This etching by Brocas (hand-coloured in water colour) entitled 'A View of the Four Courts' shows this celebrated Dublin building itself in the picture in the background, but focuses on the heads of the four separate courts at some point between 1807 and 1822 when all of them held office together. L to R are featured Standish O'Grady, 1st Viscount Guillameore (1766-1840), CB Exc; John Toler, 1st Earl of Norbury (1745-1821), CJGP; Thomas Manners-Sutton, 1st Baron Manners (1755-1842), LC; and William Downes, 1st Baron Downes (1752-1826). CJKB. Downes lived for many years in a house that still stands on the Belfield campus of University College, Dublin. Reproduced courtesy of National Library of Ireland.
Borrowings in the Welsh lawbooks

DAFYDD JENKINS

IT MAY SEEM TACTLESS to begin a paper published in Ireland with the assertion ‘that the Welsh mediaeval jurists were far better lawyers than their Irish colleagues’, even though those words are a quotation from the father-figure of Celtic legal history, the late Professor Daniel Binchy. But Binchy said also that ‘the native Welsh polity had been profoundly affected by the struggle with the Anglo-Saxons’, so that ‘institutions, and even a number of technical terms, were taken over from the Anglo-Saxon system’. Moreover, he rebuked us – for these borrowings had ‘been almost entirely ignored by Welsh scholars, perhaps owing to a mistaken impression that such borrowings are a sign of weakness on the part of the recipients. Nothing could be farther from the truth. All great legal systems have progressed by judicious borrowings from more advanced systems’ – and, I would add, perhaps from less advanced systems.1

**CONCLUSION**

Thomas proved his legal sophistication when he altered the flour-on-the-floor episode to make his equivocal oath story sensible. His description of the council trial follows closely what actual records we have of such trials. I believe this knowledge of council trials places Thomas generally within the royal circle. Because the council trials of Essex and Becket would have produced within the royal circle concern and knowledge about council trials, Thomas may have been within the orbit of Henry II in the mid-1160s. Moreover, Thomas’s use of the equivocal oath and ‘false’ ordeal at least corresponds to Henry II’s concern about ‘false’ acquittals by ordeal when the Assize of Clarendon was issued in 1166.

I believe, then, that Thomas was somehow connected to the court of Henry II. He may well have come there as an association with Eleanor, but if so, he must have moved, by about 1160, from her orbit into that of Henry. There, whether as an interested but uninvolved accessory or a more active participant, Thomas would have been exposed to the legal sophistication necessary for his description of process. Simultaneously, he would have been exposed to enough frank debate about ordeals as infallible judgments of God that he would have felt secure in adapting the equivocal oath into his Tristram and Ysolt.


95 It is possible to believe that God would never issue a false judgment of conviction, but that He might, in His mercy, issue a ‘false’ acquittal. The false clause deals only with the latter. To me, that clause necessarily implied doubt, within the royal circle, about the validity of successfully performed ordeals. I do not extrapolate from this other royal cynicism or a general disbelief in ordeals. See Bartlett, *Trial by fire and water*, pp. 67–69. The merciful acquittal may have been in Thomas’s mind when he wrote of Isolt’s ordeal, ‘God in his fair mercy granted her clean purgation’: *Loomis, Tristram and Ysolt*, p. 168.

**ABBREVIATIONS**

A Manuscript Peniarth 29, NLW.
B Manuscript Cotton Tiberius DIX, BL.
C Manuscript Cotton Caligula A.iii, BL.
C1 Manuscript Peniarth 30, NLW; references with s are to numbered sentences in *Llyfr Colas*, ed. D. Jenkins (Cardiff, 1963).
D Manuscript Peniarth 32, NLW.
E Manuscript Additional 14931, BL.
F Manuscript Cotton Tiberius DIX, BL.
G2 Latin Redaction B, in LTLW 193–259, from manuscript Cotton Vespasian E.xi, BL.
G3 (D1) Latin Redaction D, in LTLW 316–399, from manuscript Rawlinson C291, Bodleian Library, Oxford.
G4 Latin Redaction E, in LTLW 434–504, from manuscripts Corpus Christi College, Cambridge, 414 (E1) and Morton College, Oxford, CCCXXXIII (E2).
Llyfr Colas Llyfr Colas, transcribed and ed. Aled Rhys Williams (Cardiff, 1963). References of the type § 1/1 are to numbered paragraphs and unnumbered sentences within paragraphs.


**LTLW** Latin texts of the Welsh laws, ed. Hywel David Emanon (Cardiff, 1963).

**Mk** The Bodorgan manuscript of Welsh law. NLW National Library of Wales, Aberystwyth.

**O** Manuscript Peniarth 306, NLW.

**Rec. Cart. Registrum episcopatus* The Record of Caernarvon*, ed. Henry Ellis (Commissioners of the Public Records of the Kingdom, 1830).

**Tim** Manuscript Llanstephan 116, NLW. References by page and line to facsimile edition by Timothy Lewis (London and Aberystwyth, 1913).

