

Some Farming Customs and Practices in the late 1860's: the Case of *St Quinton v. Lett*

By W. HARWOOD LONG

ONE of the most severe droughts in the nineteenth century occurred in the summer of 1868. In April the temperature was above average, in May there was little rainfall, and it was very hot for the time of the year. There was scarcely any rain throughout June in most parts of the country, and the drought continued during July. Although there were heavy rains in August it remained so hot that the moisture evaporated before it could sink into the soil, and the dry conditions with high temperatures persisted into September.¹

The drought affected farming in various ways. The harvest of 1868 was very early: in many parts of the country it was over by the end of July. The winter-sown crops on heavy soils were generally good, but yields of spring-sown corn were light. The crops worst hit were the clover and grass seeds sown amongst the corn in 1868 for hay or grazing in 1869. Almost without exception these failed, leaving farmers with the problem of how to find keep for their sheep in the summer of 1869, and what to do with the land that should have been providing it. Generally their solution was to sow a green crop directly the weather broke, though many resowed their clover and temporary grasses. Seedsmen in the eastern counties experienced an unprecedented demand in the summer and autumn of 1868 for small seeds—mustard, rape, *trifolium incarnatum*, stubble turnips, Italian rye grass, and grass seeds for early spring keep.²

Other farmers broke their rotation, usually the four-course, by growing a second corn crop in place of the failed seeds. This brought with it a further problem, how to get the subsequent cropping into rotation again. A

Yorkshire farmer solved it by growing three corn crops running, and as a result he became involved in a law-suit with his landlord who alleged that the tenant had broken the terms of his agreement. The case was tried in York in 1871 before a judge and jury, and the shorthand notes taken of the evidence were subsequently published.³

The evidence of the witnesses and the summing up of the judge throw light on some of the farming customs and practices, and the opinions of agriculturists on them, at that time. The account of the trial is also interesting in its legal aspects, but as these may be of only incidental interest to agricultural historians they are referred to in this article only *en passant*. To some extent material of this sort may suffer in accuracy both from the bias of the witnesses and from the technical limitations of the shorthand note-takers: there are signs of both defects in the published account of the action. But in spite of these limitations enough was disclosed about farming methods and customs to justify discussing the evidence in this context.

The circumstances which led up to the trial were these: the defendant, Joseph Lett, farmed a mainly arable holding of about 600 acres on the Scampston estate of Col. St Quinton, a few miles out of Malton, on the Scarborough road. He had previously farmed in Worcestershire, and had come up to Scampston in 1863. Most of the land in this part of Yorkshire is very light, but the soil on Lett's farm was variable, some of it having more "body" in it than the rest. The other tenants on the estate held their land on yearly tenancies, and followed an unwritten agreement to farm the arable on the four-course shift of roots, barley,

¹ J. C. Morton, 'Some of the Agricultural Lessons of 1868' *J.R.A.S.E.*, 2nd ser., v, 1869, pp. 27-73.

² *Ibid.*, p. 48.

³ *Important Trial in Farming: St Quinton v. Lett.*, printed by Johnson and Tessyman, Ouse Bridge, York.

clover, wheat. Lett, however, insisted on being given a 21-years' lease with freedom of cropping, provided he "shall till, lime, manure, fallow, sow down with seeds, manage, crop and cultivate all arable lands upon the said farm according to the best and approved methods of husbandry, most adapted to the nature and quality of the soil, and known and practised in the neighbourhood where the said premises are situated." This is an important clause for the tenant was liable to a penal rent of £20 for every acre which was not cultivated according to the terms of the lease, and the verdict at the trial depended on the interpretation of this clause in the special conditions of 1869 and 1870.

It will be noted that the penal rent in Lett's agreement was not for a specific act, but for breach of a certain covenant. It was not related to any damage that might have been caused to the landlord, as was customary with many penal rents.¹ (There were, however, some specific clauses in the agreement which carried the same penalty if they were not observed. The tenant had to pay £20 an acre for any land he might sow with woad, line, flax or hemp, or cole, rape, turnips or mustard to stand for a crop of seed. He was also bound by his agreement to manure his grass and meadow land every second year. But in the circumstances of the trial the penal clause was related only to the way the tenant was farming the land itself as defined in the lease. It was the interpretation of this clause which created the dispute on which the trial was based.)

