



THE PENRUDDOCK KIST :  
date about 1720.

*Photo. by W. Priestman, M.P.S.*

TO FACE P. 225.

ART. XVI.—*The Penruddock Kist.* By the Rev. J. HAY COLLIGAN.

*Communicated at Carlisle, April 9th, 1908.*

IN the article on the Penruddock Presbyterian Meeting-house (these *Transactions*, N.S., v., p. 150), a reference was made to the kist at Penruddock.\* We have since been able to make an examination of the documents. We find that there are two main groups, the one relating to a land tenure case and the other to a tithe case. The first is between the tenants of Hutton John and the Hudleston family, lords of the manor. The second is between the parishioners of Greystoke and the rector of that parish. In both cases the people were successful. These documents were collected by a careful hand probably not later than 1720, and committed to an oaken chest. They represent a seventy years' struggle, and an expenditure of over £500 of the villagers' money. Throughout the nineteenth century they appear to have been almost entirely forgotten, and it is only by a fortunate accident that the present writer has been able to obtain access to the kist.

Of the two groups, the land tenure case is the more important. The question of land tenure had agitated the counties of Cumberland and Westmorland, particularly the latter county, in the sixteenth and seventeenth centuries. Sayer's volume on Westmorland, quoting largely from Nicolson and Burn's *History*, gives a number of such cases. A similar dispute to the Hutton John case is that of Staveley, near Kendal, and we are inclined to think, on internal grounds, that the decision in that case

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\* The kist at present is in the possession of the township of Hutton Soil, and is kept in the house of Mr. William Kitchin, Town Head, Penruddock. It may have been there from about 1720, as the date of the house is 1695.

in 1627 prompted the tenants of Hutton John to move in 1628. The last date in the controversy is 1716, although an echo of the strife is heard in an arbitration case in 1761.\*

Before giving a calendar of the documents, we may refer to the general conditions of tenure, and to the entrance of the Hudleston family into the manor of Hutton John.

The conditions under which the manor was held of the barony of Greystoke, in the reign of Edward III., may be seen in Hutchinson's *Cumberland*, vol. i., p. 415. They include homage, cornage, suit at three weeks' court, witnessman service, and the puture of Flascowe foresters.

In that same authority (vol. i., p. 415) the bounds of Hutton Moor are given, but no date is specified. The "immovable stone, partly to the west of Motherby" still remains, bearing on its time-worn face the date 1504. Whatever the date stands for—and it probably means a new, and thenceforth a settled order of things—we may presume that from this time the tenants of the manor began to acquire privileges of occupancy and security of tenure. It was not until a century later that Border disturbances became infrequent, but the inhabitants of the manor would probably enjoy more settled conditions from the year 1504. The brief references to ancient rents and Border services imply that the tenants held their tenements upon a military system. These services later on came to be compounded in customary rents, town term, gressome, general fine, cornage, heriots, boon services, mitigation of multure, forty-penny fine, &c.

During the whole of the sixteenth century a growing independence is observable, through influences that were social, educational, ecclesiastical, and religious. In England—as in Germany—the unrest was most noticeable

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\* This tenure case has a double interest, from the fact that not only is it overlooked by the usual authorities on Cumberland history, but it is the only instance of such cases where the documents have been preserved.

around land questions. Gradually the tenants of Hutton John acquired rights and liberties which, however gained, were reluctantly parted with. At the beginning of the seventeenth century, special instructions were given by James I. to restrict the privileges of these northern counties. Acting upon this royal mandate, the Hudleston family, who were new-comers into the neighbourhood, as soon as they came to the lordship of the manor, attempted to throw the tenants back into a system that was almost feudal. For seventy years of the seventeenth century they declared in the Manor Court, at Assizes, and in Chancery that the tenants were there at the will of the lord, while the tenants maintained with equal emphasis that they were there by right.

The first name that appears in these documents as lord of the manor is that of Thomas Hutton. There is a small parchment, signed by him, and dated 1620, by which he admits Edmund Sisson to his tenement. He appears to have admitted others, though the admittances cannot at present be traced. He then fell into trouble, possibly political or religious, but probably into debt, and he suffered an imprisonment which lasted fifty years. The Hudlestons had entered the manor when, in 1564, Andrew, the son of Sir John Hudleston of Millom Castle had married Marie, sister of Thomas Hutton. Andrew does not appear to have been lord of the manor, but in 1615 Joseph purchased the manor from his uncle.\* The struggle began in 1628, when Joseph Hudleston claimed a general fine on the death of Thomas Hutton. It was carried on by his son Andrew, who was born in 1603, and died in 1672; by his grandson, whose dates are 1637-1706, and by his great-grandson Andrew, 1669-1724.