**U** Manuscript Peniarth 37, NLW.

**V** Manuscript Harley 3553, BL.

**FP** Manuscript Cotton Cleopatra A.xiv, BL.


**X** Manuscript Cotton Cleopatra B.9, BL.

**Y** Manuscript NLW 10143, NLW.

**Z** Manuscript Peniarth 2550, NLW.

1 We cannot claim that *Gwyfais ym Hywel* was a more advanced system than twelfth-century English law; but it could have suggested *Gwyfais ym Hywel*.'s law of equality' (LTWM 95.6, 104-23, translating for §§80/3, 85/4) as a solution of the problem set by Devlin J. (as
Though the Welsh legal material has had a good deal of attention in the years since Byncht wrote, the study of legal history has not gone very far in Wales as yet — in the sense that there has been comparatively little work on the practical aspect or on the thought which especially interests the lawyer-historian of law. This is neither surprising nor discreditable, for (as Maitland said so long ago) ‘the materials provided by the Ancient Laws and Institutes of Wales should only be used with the greatest caution’. Like any other historical material they must not be innocently taken at their face value, but these materials of ours do indicate that some Welsh lawyers at some period knew some Anglo-Saxon, some French, and some Latin; and some of them at some period understood some of the law of England and of the law of Rome, though they had some difficulty in finding Latin equivalents for Welsh terms of art. When the classical scholar M. Gwyn Jenkins began a study of the Latin of Redaction A which he did not live to finish, he saw traces of translation from the Welsh in the Latin, and these traces will have much of our attention.

Again, in a paper given in 1974 and published in 1980, Professor Rees Davies gave a warning against rash interpretation of statements in the lawbooks:

> A passage from the law-texts themselves may serve to illustrate the point: more than one text dwells on the rights of an estranged husband, overcome with memories of former marital bliss, to reclaim his former wife if he caught her with one foot in and one foot out of her intended second husband’s bed. Interesting as is the argument as an example of the sophisticated legal casuistry of native Welsh lawyers, it has about it that air of unreality which hardly fosters confidence in the validity of the law-texts as a guide to the central issues of social custom.

The passage does indeed suggest to me the response of an advocate who has argued for the husband’s right in less extreme circumstances, and is

he then was) in his dissenting judgment in *Ingram v. Little* [1961] 1 Q.B. 31, at p.73, ‘For the doing of justice, the relevant question in this sort of case is not whether the contract was void or voidable, but which of two innocent parties shall suffer for a fraud of the third. The plain answer is that the loss should be divided between them in such proportion as is just in all the circumstances. If it be pure misfortune, the loss shall be borne equally.’ For Byncht’s words see *Proceedings of the International Congress of Celtic Studies held in Dublin, 6-10 July, 1959* (Dublin, 1962), pp. 119–20.


3 The person responsible for the cross-heading ‘De leyewittiw’ in manuscript LatD (LTWL 346.1) seems to have been showing off, for the word is not used in the text, and it occurs only rarely in the record material from Wales; see the Index to *Rec. Caern.*


5 Mr Dafydd Walters pointed this out in the course of a seminar; practical difficulties of access to records have prevented him from giving me references to sources.

6 loc.cit.


9 Lyna llwy'r gyfreith a wneuth Huwel da yn y ty gwy daf / kyn bot heurit peheu erill ydaw o gyfreithw da d wynh dothonh / a chyn no hynny a gwydly hynny.
version of this passage, ‘Thys is the boke of the law which Hoel da made at Tuy gwyn ar da’ does not mention the other wise ones; and the triad which is cited in support of the claim shows that in fact there was at least an element of irregularity in the marriage of priests. For us, its reference to the wise ones is evidence for recognition that the lawbooks are composite collections, and it can be said with some confidence that the rule about the priest’s son is an innovation which reflects the activity of Norman reforming clergy.

The lawbooks which we have can be divided into two contrasting groups in several ways. There are late antiquarian copies of existing medieval manuscripts, to be contrasted with their medieval archetypes, which had practical use-value. There are lawbooks in Welsh to be contrasted with lawbooks in Latin. There are lawbooks which purport to present a comprehensive account of Welsh law, and lawbooks which are miscellaneous with little pattern. There are practitioners’ lawbooks and library lawbooks, which contrast sharply in appearance, but do not necessarily differ in content. But one feature seems to be common to all these manuscripts, and it is a feature which modern lawyers can explain from their own experience as teachers or practitioners. Without exception, so far as my experience goes, the lawbooks contain larger or smaller blocks of material which does not fit quite tidily into the general pattern of the book. The attention of Welsh scholars was first drawn to these ‘floating sections’ by the late J. Enoch Powell in 1937 in a paper based on a comparison of five manuscripts.

If now we think about our own practice, we may remember starting out as teachers to prepare a course on some subject, or deciding as practitioners that an orderly statement of some aspect of the law would help us when we came to prepare for presenting a client’s case persuasively to a court. We then made a draft in a more-or-less carefully considered pattern, so as to present the subject really effectively. The first time round, the draft may have been used as planned; but it may well have been amended at some points, and if the draft was used a second time, there will certainly have been amendment. The need for amendment arises most obviously in response to new legislation or a new judicial decision, but may come from realisation that the existing draft is inadequate. Faced with this need to amend, we take immediate care to record the new point, and slot it in on our typescript somewhere, without necessarily worrying much about whether that somewhere is the best place for it: perhaps somewhere is only the first big-enough blank space on a page of the typescript. Unitidness in medieval texts can be explained in much the same way: we can be sure that in one particular manuscript a miscellany comes at the end of a quire which was not filled by the material for which it had been reserved. Again, there are many legal statements which are appropriate to more contexts than one: a rule about the contracts of women can appear (perhaps indeed ought to appear) in the contract context and the woman context; and this will explain the fact that the same passage sometimes appears more than once in the same manuscript.

