

## Old laws protecting Yews.

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Most people are unaware that there were old laws concerning the protection of yews. There is now an urgent need to bring these up to date and reinvoke them as they have gone into abeyance and with every year that passes, Britain is the poorer for the loss of more of these heritage trees. We would it seems, need a test case to do that and a good lawyer. There are thousands of ancient yews in Britain and it seems unlikely we will ever get protection for them all and therefore I felt it more prudent to concentrate on getting the most ancient and historical yews protected.

To begin with we need to look at the historical context and establish the fact that the sanctity of the yew in Britain and therefore the idea that it should be protected against harm, most likely originated with the Silures, the Welsh Celtic yew tribe, conquered by the Second Augustan Legion from Caerleon, in the first century. The yew as we know was also sacred in Bronze Age Britain and earlier. Carvings of the yew as the Tree of Life are to be found all over the northern hemisphere and date back to an earliest date of 52,000 BC when a carving was found in a cave in Cadiz. They planted and adopted were of course in churchyards, an environment separated from the mundane and considered to be a safe sanctuary.

The earliest law for the protection of trees on sacred sites is the letter from Pope Gregory dated to 597-601AD instructing Abbot Mellitus to tell Augustine not to destroy the *fana*, (meaning the sacred trees), only the idols placed in them, so that people would still come to these sites. Another similar term used to 'fana' was '*frondibus contexta*', meaning 'interwoven branches'. These terms were translated as 'temples' because the first church was just that:- a temple made from interwoven branches of trees found on site, most likely yew branches, part of the sacred grove or Nemeton. The very earliest shrines or temples were simply hollow trees with an image of the presiding deity in them. Before Christianity, the first temple of Artemis was an aged cedar tree containing an image of this goddess. William Smith's Dictionary of 1875 defines an early temple as a hollow tree in which there was an image or statue. In fact it was the tree itself which was the deity.

Jacob Grimm in 'Teutonic Mythology' 1880 says, 'It is said of a hollow tree...there are saints in there, that hear all people's prayers'. His information came from the early Saxon period, when he stated 'The hut ('bower' is more accurate) in which we are to picture ourselves under the term '*fanum*' or Anglo Saxon bower, was most likely constructed of logs and twigs around the sacred tree'. 'Sacrosanct' means sacred sanctuary, holy of holies and not to be touched for fear of reprisals. The Saxon word was 'hallowed' as in hallowed ground. This was consecrated ground. 'Hallowed' means Temple. Hallowed or consecrated ground expressly meant land that had a sacred tree growing on it. At Pepper Harrow, in Surrey ('harrow', also an agricultural term, is from the same source as 'hallow') a sacred site of the Saxons, there is a Yew of around 1400 years old, which was probably planted by Saxons. All Hallows in Dorset is also Saxon and has a 30 ft, girth tree. The Saxons usually planted their yews on the south and south west of the burial mound. Although Saxon law may never have been written down, it was obviously old tribal law and just as binding.

In Latin writings about the 'booths' (another word used for these early green temples), the word '*fanum*' or '*fana*' seems to mean hollow trees, used as shrines or cells. Homer in 'The Iliad' (8<sup>th</sup> century BC I 39) implies that the earliest temple was a booth of branches which would have been an extension of the monk's cell. The Roman Pliny describes the first temples as hollow trees or trees with interwoven branches (*Nemorensis Templum*) and the first church in Britain, raised by St. Garmon at Llanarmon Dyffryn Ceiriog, North Wales, would have been of this kind, made from branches, still attached to the tree (in this case from 2 yew trees), woven together to give some shelter to the congregation. The term '*Frondebis contexta*', is something also referred to by Constance Delyon circa 470 AD in 'Germain' as a shelter put together to celebrate the Christian Day of Resurrection, because as the yew symbolises resurrection, it was fitting to use the yew branches for the purpose.

An example of the type of shrine inside a hollow tree which survives, to the present day, is at La Haye de la Routot, Normandy. Pope Gregory affirmed that 'At festivals the people shall be allowed to build their booths of green leaves' and from Leviticus 23: 33-43, we see that the custom of building green booths was wide spread in many parts of the world 'that the wood for the booths be selected from leafy trees, trees of interwoven foliage'.

