour shift, suggests that a member of that firm had a hand in composing it. In any case, the bargain disappeared from the 1850s, to be replaced in a few instances by formal takenotes, and the last echoes of the customary mining laws died away.

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APPENDIX

THE LAWS AND CUSTOMS OF THE MINE

The laws that follow are those codified for Hopedale, Flintshire, in 1352, as recorded in the Black Prince's Register in the Public Record Office (E 36/279, f42). They were printed in the original Anglo-Norman French by Sir David Evans (Evans, 1927, pp107-10). An English translation was given in the Public Record Office's calendar of the register (Part III, 1932, pp71-3). This text is followed below, with only minor alterations, and division into numbered paragraphs for ease of reference. A photograph of the original text was reproduced in Bevan-Evans (1966, pp7-8). A version of Paras 1-12 was given by Sir John Pettus in *Fodinae Regales* (1670, pp85-9). A translation of the laws for Minera, Denbighshire, 1391, which are virtually identical, was printed by

Pratt (1976, pp131-5).

1 When the mine is newly found in a field, the merchants and miners shall choose a barmaster (bermastre) and the barmaster shall deliver to the finder of the mine two finder meers (fyndemeeres), and the lord of the field shall have the meer nearest to those finder meers, one moiety thereof being on one side of them and the other on the other at his pleasure and choice. Then the barmaster shall deliver the field and mine to the merchants and miners by fixed meers to be given to those who are willing to work them according to the law of the mine.

2 The length of each meer shall be 10 fathoms and 7 feet, and the breadth shall be the whole space between two walls in which ore can be found. The merchants and miners shall have and keep the meers so delivered to them for themselves and their heirs for ever, unless they forfeit them to the lord of the mine reasonably and in accordance with the law of the mine.

3 The wives of the merchants and miners after the death of their husbands shall have reasonable dower of their said husbands' meers, unless they have been forfeited as above.

4 The finder of the mine shall work in his said meers and follow the vein at both ends thereof, so long as he can find ore and so long as the vein proceeds naturally between two walls, as far as the meerstake; and from there his next neighbour shall follow the vein in his meer in the same manner until he reaches his next neighbour's meer; and so the vein shall be worked and followed from meer to meer, provided they be not prevented by water.

5 If the barmaster finds for certain that any merchant or miner is not working duly in his meer, he shall have the meer marked and attached on three successive weeks, and if on the second day after the three weeks the meer is not duly occupied, it shall be forfeit to the lord by the law of the mine.

6 After the field of the mine has been delivered in meers, the lord of the field and the merchants and miners shall ordain a suitable measure whereby the lord shall take his lot (loot) and the miners sell their ore.

7 Each miner and merchant living in the mine shall have by livery of the barmaster a plot sufficient for his lodge and curtilage. They shall also have sufficient 'housebote*' and 'haibote**' and all manner of timber for their grooves (groves) *** by livery of the lord or his forester, if there be a sufficiency of timber in the lordship; and if perchance they cannot obtain it in the lordship, and have to provide themselves with timber elsewhere at their own costs, then the lord shall take his lot and they shall be at liberty to cause their ore to be carried away whither they please and smelted there for their profit and at their will, without hindrance of the lord or his people.

8 And the miners and merchants shall be quit of tonnage, pannage and all other customs in respect of everything that touches the sustenance of themselves and their households wherever the lord has 4d yearly of rent; and they shall have their beasts at pasture in all pastures within the lordship of Hope where the lord's beasts are, except in parks, meadows, sown fields, and wastes which the lord has set apart to be approved.

9 No minister of the lord shall take upon himself to make attachments or distresses within the franchise of the mine, but only the barmaster; and the lord or his steward shall hold his courts at the mine at his pleasure, and two great tourns yearly. And if any miner or other person in the mine, whosoever he be, be attainted of carrying away ore, first of all he shall be amerced at 5s 4d, whereof the barmaster shall

have the 4d, and if he be attainted a second time he shall be amerced at 10s 8d, whereof the barmaster shall have the 8d, and if he be attainted a third time his right hand shall be pierced with a knife through the palm and pinned to the stows up to the handle of the knife, and so he shall stay pinned until he be dead or get his hand free from the knife, and then he shall forswear the franchise of the mine and if he have a meer it shall be forfeit to the lord.

10 If any person within the mine be accused of any matter touching the crown, he shall remain in the keeping of the barmaster if the latter will mainpern under penalty of 100s to bring him before the steward at the next court of the mine. And if anyone so mainperned be attainted of felony in the said court, he shall be hanged on the stows.

11 And every trespass of bloodshed within the franchise of the mine shall be affered at 5s 4d, whereof the barmaster shall have the 4d; and no other trespass should be affered at more than 2d, which is the fixed fee of the barmaster, and the 2d shall be paid to the barmaster on the first day of the afferment, and if it is not paid then it shall be doubled on the second day, and so from day to day to the advantage of the barmaster so long as the sum remains under 5s 4d, and when the sum amounts to 5s 4d the lord shall have the 5s and the barmaster the 4d.

12 The merchants and miners shall have a weighing of their lead and a measuring of their ore whenever they please, after giving due warning to the lord's ministers, without disturbance from the lord or his people, and that for the common profit of the lord and themselves.

13 And for the better conduct and maintenance of these laws, and in order that the works below ground may be better overlooked than they were in times past, to the advantage of the Prince and the merchants, it is ordained by the Prince's council and agreed by the merchants and miners that there shall be a barmaster elected by them in common and accepted by the Prince; that once a day for certain, and twice if necessary, he shall descend to the bottom of the mine where the miners work to overlook their works; that if he find a default he shall declare it at once to the Prince's merchant and two other prudent men who are to be chosen by the Prince, the barmaster, and the Prince's merchant, and sworn in full court; that whenever the Prince's merchant and the other two are warned by the barmaster, they shall descend below ground with him and view the default; and that the trespasser shall be attached to be at the next court, and there be convicted by the testimony of those four, and amerced, and the amercement affered by his peers sworn for the purpose according to the amount of the trespass; provided always that the ancient law that amercements be limited to 2d remain in force in all respects between merchants and miners, except when the Prince shares in the damage.

14 It is also ordained that the Prince's merchant and the others so chosen shall descend to survey the works twice a week for certain, and that if any default be found which has not been presented to them by the barmaster, they shall choose six of the most substantial merchants and miners to descend with them and survey the default, and that those six shall be sworn in full court to testify with them as to the default thus found, and that by their testimony the barmaster and the trespasser shall be convicted of the concealment and the trespass respectively, and amerced in full court and affered by their peers sworn for the purpose according to the amount of the trespass, having regard to the greater or less amount of damage which might result from the concealment.

* The right to take wood for the repair of a house

** The right to take wood for repair of a fence

*** The mine where a man is working (Hooson)