It has long been recognised that the ‘comprehensive’ texts are of more than one kind. This fact was first made public in the Record Commission’s Ancient laws, published in 1841; there three forms of comprehensive text were interpreted as intended for different parts of Wales and named ‘Venedotian Code’, ‘Dimetian Code’, and ‘Gwentian Code’. In that paper of 1881 Maitland had said that ‘it is very apparent that a large part of these masses of rules is neither law made by any “sovereign one or many” (to use Austin’s phrase), nor yet “judge-made” law, nor yet again a mere record of manuscripts seems peculiar, and at a few points makes it impossible to tell what the order in a particular manuscript is. Morfydd Owen has examined the relation of all sixteen manuscripts of the Redaction in Cyfreithiau Hywel Dda yn ôl Llywogref Coleg yr Iesu Lliw, ed. Melvile Richards (revised edition, Cardiff, 1990), pp. xxv-xxvii.

Daniel Huws has shown that manuscript W of the Cyfnewth Redaction ‘comprised three free-standing parts, quires 1-3, 4-8, and 9-10’. T.M. Charles-Edwards et al. (eds.), Lawyers and Llwynog (Cardiff, 1966), p. 132. ‘The text [of the Laws of Court] ends on the penultimate leaf of quire,’ (ibid.), but two, or perhaps three, floating sections which have nothing to do with the Laws of Court follow, on the penultimate leaf and the last leaf of that quire.

Ancient laws and institutes of Wales [ed. Aneurin Owen], (Commissioners on the Public Records of the Kingdom, 1841). There were two editions, an octavo in two volumes and a folio in one volume; references are most often to the two-volume edition, but thoughtful editors use bookchapter-section references, which are very nearly the same for the two editions.
Though familiarity with *Ancient laws* has made it natural for us to speak of Books I, II, and III of the comprehensive texts, this usage has no support from the manuscripts: the designation *book* (Welsh *llifr*) is there used for the Justices’ Test Book (*Llifr Prawf Ynaid*), the Book of Case-law (*Llifr Damweiniau*), and the Book of Procedure (*Llifr Gyngamsedda*)

16 Collected Papers (as n. 2), i, 302.
18 The strongest evidence for translation is in a mistranslation: see Hywel D. Emanuel, ‘*The Book of Blegywyrd and Ms. Rawlinson 821* in Celtic law papers’, ed. D. Jenkins (Brussels, 1973), pp. 155–70; this translates a paper in Welsh, *Bulletin of the Board of Celtic Studies*, xix (1966), 23–38. References to the redactions will use the abbreviations listed on p. 19, above; the sigla IorA and IorB are needed because for one ‘chapter’ of the Iorwerth Redaction there are two forms, which are printed on the upper and lower parts of the pages of *Ancient laws*. IorA follows manuscript *A* and, for the lacunae in *A*, manuscript *E*, and gives variants from other manuscripts; IorB follows the one manuscript of its class, *B*, which is the main source from the edition *Llifr Iorwerth*.
19 WML 3.2.
20 Bleg 3.20.
21 This translation seems more satisfactory than the ‘Book of Pleadings’ which has been used more often: see Morfydd E. Owen in *Y Tradodiad Rhyddiant yn yr Oesau Canol*, ed. Geraint Bowen (Llandysul, 1974), p. 237.
25 See especially Chapters 12 and 24, and the passages indexed under *swydd* and extensions of that word. The Latin texts seem to me to make unnecessarily heavy weather of the translation of *swydd*, and to be at fault in the passage ‘echelin optimatis qui habet hereditatem, id est swydd’; the unusual translation may however be a reaction to what seems...
swydddog, and distain have been discussed in more detail than can be allowed here, without resulting in any very clear conclusion. However, it can be said that the lawbooks seem to use swydddog (for which officer is the usual translation) as the wider-sense designation for all members of the court, while the singular swyddawr (for which official is conveniently different from officer) and the plural swyddawr have the narrower sense of those members who dealt with food and drink. One swyddawr would stand out as superior to his fellows, and it would be awkward that his designation did not stand out like his function – until the alien word distain was adopted for him, and for him alone. There is no doubt that distain is a Welsh form of the Anglo-Saxon discthegn, ‘dish-servant’, whose pronunciation involved the quite un-Welsh medial combination sith. There could be dishthanes in the plural, but a Welsh visitor to Aethelstan’s court might meet the leading dishthane and learn his title, without realising that his distinguished assistants were also dishthanes. Hence the alien word, re-shaped to a Welsh form, could conveniently be used as the distinctive designation for the one officer who is usually called stearward in English. With the centuries this officer’s function changed (as, of course, the function of the royal Stewarts or Stuarts of Scotland changed): it had already begun to change in the England of Hywel’s day, and in thirteenth-century Wales Goronwy ab Ednyfed, who is distein yr tymysawc in Brut y Tywylogion, 26 is senescallus noster in the Latin of a chartar of Prince Llywelyn ap Gruffudd. 27 For most of the year, Goronwy’s food-serving duties would have been performed by deputy, but it is likely enough that (like comparable officers in England in much later times) Goronwy would himself serve the prince with food on special occasions.