The relations between the tenant and his landlord and, more important in the present context, the landlord's agent, were excellent for some six years, but they deteriorated in 1869 and in 1870 Mr Lett received a letter from the agent which accused him of mis-cropping. The agent claimed that the tenant was liable for the penal rent of £20 an acre on some land that he had cropped twice with a white crop, and an additional rent of £20 an acre on the land cropped three times, a total of

£1,328 15s. The letter continued that the landlord was abandoning his claim on the twice cropped land, but he retained it on the land which had grown three white crops "which would come to between £700 and £800."

The trial resolved itself into an examination of the extent to which the growing of three white crops consecutively could be regarded as being consistent with the terms of the lease which required the tenant to cultivate his land "... according to the best and approved methods of husbandry..." Initially the plaintiff claimed that the lease implied that the defendant should farm according to the custom of the country: as this was based on the four-course, and as Lett admitted that he had not always kept to it, it would follow that the terms had been broken. The defence objected on the grounds that "custom of the country" and the farming "known and practised in the neighbourhood" were not synonymous terms. After this point had been settled in the defendant's favour the examination and cross-examination of the witnesses very soon followed a pattern. Counsel for the plaintiff based his case on the fact that Lett had cropped some of his land with corn in three consecutive years. He asked his witnesses if they had ever grown three corn crops in succession, or even two, and what they would have grown if they had been in Lett's position when his seeds failed in 1868. They were cross-examined on the effect that the application of manures had in maintaining the fertility of the soil in conditions such as these.

The witnesses for the defendant were asked to give their opinions on the general state of the farm and on the prevalence of the practice of growing two or more crops successively, particularly in Scampston and its immediate neighbourhood.

The facts of the case can be summarized from the evidence which Lett himself gave in the witness box. He explained that in 1868 he had sown clover seeds amongst his wheat.

¹ Penal rents were common in agricultural agreements until 1908. But Section 25 of the Agricultural Holdings Act 1908 specifically prevented the landlord from recovering any sum in excess of the damage actually suffered by him in the event of any breach of non-fulfilment of a condition in the contract. The trial at York ante-dated the first Agricultural Holdings Act, which itself was permissive only, and consequently largely ineffective, by four years.

These would normally have provided the keep for his sheep in the summer of 1869. But when he harvested the wheat he found that all his seeds, 87 acres, had completely failed in the drought and he had to plough them up. In place of them, he grew on 40 acres tares (vet-ches) to be eaten by sheep, and on 15 acres he grew turnips. These 55 acres gave him as much green crop as he could consume with his livestock, but he was left with the problem of the remaining 32 acres, and of providing keep for his sheep to graze in the summer of 1869. He solved it by growing a second crop of corn (oats) on the 32 acres, and he left down 34 acres of the previous year's seeds for a second year to help compensate for the land that was growing corn instead of seeds.

The decision to grow two corn crops running led to a further problem—how to get his cropping back into its proper rotation. He did the only thing he thought was possible, he grew another white crop. And to minimize the risks of exhausting the land he gave it a heavy dressing of farmyard manure in the autumn and a top-dressing of a chemical fertilizer in the spring.

The plaintiff's case was supported by twenty-three witnesses: the defendant's by twelve. The witnesses were mainly agents on neighbouring estates, valuers, or tenant farmers. Most of the farmers and several of the agents were farming farms of between 300 and 1,000 acres, often on the Yorkshire Wolds or in Holderness. The plaintiff's agent had arranged for his witnesses to walk the farm in the week before the trial took place and he chartered a special train to convey them to (presumably) Scampston station for this purpose.

The plaintiff's witnesses gave their views on alternative crops to corn in 1869. Several suggested peas or tares. If the land would not grow peas (as the defendant claimed) they recommended white turnips as an alternative crop, even if swedes had been grown in the root break two years earlier. (Only one witness suggested mangolds which, in any case, were seldom grown in the north.) But some agents admitted in cross-examination that if a tenant had come to them for permission to grow a second white crop in such a situation they

would have allowed it. But not a third in any circumstances.