The strength of the tenants' case was in a report of Baron Trevor in 1635 and in an umpirage of Sir George

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\* This fact, communicated by Mr. Ferdinand Hudleston, does not agree with the admittance by Thomas Hutton in 1620.

Fletcher in 1668, both undertaken at the order of the Courts of Common Law. These were refused again and again by the lord of the manor, and it was not until the case had been passed through the House of Lords in 1704, and decreed upon in 1716 by the High Court of Chancery, that the judgment of 1635 was enjoyed by the tenants. The following are the chief documents in the kist relating to this case:—

I.—ADMITTANCES.

- a. Edmund Sisson, one of the sons of Cuthbert Sisson, to the tenement called Langhorne's Tenement. It is dated December 26, 1620, and signed by Thomas Hutton. It is the earliest document in the kist.
  - b. John Jack of Penruddock Head, April 26, 1643. It is for a tenement in Whitbarrow, which he hath purchased of Thomas Sandwick. It is signed by Joseph Hudleston, and is the only document which contains his signature.
  - c. John Parker of Whitbarrow, 1643.
  - d. James Benson of Penruddock Head, after the decease of his father George, dated December 21, 1646.
  - e. John Slee's admittance to the Penruddock purchase, February, 1649.
  - f. John Slee of Loogate, admitted tenant and eldest son of Anthony Slee, of one messuage tenement in Penruddock. Signed by Andrew Hudleston, October 27, 1658.
  - g. Anthony Slee, October 25, 1660.
- 2.—Confession of perjury by Thomas Atkinson, 1667.
  - 3.—Committal order of Thomas Atkinson and William Benson, tenants of the manor of Hutton John, to the pillory in the market place at Carlisle, for the "detestable" crime of perjury against other tenants of the manor. This is the original order in Latin, and signed by several justices.
  - 4.—Order 19<sup>o</sup> November 17<sup>o</sup> Carl. II.
  - 5.—An account of the individual actions of Andrew Hudleston against the tenants between the years 1648-1655. Among other actions are the following:—Henry Winder, goods driven; Thomas Langhorne, doorkey taken away; Adam Bird, beaten; James Wilkinson, debt paid but bond kept.
  - 6.—The original award of Sir George Fletcher; written and signed by his own hand, with his seal.
  - 7.—A bill, year 1660, Todhunter v. Hudleston.
  - 8.—A bill, year 1666, Todhunter v. Hudleston.

- 9.—The bond of Andrew Hudleston, senior, and Andrew Hudleston, junior, to stand by the decision of the Court in the award; given at Carlisle Assizes, 1667.
- 10.—A paper referring to Baron Trevor's report, and containing also the demands of Andrew Hudleston and the tenants.
- 11.—An order upon the imprisonment of the tenants; dated 26<sup>o</sup> Carl. II.
- 12.—A letter from James Bird of Brougham, to John Noble of Penruddock, dated October 8, 1675. It refers to an account for £12 7s. 6d.
- 13.—An order upon the imprisonment of the tenants; 26<sup>o</sup> Carl. II.
- 14.—An order July 10, 1700, Todhunter v. Hudleston.
- 15.—Copy of original bill, October 23, 1699, Todhunter v. Hudleston.
- 16.—The several answers of Andrew Hudleston, Esq., now the elder, one of the defendants, to the bill of complaint of William Todhunter, 12<sup>o</sup> William III.
- 17.—A short descriptive note of the proceedings of the case, July 10, 1700.
- 18.—Interrogatories to witnesses, 1701.
- 19.—An order, 1701, that the order of July 10, 1700, do stand.
- 20.—DOCUMENTS IN CONNECTION WITH A COMMISSION OF THE HIGH COURT OF CHANCERY, held at the house of William Rowell, October 9, 1701. William Rowell was probably an attorney (*Notabilia of Old Penrith*, part i., p. 160). In the Corn Market, Penrith, there stands a house with the inscription on the headstone "W. R., 1624," and this is probably the place where the commission met.
- a. Warrant to witnesses to appear; twelve names are given; dated September 26, 1701.
  - b. Notice to Andrew Hudleston.
  - c. Depositions on behalf of Andrew Hudleston.
  - d. Depositions on behalf of the tenants.
  - e. List of expenses, amounting to £2 6s. 6d., which amount was expended for dinners, suppers (bread and cheese), tobacco, and pipes.
  - f. An account for ordinarys and extraordinarys.
- 21.—A copy of Baron Trevor's report, copied in 1701.
- 22.—The answer of Andrew Hudleston to the award, dated 1701.
- 23.—A copy of the order which was obtained by Joseph Hudleston, in 1632.
- 24.—A list of questions by counsel, upon general fine, running fine, and gressome.
- 25.—An interesting letter to counsel, refuting the statement that Andrew Hudleston makes in his plea for a further trial.