According to 'The Antiquities of the Cymry', (Williams vol. I) 'Bede' (book 1, chap. 20), about the year 565, 'the practise of constructing churches of stone was unusual amongst the Britons'. The natural progression through time of the construction of a church, would have been from live leafy branches still attached to the tree, to cut leafy branches as a temporary construction, to cut and dried timber and eventually timber and stone, a similar process to the evolution of the henges from the nemeton, the central living tree and surrounding circular grove, to wooden posts and finally standing stone pillars. Both nemeton and fanum refer to the sacred tree and the circle. The circular grove and sacred tree are one and the same thing. An example of this is found at Llangernwy, which means enclosure of the sacred yew.

Later on in 10<sup>th</sup> century Wales, **the laws of Hywel Dda** protected yews and referred to the 6<sup>th</sup> century Saints Dubricius and Teilo and their sacred trees. 'The Laws of Hywel Dda', a Welsh King AD 915-48, records a difference between saint's or consecrated yews ('Ywen sant'), yews either adopted or planted by a saint, worth one pound and secular yews ('ywen goat') worth fifteen pence. These were the fines for cutting them down. In the Latin it is said '*Leges Walliae 262 (Sancti) sancto nempe alicui didcata, Dubritio v. gr. vel Teliao, quales apud wallos in Cemeteriis etiam-num (frequenter visisntur)*', translated as reading 'the yew trees in the churchyards dedicated to Teilo and Dubricius were sacred (*Taxus sancti*). Sacred Yews (*Taxus sancti*) or saints yews, (*ywen sant*) were considered to be of higher value than all other trees and here it stated that the sacred yews of Saint Dubricius (Dyfrig – spiritual father of 5<sup>th</sup> and 6<sup>th</sup> century saints) and Saint Teilo, which stood in the Welsh cemeteries, were protected by law. Elsewhere it is said that Hywel Dda endorsed a huge fine of 60 sheep on those who cut down yews 'dedicated to saints'. It should be noted that this proves these yews were substantial yews over a thousand years ago. Several of them are still alive today, another thousand years on.

The 12<sup>th</sup> century book of Llandaff records from earlier records, that the space between the yew tree and the church was a sanctuary in the 5<sup>th</sup> century and earlier, as inviolable a space as the interior of the church itself.

**One of the early laws to note, which protected yews,** was that noted in the **Book of Llandaff**, otherwise properly known as *Liber Landavensis*, *Llyfr Teilo*: Ancient register of the Cathedral of Llan-daff, under the heading ‘The Village of Miluc’. All scholars believe this was a church and yew tree by the River Ely but ‘Miluc’ does not exist. The site whose exact location, Meredith and Fry are trying to establish, is on the route to Llandaff and is most likely to be St. Brides Super Ely, which has an enormous yew. The text tells us that Iestyn sent his ‘household’ containing the wicked Twrwerd and Iestyn’s grandson Eineon, ‘filled with an evil spirit’ to Llandaff. Ignoring the protection of the holy cross and the asylum given by the Llandaff saints of Saint Dubricius, Saint Teilo and St. Oudoceus, the sinners ‘took away a virgin who had fled under the protection of the church and from between the yew tree and the church’. The girl, Eurddilad, daughter of Cynwal was ‘violated’ and the perpetrator became deranged. The bishop cursed Iestyn and his criminals for such an outrage but it must be noted that the punishment was for the **violation of the protected ‘refuge’ and** not for the rape of the girl! and that the criminal came to his senses when **restitution was made to the church** (not the girl). Although not actually stating that the yew was acting as a ‘protector’ in its own right, there would appear to be an inference that the area between the church and the yew tree was a sacred space or ‘special refuge’ and known as hallowed ground. This refuge or asylum was begun by Teilo and Dubricious. What also seems apparent is the acceptance of the yew as an integral part of the site or ‘llan’.