Similar reasons may explain the adoption of edling, and the later development of its meaning. It comes from the Anglo-Saxon abethling, and for its meaning we look at the Iorwerth Redaction’s version of the Laws of Court:

The heir-apparent, to wit the edling, who is entitled to reign after the King, is entitled to be the most honoured in the court, except the King and Queen. It is right for him to be a son or a nephew of the King. These are the King’s members: his sons and his nephews and his male first-cousins. Some say that each of these is an edling; others say that none is an edling save him to whom the King gives hope and prospect. 28

The word translated heir-apparent is gwrthdrych. In modern Welsh this has become gwrthrych, and is the ordinary word for some senses of the noun

to be a fact of thirteenth-century Wales, that certain offices were ‘running in the family’. See also n.48.

26 Thomas Jones (ed.), Brut y Tywylogion, Peniarth no. 20 (Cardiff, 1941), 218b.16.
28 LTMW 6.20–23, 7.1–4, translating lor §4/1,2,7–9.

At a less political level, borrowing in the interest of precision is particularly evident in the lawbooks’ words for horses, which seem to show a continued course of finding names which will identify more exactly a particular kind of horse. The basic word which gives equus in Latin and och in Irish does not appear in a simple form in Welsh, though the basic word must have been known. The ‘general’ word which has survived to the present day is ceffyl, represented in Vulgar Latin by caballus; the forms which this word has taken in Latin, in the Romance languages, and in the Celtic languages have much exercised the linguistic specialists, but ‘no generally accepted theory has been advanced’. 31 In Welsh medieval verse and prose stories romantic words

appear, but for the lawbooks march, whose origin has not been traced, is the most usual word. This has survived into Modern Welsh: in southern dialects, it is the normal word for ‘stallion’; for other dialects march is poetic and Biblical, while the entire horse has a name, stalwyn, also found in the lawbooks and borrowed from some form of stallion. The English word is based on stall, so that the original stallion was a stalled horse — and that concept leads us to another line of development in Welsh. Latin had nouns admittarius and admissus (representing equus admissus ad equum), meaning ‘stallion’; by the normal process of adaptation admissus gave in Welsh emys, which in turn (because emys sounded like a plural) gave amns. Amns does occur in Welsh in the sense of ‘stallion’, but in the lawbooks it has the narrower sense of a horse adapted to the needs of battle. The Western medieval horseman thought castration would make a horse too timid for battle, so we can assume that the amns was still a stallion; but what the lawbooks are concerned with is ensuring that it is kept in fighting condition by adequate feeding. It could not be allowed to graze freely except for a few weeks in spring; at all other times it must be kept in the stall which the name ‘stallion’ implied.32

In the Latin redactions amns is usually represented by dextrarius, and can be translated ‘destrier’; but dextrarius occurs for ‘stallion’ at LatA 156.21 and LatD 362.6. More often forms representing Welsh stalwyn occur in the Latin redactions; and at LatB 235.30 and LatD 360.34 (in unrelated passages), the stallion is emissarius.

The name amns was found by narrowing an earlier borrowing; other names use varying techniques. For a working horse, the lawbooks have the compound gwenydd yddmach, ‘serving horse’, where both elements are native. In summerfarch, corresponding to the Latin redactions’ equus, summarius, ‘sumpter-horse’, a mixed compound noun has been produced, and it is most likely that the borrowing is from French, for ‘other languages show the same kind of French influence, because the Normans were largely responsible for developments in the culture of the horse in Western Europe’.34 The Iorwerth Redaction’s ‘Rvnsy neu sumerwarch, chue ugyent yu y werth’35 might

32 A Welsh broadsword wholly forbids open grazing: ‘A destrier grazing in the open and a greyhound without its collar lose its status’, LTWM 173.8–9, translating WML 67.20–21 = Bleg 53.19–20. In the Latin redactions this appears only at LatD 360.8, in Welsh; and other passages in the Welsh-language redactions are more detailed and more generous: e.g. ‘A destrier does not lose its value or its status in spite of grazing out during three seasons, which are these: from the middle of April to the middle of May, and the whole of October’, LTWM 172.3–8, translating for §121/4.

33 The Latin manuscripts in general prefer equus to equus: does this tell us something about medieval Welsh speech? The g-sound found in French does not occur in Welsh: in any word picked up, a g-sound is naturalised as a k-