- 26.—Confession of the tenants that they have the right to cut wood without asking leave of the lord, 1701.
- 27.—A brief, *Todhunter v. Hudleston*.
- 28.—A parchment-backed book containing a general account of the case 1668-1716.
- 29.—Order of referendum to Trevor's report.
- 30.—A reference to customary fines.
- 31.—A bond dated 1702, John Todhunter with Thomas Slee for £21 4s.
- 32.—An itinerary of a journey from Penruddock to London on horseback in the year 1702. The first paper gives the outward journey, which began in July. The route taken was by Wakefield and Grantham. The homeward journey was through Warwickshire, Staffordshire, and Lancashire. The whole journey, including several days in London, occupied "three weeks and odd days." The mileage is given in detail, the homeward journey being 221 miles. A list of inns where the two tenants, Adam Bird and Thomas Slee, lodged is also given, together with an account of their expenses.
- 33.—Report, July 20, 1703, *Todhunter v. Hudleston*.
- 34.—An order of the Court for re-trial, 1703.
- 35.—A perpetual injunction against Andrew Hudleston, dated 20<sup>th</sup> Queen Anne, in Latin.
- 36.—A translation of document 35.
- 37.—A petition by Andrew Hudleston for rehearing, November 13, 1703. Upon depositing £10, a rehearing was ordered for the twenty-seventh of the same month.
- 38.—A descriptive letter dated London, June 22, 1703, written to the tenants by one of their number, probably Thomas Slee. In it he gives a very interesting account of the procedure of the trial, and adds:—"It's the sole point about the general fine, which if we establish and compass, it will be such a thing as never was in Cumberland."
- 39.—The names of those subpœnaed, August 10, 1703.
- 40.—A petition to the Master of the Rolls, 1703, to the effect that Mr. Hudleston resides in London, and does all he can to obstruct the hearing of the case. The petitioners ask the Master to appoint some short day, as the Cumberland Assizes are held only yearly.
- 41.—An order to produce the Court Rolls, *Todhunter v. Hudleston*, 1702.
- 42.—Appeal of Andrew Hudleston, from a decree of the Master of the Rolls, made June 25, 1703.

- 43.—Order for rehearing, Todhunter v. Hudleston, 1703.
- 44.—Disbursement papers of Adam Bird and John Noble.
- 45.—Order July 12, 1703, to settle the issues, Todhunter v. Hudleston.
- 46.—Order July 31, 1703, Todhunter v. Hudleston.
- 47.—The petition for rehearing, granted November 13, 1703, for the twenty-seventh of the same month.
- 48.—Decree of the House of Lords, January 24, 1704.
- 49.—Order to name an attorney. On February 17, 1704, Mr. Raymond named.
- 50.—An account, dated 1704.
- 51.—Adam Bird and Thomas Slee's expenses to London during January, 1704.
- 52.—Sundry bills.
- 53.—Andrew Hudleston's plea for a rehearing, November 13, 1703.
- 54.—Order, October 26, 1704, Todhunter v. Hudleston.
- 55.—Order, December 17, 1705, Todhunter v. Hudleston.
- 56.—Order, House of Lords, 1704.
- 57.—Todhunter's petition to the judge at Appleby, 1705.
- 58.—Brief, Todhunter v. Hudleston, for plaintiffs to be reheard at Westminster, October 24, 1704.
- 59.—A copy of an order from the Crown official.
- 60.—A motion to make this order of Assize an order of the Court of Chancery.
- 61.—A copy of the petition to Charles I., 1637. It was presented at Newmarket by Cuthbert Grave, William Dawson, and John Slee, poor tenants of Hutton John. The King ordered his law barons to inquire into it, which was accordingly done, at Oxford.
- 62.—A list of costs agreed upon November 18, 1706, between lord and tenant.
- 63.—Order to read depositions at trial, 1705.
- 64.—Agreement between lord and tenants about fines, August 16, 1705.
- 65.—An account of the rears concerning the suit, until March 5, 1706.
- 66.—Lawyer Pattinson's bills, 1701-1707; total, £471.
- 67.—A bill of decree, Jack v. Hudleston, 1716.
- 68.—Brief, Todhunter v. Hudleston. Heard April 29, 1706.
- 69.—Order to revive proceedings, January 12, 1716.
- 70.—Affidavit, Jack v. Hudleston, 1716.
- 71.—Lawyer's bills, 1699-1717.
- 72.—Order, February 26, 1716, Jack v. Hudleston.
- 73.—The Bill of Revival, 1716.