At the time of Edward 1<sup>st</sup> in 1272-1307, we find attitudes to Yews becoming utilitarian and it being promoted that yew trees were planted in churchyards for the purpose of protecting the fabric of the building from high storms and also to shelter the congregation before entering the building! Thus in AD 1307 we have the notable **statute 35 ‘Ne rector prosternat arbores in cemiterio’** ( i.e. the rector must not cut down trees in the churchyard, save as the act proceeds to specify, for the repair of the chancel). This Statute was actually a reiteration of the **Synod of Exeter of 1287 AD.**, which forbade the felling of churchyard trees and expressly stated that they are often planted to prevent injury to the building during storms! The whole of the Latin reads as follows ‘ Ne Rector prosternet arbores in Cemeteris, Arbores ipse proper ventorum impetus ne Ecclesiis noceant seps plantatur. Prohibernus, ne Ecclesiatum Rectores ipsas presumant prosper nere indistiicte, nisi cum Cancellos Ecclesiae necessaria indigent reflecctione. Nec in alios usus aliquialiter convertantur’.

This from:-

(Sir R.Phillimore, *Eccles, Law 2<sup>nd</sup> edition 1895 p.1407. Brand , Pop. Antiq., 11.p.3256. G.White, Selbourne, p. 421. Statutes of the realm,1810, 1 Antiq., 11. p.221. The date of the Act said to be uncertain)*

It is pertinent to remark that **the law is still binding** as stated by Walter Johnson in ‘British Archaeology. It is also worth noting that the yew would be the principal, if not the only kind of tree, which grew in the churchyard and needed preservation. The yew is the only European tree associated with death,

Further to this, **in 1781 it is interesting to note that there was a Parliamentary debate** on the Edward 1<sup>st</sup> Statute '*Ne rector...*', which was as we have seen, was a reiteration of the law made by the Synod of Exeter's in 1287. This was in response to Yews at Gyffin in North Wales being cut down to a stump. Following the destruction of these yews which were remarkable for the fact that their 14 feet girths had hardly changed in size in 100 years, they had storms which did damage to the tower, so they then thought that the trees were there to protect the buildings and were already by this time it seems, unconcerned about the sacredness of the Yews. The fact that the old law was being brought up in Parliament means that although it was still known it was not generally understood or considered important by the clergy or at least some of them.

From The Parliamentary Register : Or, History of the Proceedings and Debates of ...By Great Britain, House of Commons, Parliamentary Debates 1781 (2) we have the following:-

'Mr. Courtenay then said, that on reading a very ingenious book, which threw great light on the spirit, manners and characters of our ancestors, in the book he alluded to, (Observations on the Statutes, chiefly the more ancient ones), there was an act of the 35<sup>th</sup> of Ed, 1, A 1307, entitled, '*Ne Rector arbores in Cemeretis prosernet.*' But as the season of the prohibitory state was not well understood, several of the country clergy, carried away by the modern taste for improvement, chose to lawn their churchyards and cut away the noxious yew trees: but after the supposed improvement was made, the wisdom of the act and the utility of the trees were uncovered, as several churches, especially the church of Gyffin, near Conway, in Wales,(for this spirit of improvement had travelled far,) were materially injured, by being exposed to the storm, deprived of all shelter and protection. Let us improve on the hint and not let rash and sacrilegious hands, prune away, the thick and sheltering foliage of prerogative, lest we thereby injure the temple of Liberty',

It is surely clear from this history of the protection of the Yew that in the interests of gaining legal protection for our ancient yews, a Lawyer with an interest in these matters, should be found to make these old laws legally binding within present day British law. In these times of the demise of the Church in Britain where lands and buildings are being sold off, the consequences of leaving our ancient yews vulnerable to 'development' of their environment are too dreadful to not do so.

#### REFERENCES

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*Lore and legend of the English Church, p. 54.*

*C.G. Prideaux, Practical Guide to the Duties of Churchwardens , ed.*

*F.C.Mackarness,1895, p.331.*

*H.W.Cripps, Laws relating to the church and Clergy, 1886 pp.433-4*

*Hubert Howe Bancroft 'The Book of Wealth, a study of the achievements of architecture', 2015 (says that a temple was merely a hollow tree.)*