35 For §112/6.

perhaps mean that the two names were being offered as alternative names for the same animal; it is more likely that they are names for different animals of the same value. The Cyfnerth Redaction does not mention the summerfarch, and the Blegwyrryd and Latin redactions give different values: 120d. for the rawnisi and 80d. for the summerwarch.36 The medieval horseman is likely to have distinguished clearly enough between the load-carrying sumpter-horse and the rowney which would be ridden by an esquire. For the palffrai we look to the French form, which lies behind the English palfrey too, and note that the common German word for ‘horse’, Pferd, is derived from the same paraverdus which gave us palffrai for the horse which could amble, moving the two legs on one side together.37 We can assume that it was this ambling which made a horse a palffrai, though the lawbooks do not say so. This is surprising, for they so often specify the teithi, the features which justify treating something (whether it be an animal or a human being or an offence) as a member of a named class. So for the mare ‘Her properties are, to draw a cart uphill and downhill, and to carry a cross-load, and to bear foals’.38 The verb rhygyngu, which is accepted as meaning ‘amble’ does not occur in the lawbooks; it is also used in a looser sense, ‘mince, stalle, strut’ in Isaiah iii.16: see Geriadur Prifysgol Cymru 3138B. At WM 168.18–20 the romance of Peredur describes a knight coming out on a ‘palfrei gloydud fϩrendu ymdyeth’. A ryg wastadualch escutym diramgfyd gantha6, but none of the extant English translations uses ambing. The two sentences can be run together and translated ‘a shining—black wide-nostrilled fast-moving palfrey with a proudly—even sharply-swift unobstructed amble’.

If there has been borrowing to define the trained grown horse, its first months are firmly native. There seems to be only the one word caseg for ‘mare’, in medieval as in modern Welsh; and though the elementary counterpart of equus has been lost, it has not been lost without trace, for a pregnant mare is cyfech, ‘with-horse’, and the lawbooks give the value of a mare’s cyfebrwydd, ‘with-horseness’. When delivered the product is ebol or eboles according to sex.

Horses provided for military service are the subject of rules which give significant information about the grammar of Welsh as well as about

36 Bleg 91.12–12, LatA 154.31–2, LatB 234.7–8, LatD 360.10–11. LatA has Prccium runci, LatB the more regular Runcius, LatD runcius, editorially emended to runcius. This seems to imply that LatD was following LatA rather than LatB, and that LatA was latinating from the Welsh, which in turn will have come ‘by ear’ from the French; the Welsh form always has the -s-, which suggests borrowing from French roncy rather than English roncy.


38 LTWM 175.2–4, translating for §125/3/1.2.
subordinate status in medieval Wales. In Table 1 forms of these rules from the three Welsh-language redactions, and from three Latin redactions, are compared. The extant Cyfnerth versions are close to the Blegywryd version, but for a reason which will appear, the Cyfnerth version has been emended in italics.

All the versions can be fairly enough rendered in English by "The king is entitled to have from the villeins packhorses in his hostings, and from each villein townland a man with an axe and a horse, to make the king's camps, at the king's expense"; but the various forms call for comment. First then comes the 'Rex debet...summariis' of LatA. Emanuel has added habere after debet, and LatB and LatD agree in making what I think any Latinist would regard as a necessary correction (and a modern Welsh-speaker would also perceive as natural). But debet without habere is best understood as over-literal translation of a Welsh idiom, which appears in the emended Cyfnerth form and can be translated "The king is entitled to packhorses from the villeins'.

Like English ought, which has won a special meaning for an oblique tense of the verb to owe, modern Welsh dylyt has won a similar meaning for an oblique tense of a verb, most of whose tenses have disappeared from modern Welsh. The form dylyt is the third person singular of the present indicative, and has a double possibility: it may mean 'is entitled to' or 'is bound to', and has a related action-noun; dylyd. This has given in modern Welsh the forms illt and dyled, with the one meaning 'debt', but in medieval Welsh that noun could be used equally for what one was entitled to have and for what one was bound to give, whether in money, in kind, or in some act. A similar word was found by Gluckman in the juristic language of the Barotse: "in Barotse both right and duty are covered usually by a single word, derived from a verbal form which we can translate as "ought"." LatA then seems to be treating the Latin debet as though it could, like the Welsh dylyt, mean 'is entitled to'. Part of the entitlement is to pynfarch, which are summarii in the Latin, though LatB may have added the Welsh word so as to make it clear that the summarii of this rule were not necessarily of the value set down in the lists. Those lists do not mention the pynfarch, whose primary meaning was 'packhorse', so that the rule can be interpreted as fulfilled by any horse which could carry a pan (a load, from Latin pondus).
What the king *debet*, then, was horses (of any kind) which could carry loads; but who were the givers for whom these were an obligation? In English they can safely be called *vileins*, but we have in Welsh several words which may not be synonymous, as we might tend to assume. The understanding of subordinate status in any society is bedevilled by attempts to create a package of features, all of which are applicable in all cases. In practice, the features of any particular status in any particular place will depend on local conditions and on the way the status came into effect; but lawyers want tidy statements, and patrons and would-be patrons want to be able to invoke the whole package by proving one fact from the package, in order to claim some other advantage offered by the package. Thus in the English case of *1308, Paris v. Page*, the defendants sought (but failed) to justify their treating one brother as a *vilein* by showing that another brother was an admitted *vilein*. In that case, the status of the *vilein* brother might be evidence that the plaintiff’s brother had been a *vilein*, but proof that he had become a citizen of London overrode the original status so that the *vilein* package could not be applied. For an introduction to the pattern of medieval Welsh society we can turn to a sentence in the Laws of Court at LatB 207.30–31: ‘Tres solum sunt homines: siclicet, rex, optimas, villanas; et corum membra.’ LatD 318.22 has much the same wording, and Bleg (5.12–13) has perhaps chosen his terms for the sake of the alliteration: ‘Trî rwy dyn ysysyd: brenhin, a breyr, a bilaen, ac eu haelodel.’ Welsh and Latin can both be translated ‘There are three kinds of man [human being]: a king, a breyr, and a *vilein*, and their members.’ There were of course other human beings in Wales, but aliens and slaves were not counted as part of the community, and the lawbooks have to make special provisions for associating them with the community: we shall look at these a little later. Meanwhile we notice that the classes are named from their heads, but we have already seen the importance of the king’s ‘members’, and the members of any group headed by a breyr are quite as important. For the breyr is the head of a group made up of his descendants, and has become breyr by succeeding to his family inheritance on the death of the last of his direct male ancestors. It would indeed be more illuminating to call the class that of the *bonneddig*, since the breyr’s members have that name until they succeed to the inheritance, and we are specifically told that if a breyr’s land is given up in settlement of a claim for *galanas* (the Welsh parallel to English *mergeld*), his son (who will find that there is no land to inherit) ‘will not be an alien, but an innate *bonneddig*. An innene *bonneddig* is a person whose complete stock is in Wales, both from mother and from father.’ The Blegwyrd Redaction brings this out clearly and simply when it values the life of an innate *bonneddig* and his sarhaed at half those of a breyr without office. We have seen that the breyr becomes *optimas* in Latin, and I am not qualified to quarrel with that translation; but it is certainly unfortunate that *gwrth bonnedig canhwyrau* has become *Precium nobilis qui dictur canhwyrau* at LatB 339.40, since this has led so many scholars to refer in English to ‘nobles’. In modern Welsh *gwr bonnedig* means ‘gentleman’, and ‘gentry’ is the best name for the medieval class.