- 74.—A friendly letter, probably from Andrew Hudleston, the son of Joseph, to Henry Shepherd and Bar. Bousher, two of the tenants.
- 75.—An interesting letter to Lord Howard of Naworth Castle, first Earl of Carlisle. The tenants, thankfully acknowledging the great goodness and mercy of God in providing them with so honourable, religious and piously pitiful a friend, ask for his further assistance.
- 76.—Four receipts, dated 1691 and 1692.
- 77.—A complete account of disbursements and receipts from 1699 to 1717. Very interesting details are given in this book.
- 78.—A parchment roll of twenty-eight pages, each 27 inches by 33 inches, containing a perfect record of the struggle, and having attached to it the Great Seal of England. Dated 1716.

The second group of documents in the Penruddock kist relates to a dispute with the rector of Greystoke. It was raised about 1672, largely upon the action of John Noble, a yeoman of Penruddock, and the only freeholder in the tenure case. It was carried on in the name of Thomas Parsons, the farmer of the tithe, *versus* John Noble, but it was really a contest between the rector of Greystoke and an important section of his parishioners. They did not, however, refuse to pay the tithe as the Quakers were at that time doing throughout Cumberland and Westmorland, but they rebelled against an unjust measure. It appears that "from time immemorial" the tithe had been sixteen gallons to the bushel measure, and that the Penrith measure, which was their standard, was similar to the Winchester measure. The vessel which was used for gathering the rector's corn had gradually been growing in girth, especially since the Restoration and the Act of Uniformity, both of which events have a strong bearing on the case, as the complainants were Presbyterians. The measure eventually reached twenty-two gallons, and the parishioners took the case to law. After trials at Carlisle, Lancaster, and Appleby (at the assizes of three different counties), the parishioners received a verdict in their favour in 1674. In 1685 the larger number of these

complainants were excommunicated by the rector, and after meeting in secret until the Act of Toleration in 1689, they built a meeting-house, part of which remains in the present place of worship at Penruddock.

## DOCUMENTS IN THE TITHE CASE.

## 1.—BRIEFS.

- a. Sir John Otway's brief.
  - b. In this document it is stated that the tithe is increased by stealth.
  - c. Evidence for the defendants at Carlisle.
  - d. Carlisle Assizes.
  - e. November 22, 1675, Exchange Chamber.
  - f. Carlisle Assizes. John Robinson, aged 90, states that during the time Bishop Robinson and Mr. Waterhouse were at Greystoke the bushel was only sixteen gallons.
  - g. Lancaster Assizes.
  - h. Lancaster Assizes.
  - i. Lancaster Assizes.
  - j. Lancaster Assizes.
  - k. Carlisle Assizes.
  - l. Lancaster Assizes.
  - m. Sir John Otway's brief.
  - n. Sir John Otway's brief, November 19, 25<sup>o</sup> Carl. II., &c.
  - o. Parsons v. Noble.
  - p. Mr. Montagu's brief; year 1674.
  - q. Lancaster Assizes.
  - r. November 23rd, 1674.
  - s. Mr. Weston's brief, Carlisle Assizes.
  - t. Mr. Montagu's brief.
  - u. Mr. Weston's brief, Appleby Assizes.
  - v. November 26, 26<sup>o</sup> Carl. II.
- 2.—A letter from John Noble, Penruddock, to his much respected friend, Joseph Hinde, Stainton, near Kendal, dated March 19, 1673. He asks Hinde to consult Henry Johnes of Lancaster.\*
- 3.—A letter from John Noble to Henry Johnes, Lancaster, dated March 24, 1673. Written from Penrith stating that he will shortly be at Lancaster.