Another witness's alternative to peas was rape. This man, like several others, affirmed that it was certainly wrong to grow another corn crop, and even worse to grow three in a row. Yet when he was cross-examined he admitted that he himself had once taken three white crops in succession, and one of the tenants on his estate had "under very peculiar circumstances" once grown four or five consecutively. It cannot have helped the plaintiff's case to hear that this man was "a most excellent tenant" who would not do anything that was not beneficial both to the farm and to himself.

It is surprising that so many witnesses were prepared to suggest turnips in 1869 on land that had grown a turnip crop only two years earlier: the fear of disease was apparently no deterrent, although the danger of finger and toe and of "the grub" was mentioned by some of them. No witness mentioned the turnip fly by name. There was, in fact, very little in the evidence to suggest that farmers and agents appreciated the value of rotations for protecting crops against insect pests and fungus diseases, though some witnesses would have preferred if possible to grow clover no more frequently than one year in eight for this reason. Much, however, was made of the advantages of rotations for preventing the exhaustion of the soil which would follow from continuous cropping with corn. Each witness asked by the plaintiff's counsel why he regarded continuous corn-growing to be contrary to farming according to the "best and most approved method of husbandry in this neighbourhood" replied that it exhausted the soil. But none seemed at all sure what was meant by exhaustion.

One witness, a tenant farmer occupying not less than 2,000 acres, asked whether he meant that certain elements were taken out of the soil, could only repeat: "it exhausts the land," and in face of several further questions inviting him to be more specific, was quite unable or unwilling to do so, pleading that he was not a chemist. Another tenant of 500 acres in Holderness refused to admit that the exhaustion of the soil by continuous cropping could

be offset by applying chemical manures, although a big increase in their use was taking place throughout the country at this time.¹ For himself, he very seldom used them and agreed that there was "nowt like muck—and lime."

A rather more enlightened view on plant nutrition came from a farmer of 600 acres in the East Riding who was also a member of the Royal Agricultural Society. He explained that chemical manures provided ammonia, nitrogen, and phosphates to the soil "all of which are the elements for white crops." He then went on to talk about the importance of silica, an element "which nature only can supply." He claimed that although a green crop does not require it, silica was an essential element in the growing of corn crops. Silica was also referred to by one of the witnesses for the defence. He was the agent for a large estate in Yorkshire and had formerly been a professor at the Royal Agricultural College, Cirencester. He claimed that, while green crops do not require the addition of silica to the soil, it was a necessity for white crops, and was supplied in a well-known mineral manure. Even the learned judge referred to it respectfully in his summing up, and remarked "you can see it in the straw through a microscope."

One hundred years ago silica was evidently regarded as one of the essential plant foods. In fact, according to the "mineral theory" of plant nutrition which was popular in the nineteenth century, particularly amongst German scientists, if an element is found in the ash of a plant, it must be essential or important to it.² The theory apparently failed to survive the century. The ninth edition of Fream's *Elements of Agriculture* mentions it,³ but not as a plant food, and it was no longer included in the list of plant foods in the lectures given to students of agriculture fifty years ago.

Lett's attitude towards manures was very different from that of most witnesses. During the three years 1868–70 he spent a total of £849 on manures, and a further £1,301 on cake and corn. Some of the fields which were growing a third corn crop in 1870 yielded 5 and

4½ qrs. of wheat to the acre in that year, and although a third field yielded only 3 qrs. it must be remembered that as late as the inter-war period of the present century a yield of 4 qrs. to the acre was then regarded as satisfactory on all but the best land. Lett had also clayed 126 acres of his lightest land. (This did not include the 32 acres in question.) The dressings amounted to from 90 to 100 loads an acre at a cost of £7 to £12 an acre.

It was not enough, however, for Lett and his counsel to show that he was farming well: they had to convince the jury that he was farming his land "according to the best and most approved methods of husbandry . . . known and practised in the neighbourhood." To do this it was necessary to prove that corn was the best crop to grow on the 32 acres, taking into account the special conditions of 1869 and 1870, and the fact that Lett had admitted that he normally kept to a modified four-course rotation.