For the third of the classes of Welsh society there are several names: *taog* seems to be the oldest, and always seems to imply non-free status, but we need to do some deeper thinking about the matter. We can start with the *meybyon* *eylylon* of Ior, and from the proposition that unfree status cannot arise while unoccupied land is accessible to able-bodied men. In support of that proposition I quote the experience (of which Karl Marx made use) of ‘a Mr. Peel, who, in the early days of Australian colonization … took with him to the Swan River Settlement, Western Australia, 3,000 people of the working class and £50,000 worth of capital. Instead of being able to “exploit” the proletarians, he found himself left “without a servant to make his bed or to fetch him water from the river” … for there was an abundance of unused land, as open to them as to him.’ A clientship relation is not inconsistent with superfluity of land (if only because livestock may be needed for effective use of the land), and though in most of the extant references the *aillt* is semi-free, the *aillt* is primarily a client, and only secondarily a non-free client. The *meybyon* *eylylon* of Table 1 and some other Ior passages are *vileins*, but elsewhere in Ior the property of a *mab aillt* is given a higher value than that of a *taog*.

I have spoken of ‘subordinate status’ deliberately, because to speak of non-free or unfree status would beg the question of what makes a status free. For *gwr hydd* (‘free man’ [male]) and *dyl hydd* (‘free man’ [human]) occur in the lawbooks, and the statements of the Blegwyrd Redaction about the ability of wives to give property away suggest that the Blegwyrd redactor had a

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43 LatB 110.20–23, translating lor §87/1.4.
45 The General Index of LTLW (p. 557b) has ‘Mab *aillt* (the son of a *vilein*, a *vilein*),’ and on the face of it, *meybyon* *eylylon* could mean ‘clients’ sons’, but this is certainly not what is intended. If *meybyon* has any significance, it is in making it clear that the clients are male: *eylylon* is an adjective qualifying the noun *meybyon*. Bleg 50.24–25 has values for *odyn aillt* *bronein* and *odyn aillt* *breyr* whereas WML 103.1–5, in a very similar passage, has the same values for *odyn tanatow* *bronein* and *odyn tanatow* *breyr*. The ordinary word for ‘friend’, *cyfeliol*, earlier *cyfeli*, can hardly have meant ‘fellow-*vilein*’.
46 LatB 195.30–31, translating lor §144/14; see also the Glossary at LTMW 310 and the notes there cited.
ceased to be a free-status clientship. Villein clientship, on the other hand, was always unfree: the client was not free to leave, and the patron was not free to dismiss; hence the lawbooks have something to say about runaway villeins.49

In Welsh the slave was caeth, representing Latin captus and implying that the primary source of slave status had been capture in war; the Latin redactions have capitus, which may reflect similar thinking, but the lawbooks show that slave status could arise in other ways. For the value (gwerth) of a slave varied, not according to the status of the owner but according to the provenance of the slave: a slave from ‘this island’ was worth less than one from overseas, ‘because he himself debased his status by willingly becoming a hireling’;50 and though in some contexts gwerth is used for the measure of the wergild payable for a free man (where galanas would be more technically appropriate), it is clear enough that the gwerth of the slave is the price which was payable to his owner. If the slave struck a free man, his owner was liable, ‘for a person has possession of his bondman as of his animal’.51 If a slave struck a free person, his hand was to be cut off, but his owner had the option of paying the victim’s sarhaed or handing the slave over to the victim and his kin. Yet it seems that some of the lawyers were not quite at ease in treating the killing of a slave as a matter for compensation to the owner: they will have realised that a ‘voluntary’ slave would usually have kin. However we explain it, three of the Cyfnerth manuscripts, W, X, and Z, have galanas caeth teledaw. Manuscripts V and Mk have gwerth for galanas, and so does manuscript U—but there gwerth has been written in a space from which all but the last stroke of a longer word has been deleted; that stroke is so much like the end of an s that we can boldly guess that the deleted word was galanas.