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\* Mr. William Hewitson of Bury states that Henry Johnes was an ironmonger, and mayor of Lancaster on two occasions.

- 4.—A paper explaining that Thomas Parsons had succeeded in getting the case transferred to Lancaster on the plea that he had new witnesses.
- 5.—Deposition of Thomas Crosby, gent., of Wythop, Cumberland, dated 26<sup>o</sup> Carl. II.
- 6.—This paper pretends to convict a witness named Grisedale of perjury . . . but without effect.
- 7.—Parsons v. Noble. Mr. James Bird at his chambers at Bernard's Inn.
- 8.—Interrogatories of witnesses between Dr. Smallwood and John Noble. Taken at Cockermouth, January 24, 1672.
- 9.—The answer of John Noble, Henry Winder, Miles Haithwait, and George Parker, defendants to the Bill of Complaint.
- 10.—A legal document in Latin.
- 11.—A letter from John Noble, Penruddock, November 27, 1673, to Mr. Henry Johnes at Lancaster. Delivered with speed.
- 12.—Draft of order, November 28, 1674, for a new trial at Appleby.
- 13.—Haithwait v. Smallwood. Thomas Moses said he did not know how many gallons the measure ought to contain, but it ought to be according to Penrith measure.
- 14.—ORDERS.
  - a. May 25, 1674.
  - b. February 12, 25<sup>o</sup> Carl. II.
  - c. December 7, 26<sup>o</sup> Carl. II.
  - d. November 24, 26<sup>o</sup> Carl. II.
  - e. February 24, 1673.
  - f. 24<sup>o</sup> Carl. II.
  - g. 25<sup>o</sup> Carl. II., addressed to Mr. James Bird, attorney, Brougham.
  - h. A bundle of orders, Parsons v. Noble.
- 15.—A note from Thomas Pattinson of Brougham, evidently to John Noble, informing him that the decision is for sixteen gallons.
- 16.—List of the jury at Lancaster.
- 17.—A note of evidence to be taken at Lancaster. Signed by Henry Johnes and Joseph Hinde.
- 18.—An affidavit of John Noble and Adam Bird, to the effect that Dr. Smallwood has given out in church that he intends to carry on the suit over the bushel corn.
- 19.—A lawyer's bill, Parsons v. Noble.
- 20.—Rejoinder of John Noble about the bushel corn.
- 21.—A lawyer's bill for John Noble for £16 3s. 2d.
- 22.—A lawyer's bill for the Hutton John tenants. The total amount is £9 19s. 3d.

- 23.—A letter from John Noble, dated Penrith, June 2, 1674, to Joseph Hinde at Stainton.
- 24.—A receipt, dated November 4, 1673, that James Bird has received money from John Noble due to him, until the present Michaelmas.
- 25.—Names of the jury at Quarter Sessions, November 8, 1673, in the trial for perjury of Thomas Grisdale.
- 26.—Items paid by John Noble up to January 20, 1675. There is an amount to William Williams of Johnby Hall of £5.
- 27.—A deposition of Adam Bird and John Noble, to the effect that the evidence at the Greystoke Commission was overheard by William Hodgson, an agent of Thomas Parsons.
- 28.—A letter from Sir John Otway to William Williams, Esq., dated February 6, 1674.
- 29.—The observations of William Williams, Esq., upon the evidence at Lancaster.
- 30.—A paper containing references to the Lancaster trial.
- 31.—Observations forgotten in the bushel case, written down by John Noble.
- 32.—Extracts from the parish registers of the baptisms of several witnesses.
- 33.—A memo. of John Noble for his nephews, John and Nicholas Noble, about the bushel corn.
- 34.—A schedule of the lands of Greystoke in connection with the bushel corn.
- 35.—A letter of complaints about Dr. Smallwood, who, in addition to other acts of unfairness, has neglected to supply curates for the chapelries of Threlkeld, Grisdale, Matteredale, and Watermillock.
- 36.—Prices of bushel corn, barley, oats, &c.
- 37.—The answer of Dr. Smallwood, 1672.
- 38.—Domus Rex. Anthony Watson, John Martin, and John Atkinson. This document relates to the perjury trial of Thomas Grisedale.
- 39.—A bundle of parchment deeds, with seals attached, and with a portrait of Charles II. at the head of each document. Three of them in Latin, and all of them relate to the tithe case.