Lett explained that altogether 87 acres of seeds had failed, but he had dealt with 55 of them in a way nobody could take exception to. Witnesses for the plaintiff had suggested various green crops which they would have sown under the circumstances, and Lett referred to them one by one to explain why he had considered them to be unsuitable. He had been reluctant to grow turnips because they had been grown only two years previously on the same land, and peas had always failed when he had tried to grow them in the past. He regarded beans as a hazardous crop, and rape and mustard, if he had grown them, would have provided more sheep keep than he could have done with at the time. The period of the year he had to plan for was the summer months, when normally the seeds would have provided the grazing for his sheep. Rather surprisingly Lett made no reference to tares as an alternative, though many of the plaintiff's witnesses gave tares as their first choice. Tares have many uses. One is for folding with sheep during the summer.⁴ Consumed in this way they would have solved the problem. But Lett had already

¹ See F. M. L. Thompson, 'The Second Agricultural Revolution, 1815–1880', *Econ. Hist. Rev.*, 2nd ser., XXI, no. 1, April 1968, pp. 62–77.

² I am indebted to Dr D. H. Robinson for the reference to the mineral theory.

³ W. Fream, *Elements of Agriculture*, 9th edn, 1914, pp. 7, 11.

⁴ Fream, *op. cit.*, p. 347.

sown 40 acres of his seeds break with tares, and he probably considered that he was growing a sufficient acreage to carry his sheep through the summer. (It is interesting that the increased requirement of labour which these crops must have represented over a standing crop of clover does not seem to have been regarded as a limiting factor.) However, one of the witnesses mentioned that the practice of grazing tares with sheep was only just being introduced at that time, and Lett may have been unwilling to risk a larger acreage on an untried system.

He emphasised the difficulties that he was under in attempting to bring his land back into rotation after following corn with corn in 1869. Yet he and many of the witnesses admitted that it was a common practice to grow two corn crops in two years. It seems, indeed, that even those tenants whose yearly tenancies required them to farm on the four-course regarded it as their right to grow two corn crops if they wished to do so. Nor was it unknown for tenants to grow three and even four corn crops successively, as several neighbouring farmers admitted they had done themselves, sometimes with their landlord's permission and sometimes without it. In fact, it is probable that more care is taken nowadays to allow for break crops in a rotation than was the custom a hundred years ago. Caird mentions that wheat was regularly grown in alternate years, and according to Charnock, a 36 bu. an acre crop grown near Wakefield was the fifth wheat crop grown in successive years.¹ Charnock also refers to a field on the banks of the river Calder which, having grown wheat for twenty-seven years out of thirty-one, was still yielding 39–42 bu. per acre at the end of that time. Another field in the same district had grown wheat for six years running and was still producing 36 bu. to the acre of excellent quality wheat. Even one of the plaintiff's witnesses admitted that a field had been pointed out to him that had grown ten white crops in succession. The interesting diaries of Francis Cruse Waide reveal that he grew

wheat for six years running on a field near Pontefract, beginning in 1854, before bringing the field into the four-course rotation. On another field he grew wheat ten times in the twenty years 1854–73.²

These records suggest that crops were less susceptible to pests and diseases in the nineteenth century than they are today, though in Cambridgeshire a field has been cropped with wheat each year in an experiment extending from 1952 to the present time. It yielded 30 cwt. per acre in 1952 and 42 cwt. (say 75 bu.) per acre in 1972.³ There seems little doubt, too, that the four-course system was much less widely observed by farmers than their agreements would lead one to suppose. It was hinted by one of the witnesses in the Lett trial that the four-course system was breaking down largely as a result of the application of fertilizers which made feasible more freedom of cropping. Even in Norfolk, the home of the system, one very well-known farmer was congratulating himself on the fact that his agreement allowed him to farm as he liked, and the need for ample liberty of cultivation was regarded as the first of the lessons to be learnt from the drought of 1868.⁴

In spite of the widespread failure of the seeds, the north had better root crops than the south in 1868, though the crop failed completely as far north as Derbyshire.⁵ Waide noted many good fields of turnips between Malton and Scarborough "looking almost as well as in ordinary years." Whether he travelled by road or rail, he must almost certainly have passed through Scampston on this occasion.