It is thus easy to see that when non-free status became more significant the lawyers would need a term of art which could not be misinterpreted. They found it in the word which is villanus in Latin and villein in French and English, which appears in the lawbooks in two words which are noteworthy both for their form and for their later history. Because native Welsh words do not normally begin with the v-sound (which is represented in
Modern Welsh by \( f \), but in the lawbooks by \( f, v, w \), and other more exotic forms, borrowed words which begin with a \( v \) tend to be regularised by treating the \( v \) as the mutation of a \( b \) or an \( m \), as in a native Welsh word. So the villanus became a bilaen/bilein, or less often a milein; and the latter form has survived into the Welsh of today, with a pejorative meaning (like the English villain and its French counterparts); a popular modern Welsh dictionary has as its only definitions 'angry, fierce, savage, cruel'.

The liability of the villeins was not individual. They were organised in units for which the Welsh name is \( tref \) — and a very troublesome name it is. In modern Welsh it means 'town', as contrasted with 'country', \( gwlad \), and with 'village', \( pentref \). There is an obvious similarity between the changes in meaning of \( tref \) and English \( town \), but that leaves us with the problem of translating \( tref \). The \( township \) which is sometimes used will not do, for that word has a technical meaning in English law; and it seems to me that \( townland \), which is not a term of art in English law, will serve better than any other form, for though the \( tref \) of medieval Wales does not correspond exactly to the Irish townland, it does seem to me to be a unit of the same order of magnitude. Diffidently, apologetically, I hold on to \( townland \). There was no difficulty in Welsh, which produced \( taeawtref \) and \( bileindref \), but there are no corresponding Latin terms. There are English parallels to the \( villa rusticana \) of \( LatA \) and \( LatD \): 'The sources sometimes use the word rusticus or something similar, but in many cases it is their modern reader who decides who was a peasant'.

The villein townlands sent men with axe and horse to accompany the hosting, to make \( castra \) for the king; and here a mistranslation testifies to the Latin source of the Blegwyrd version: that version must be translated 'to make his castles', whereas \( castra \) has here the special sense of 'camps', the \( luus \) of the other Welsh versions. \( Luus \) is another of those words whose meaning has changed: it came to be applied to the summer shieling, and is now found mainly in the names of holdings in some parts of Wales. My last observation on this set of sentences must point out that the Iorwerth readings do not follow each other as those of the other redactions do, but come from different parts of the redaction: with the contrast between \( mebyyon cylyyon \) and \( blyyntref \), they will have been picked up from different sources. The source which gave \( blyyntref \) may also have had the borrowed \( cost \) rather than the native \( treul \) of the other Welsh versions; but that substitution may have been made by the Iorwerth borrower.

With this slight uncertainty about \( galanas \), it is the less surprising to find that the slave has a \( sarhaed \), an 'insult-price', but comparison of the readings is a complex exercise. The name \( sarhaed \) comes in its Welsh form at \( LatB 220.2 \) and \( LatD 340.10 \) as well as at Bleg 59.5, and as \( iniuria \) at \( LatE 464.4 \).

but elsewhere, in Welsh (\( Cyfn \) at WML 45.18) and Latin (\( LatA 138.4, LatE 494.1-1 \)), liability is said to arise if a free man strikes a slave. The payment in all cases is set at so many pence and the pence are to be spent on named goods. According to the fullest form, the slave gets sixpence for three ells of home-made white cloth to make a coat for him when cutting gorse, three for breeches, a penny for brogues and gloves, a penny for a rope and a penny for a hedging-bill or an axe if he is a woodman. Some manuscripts make the total \( 12d \); others make it \( 13d \), because they have not realised that the hedging-bill and axe are alternatives. This confusion surely implies that the rule was not of practical importance when the texts were compiled, but the rule does invite an Anglo-Saxon comparison, which Maitland made. In \( Domedey Book and beyond \) he drew attention to two passages in \( Leges Henrici Primi \). At \( 7084 \), L.J. Downer's edition has 'If a freeman kills a slave, he shall similarly pay to the slave's relatives forty pence and two gloves and a capon', translating his text 'Si liber servum occidat, similiter reddat parentibus xl denarios et ii muflas et unum pullum mutillatam', and noting the alternative \( bullam \) as found in two manuscripts for \( pullum \). Maitland quoted the Cyfnherth provision from \( Ancient laws \) and went on 'If we read \( bullam \) instead of \( pullum \) the English rule may remind us of the Welsh. His hedger's gloves and bill-hook are the arms appropriate to the serf, "servitutis arma"; cf. \( Leg. Hen. 7832 \). In contrast with \( Leg. Hen. 7083.5 \), which are traced to line 74 in Downer's edition, no source is there named for \( 7094 \), and we are left wondering whether we can attribute these gloves to a borrowing from Wales, perhaps through Asser. The \( servitutis arma \) are to be given to the man who becomes a slave: 'As a symbol of this change of status he shall take up a sickle or a goad or the arms of slavery of this kind'; conversely, a slave who is emancipated is to be given 'a lance and a sword or whatever are the arms of freemen'. The Welsh texts have no expression which echoes 'arms of slavery'.

Anglo-Norman influence is to be seen in the development of procedure, with some evidence for a wish to use trial by jury in preference to compurgation, and a more subtle change by way of modifying compurgation in the direction of the jury. I have examined this in detail elsewhere, and will not pursue it here, but we shall look at a passage in the Blegwyrd Redaction whose wording is perhaps best explained as adopting an Anglo-Norman expression from English law. A passage dealing with the loss of property deposited appears in exactly the same words in \( Cyfn \) (WML 63.16) and Bleg 46.9-12, where it reads (with editorial punctuation) 'Or cledir y dayar hagen 52 Susan Reynolds, \( Fi fe o v as solh \) (Oxford, 1994), p. 39.

54 Downer 245, 243.
y dan y ty gwelyd ef y gyfreith y vot yn iach, brenhin iau dayar, ac ny dylyt keitwaw utot drosit.' This is translated by Melville Richards 'If the earth however be excavated under the house after he has shown in law that he is clear, (the king owns the earth), the guardian is not to be answerable for it.' This is a possible translation, but I would revise the Bleg punctuation by adding a comma after ty, and substituting a semi-colon for the comma after iach; this would clear the way for the translation 'If however the earth is dug under the house, after he makes his law he is clear: a king owns the earth and the guardian is not liable for it.' Here 'makes his law' translates the Welsh literally, and corresponds exactly to the fit/fist sa ley of an English Year Book. The Latin versions do not help, for they omit the sentence.

From one point of view, the most valuable service rendered by any medieval Welsh jurist was Iorwerth ap Madog's vision of the addition to the Test Book of the values of equipment (Welsh dodrefn), for by naming so many items and giving an idea of their relative values he described much of the physical background of his society. The very words used will tell us something: some of them, like the distain and eding discussed earlier, are taken from Anglo-Saxon to fill a gap in the Welsh lexicon; but a new word may be used because it is for the moment fashionable. It was the social prestige of French in the court of Llywelyn ab Iorwerth and his wife Joan which led to the substitution of cost for treul, and to the rather surprising trywori (for 312/9, from manuscript B; the form also appears in manuscript E, 10.27) which represents the French sound.

A full study of the vocabulary of the lawbooks is a lifetime's task for a dedicated team; here we will take a single line from Llyfr Iorwerth (§124/14–16): 'Hossaneu maur, viii.k.' Duy hysyaus, vi.k.' Dvy estwys, iii.k.' At LTMW 195.7–8 this is translated 'Long hose, eightpence; a pair of hose, sixpence; a pair of kneeboots, fourpence', but the names raise more than one problem of interpretation. Thus hysyaus may be a 'ghost' form infected by the -aus of ystymnas, or may represent an early form of French houseaux ('Spatterdashes; leggings; long leather gaiters' according to a modern French dictionary). Hosan is today the ordinary Welsh word for 'sock' and 'stocking' - but that will not have been quite what medieval hose and hosan meant.

The third of these dodrefn has been harder to run to earth, and has left me with a debt of gratitude to several collaborators. First came Mr Gareth Bevan, who gave me access to the slips of Geiriadur Prifysgol Cymru, and showed me a note which connected the French estival and its plural estiviaux with a Latin aestivalia on the one hand and the German Stiefel on the other. This led to Grimm's Dictionary, s.v. Stiefel: 'aestivalia erscheinen aber "in geistlichen kreisen als nebenson von der in der Benedikinterregel den monchen gebotnen füsstracht der caligae ... mit höherem, bis an die kne heran reichenden beinleader zum schutz bei sommlicheren arbeiten ausserhalb des klosters und reisen für kloster und stift". Grimm cites Chapter 50 (rectius 55) of the Benedictine Rule, and I took advantage of the late John Sheringham, who laboured hard but in vain in the search for clear authority in that chapter. Quite recently Professor David Trotter responded to my request for information about estiviaux in Anglo-Norman by a very thorough examination of a wealth of material, which showed uncertainty about the ultimate source of this and other words, but led me to the conclusion that for thirteenth-century Benedictines aestivalia might be the same as caligae, the 'military boots' which remind us of the Emperor Caligula, or might be longer than those; at any rate they were worn by the monks when they set out in summer to clear up neglected growth. The safest translation seems to be 'summer boots', leaving open the question of how far up the leg they reached.

So when Brother Cadfael pulled on his boots in order to ride out from Shrewsbury Abbey during Stephen's reign, did he think of them in Latin as aestivalia, or in French as estiviaux, or in Welsh as ystymnas? A century later, we can believe that the court of Llywelyn ab Iorwerth and Joan would think of them by their French name, and we may wonder about the circumstances in which the legal value of these summer boots could be important. We can at least claim to be repaying our debt to the Anglo-Norman lender, for the Welsh form ystymnas is evidence that estiviaux was known in that corner of Wales by the second quarter of the thirteenth century. (A note added in proof: not supported by any of the manuscripts, none of which has the -au-. If asbestos was used for making garments in the medieval world, the interpretation of dry ystymnas as 'two [garments made of] asbestos' requires too many improbable assumptions to be credible.)