The knowledge that the four-course shift was breaking down may have influenced the jury, composed partly of tenant farmers, to reach their verdict; though having had an opportunity to go over Lett's holding they must also have appreciated the high standard of cultivation which Lett set himself, and the good crops he was getting in spite of the naturally poor nature of the soil. At any rate, after deliberating for just under an hour, they returned a verdict in favour of the defendant.

¹ J. Caird, *English Agriculture in 1850–51*, 1851, p. 291; J. H. Charnock, 'On the Farming of the West Riding of Yorkshire', *J.R.A.S.E.*, 1st ser., ix, 1848, p. 295.

² W. Harwood Long, 'Farmer Waide's Diary 1836–73', *Farmer's Weekly*, 1 Feb. 1974, p. viii.

³ *British Farmer and Stockbreeder*, 14 April 1973.

⁴ Morton, *op. cit.*, p. 66.

⁵ *Ibid.*, p. 61.

The plaintiff appealed against the verdict on the grounds that the judge had misdirected the jury on some points. The appeal was held in June 1871 before three judges but they found no evidence of misdirection, and the appeal therefore failed. It is pleasant to be able to add

that in spite of the acrimony which was engendered by the trial, time quickly blunted the edge of the bitterness between the principal contestants, and they were not long in resuming the amicable relationships that had existed at the beginning of the tenancy.

Notes and Comments

THE BRITISH AGRICULTURAL HISTORY SOCIETY

The Winter Conference of the Society was held jointly with the Veterinary History Society at the Geography Department, University College of London, on 30 November 1974. The theme of the conference was 'Animals in Agriculture', and in the morning session there were papers on the development of cattle-farming in Great Britain in the nineteenth century by Dr David Taylor, and on the emergence and refinement of sheep breeds since domestication by Dr Michael Ryder.

In the afternoon Miss Daphne Goodall spoke on the role of horses in agriculture and Mr Sherwin Hall on the history of the statutory control of livestock diseases, with special reference to the background to the disastrous cattle plague of 1865-6. The joint meeting proved an excellent opportunity for the exchange of views on related problems by specialists in different disciplines and it is hoped to organize further joint conferences in future.

THE B.A.H.S. ANNUAL CONFERENCE 1975

This will be held from Monday, 7 April, to Wednesday, 9 April 1975, at Harper Adams Agricultural College, near Newport, Shropshire. There will be papers by John Higgs, President of the B.A.H.S., Professor H. E. Hallam, Dr F. V. Emery, Dr D. G. Hey, Dr J. R. Walton, and Dr A. R. H. Baker. Further details may be obtained from Mr A. D. M. Phillips, Department of Geography, The University, Keele, Staffordshire, ST5 5BG.

TOOLS AND TILLAGE

A recent edition of this journal, vol. 11, 2, 1973, contains articles on Irish ploughing

practices, the multi-manned pull-shovel in contemporary Korea, spade cultivation in the New Guinea highlands, a 6,000-year-old ploughing implement from Satrup Moor in Schleswig-Holstein, and the classification of types of iron plough-parts in Bulgaria. Subscription to the journal costs U.S. \$4 or its equivalent, and single copies may be obtained from the agents, Messrs Gyldendal, 3 Klareboderne, DK-1001 Copenhagen K. Denmark.

PEASANT STUDIES NEWSLETTER

Volume 11, 2, of this American publication contains a number of papers of interest to various specialists. David Lehmann provides the introduction to his book, *Whose Peasants? Studies in Land Reform in India, China, Peru, and Chile*, Peter J. Claus writes on the structural definition of peasant society, and Mah Foud Bennounne discusses socio-economic changes in rural Algeria between 1830 and 1954. There are also news and reports of academic meetings. Annual subscriptions, U.S. \$5, should be sent to the Department of History, University of Pittsburgh, Pittsburgh, Pennsylvania 15260.

EAST ANGLIAN HISTORY AND ARCHAEOLOGY

The second issue of *Work in Progress* contains details of the many pieces of research now being carried on in the field of East Anglian history and archaeology. The list, extending to 43 pages, is divided into periods, and gives the names and addresses of investigators together with brief synopses of their subjects. Copies are available from the Centre of East Anglian Studies, University of East Anglia, University Village, Norwich NOR 88C, price 40p, post free.