

*After the Flood, by Bill Cooper*

## **Appendix 6**

# **The Molmutine Laws and Pagan Britain**

### **Introduction**

The following is an account of the law and society as they stood in ancient Britain during the centuries preceding the Roman invasion of 55 BC. It is based upon the surviving laws of king Dyfnal Moel Myd (Dunvallo Molmutius), who reigned in the 5th-4th centuries BC. The account, from pp. 20-24 of Flinders Petrie's paper, (1) bears repeated reading, for it reveals a level of culture and literacy amongst the early Britons that is quite unlike the popular image that has been cultivated in recent years by the modernist treatment of British history. It also speaks volumes for the existence of a king whom modernists have always said was a mythical figure, and it reveals our ancestors to have been a highly cultivated and civilised people, and not the illiterate painted savages of popular fame.

### **The Molmutine Laws and Pagan Britain**

**by Flinders Petrie**

The condition of pagan Britain is remarkably preserved in the laws of Dyfnal Moelmud. That these laws are certainly long before the tenth century is proved by the gulf that exists between the state of society shown by them and that of the laws of Howel fixed to AD 914. The laws of Howel show a highly complex and detailed condition of law, and an elaborate royal court, with the rights of officials minutely fixed. In the laws of Moelmud there is very simple law, always subject to proved custom and to adaptation to circumstance; there is no royal court, and very few officials, with no defined claims. Moreover, the laws of Howel refer back to Moelmud. What takes the laws of Moelmud at least to Roman times is that they are purely Pagan, and the only Christian allusion is an addition to the forms of legal oath, saying that 'In subsequent times the form of oath was given by the Ten Commandments, the Gospel of St. John, and the blessed Cross' (no. 219). This stamps the previous oaths and the rest of the laws as of the pagan period, and therefore at least of the third century, as British bishops attended the Council of Aries in AD 314. How much farther back these

laws may date, towards the traditional time of Moelmud, the fourth or seventh century BC, we cannot now enquire. Probably they were of gradual accretion, but apparently no part comes under the influence of Christian usage. We can, then, at least accept the picture of society here shown as being that of the Britons under the earlier part of the Roman dominion. Of the two series of legal triads, the short first series, 1-34, is here marked A; (2) the long series is simply numbered L-248. (3) Skene agrees to the laws of Howel being of the tenth century, but never mentions those of Moelmud. Stephens asserts that the laws of Moelmud were certainly not composed earlier than the sixteenth century. What writer of that date would forge a consistent body of punitive tribal law, entirely pagan in character, and why any one should do so when the laws of Howel were celebrated and prized, are questions ignored by the easy assertion of a late date for which no reason is given.

First we may note the laws referring to the state of society. Wherever little children, dogs, and poultry are found, the place has a right to the privilege of the court and the sacred place (87). The fields were private property, but cultivated in common tillage (A 5). The wild land was tribal property, free for wood-cutting, hunting, and gathering acorns to feed pigs (142); but it could not be taken into cultivation without consent of the lord and his court (101). Iron mines were common property; but the ore dug out was private (49). A permit was needed to shift the family wagon or booth; if done without permission, the mover lost all rights, like a criminal or foreigner (A 33). The only general movement allowed was that of the public shepherd of the township, or the chase of wild beasts by the public horn, or of bards spreading knowledge. But bankrupt men who had no kin or land were free to travel (A 28). Thus the organized society was held together.

The idea of the bonds of society was very strong. The mutual bonds of a social state are equal protection, tillage, and law (45). The duties of public help, which every person must render, are in invasion, the public cry of base deeds or murder, and fire (A 15). Society is disorganized by oppressive privilege, unjust decision in law, and negligence allowing regulations to be destroyed (31). The tribal bond is broken up by famine, earthquake, flood, or conquest, and the tribe must begin to form a new social state (A 32).

In more personal matters no arms might be shown in a convention of the country and lord, or convention of independence, or convention of the bards (58). The things indispensable to a free man were his tunic, harp and kettle. The indispensables of a vassal were his hearthstone, bill-hook and trough (239, 240). The property of which a man might not be deprived were his wife, children, clothes, arms, and implements of the privileged arts (53). The three ornaments of a tribe were a book, a harp, and a sword, and they could not be distrained by law (54). The hereditary owner of land could always reclaim it after sale by

offering the value (93). This proves that strictly private ownership co-existed with tillage in common.

Government was not despotic, and the chief or king was hardly more than a spokesman. The chief was the oldest efficient man in the tribe (88, 165). The meeting of a country could be called by public proclamation, not only by the king or lord of the district, or the chief of a tribe, but also by a family representative (171). There were three privileged conventions--first, that of the bards for sound instruction on virtue, wisdom, and hospitality, to record events, actions, and pedigrees, and proclaim laws; second, that of the country and lord for court of law; third, for independence, to establish harmony by mutual reason and agreement of country and country, prince and prince, vote and vote (59, 61). The reasons for taking the vote of the country were to enact or repeal a law, to give judgement when the law is insufficient, and by the privilege of the country to guard against illegal measures by opposing the offenders (161). The consent of the country was needed to abrogate the king's law, to dethrone the sovereign, and to teach new sciences and new regulations in the convention of the bards (63). The native rights of all freeborn men and women were the gift and free use of five acres of land (eight English acres), the carrying of arms, and a vote to a man at puberty, and to a woman when she marries (65). A woman also had the privilege that if she had a son by a foreigner against her consent, as when in the power of foreigners in any way, by tribal order or accident, her son inherited as a free man, although a foreigner could not inherit privileges of free men for nine generations (116). Each generation of bondmen or foreigners that married a freeborn woman gained one degree of the nine necessary for freedom.

Law was but custom enforced. 'There are three pillars of the law: custom before record and tradition; the king through legal authority; and the decision of the country by vote where there has been neither custom nor law' (155). Three kinds of custom are to be maintained: first, the custom that sets the law aside; second, custom that excels law, but limited to local use; third, custom which excels law in the special circumstances, to be confirmed by the verdict of the country (28). Three things might supersede law: acts of the king to enforce truth or justice; privilege, which nothing can remove; and a contract with witnesses. The judge was to use his discretion widely; he must know the law, know the customs so that law may not injure them, and know the tendencies of his times and their consequences, leaving a wide opening for judge-made law (12).

The court consisted essentially of the king, or lord, to listen and declare what the sense of the law and its application is, the judge to hear the evidence and decide on what is proved of the facts, the clerk to write the pleadings (204, 210) and to destroy the record after the cause is finished (130). This entirely prevented a growth of law by precedents as in England.

Learning was greatly respected. Privilege of support was given to rank, to bards

or teachers, and to orphans (A 12). The free man must support a wife, also a fighting man if he does not fight himself, and a family tutor (81). The family teacher was exempt from all manual work, bearing arms, or cultivation, like infants and the aged (55). The privileged arts, that give complete liberty, are bardism, metallurgy, and learning or literature. Those who profess these have an extra five acres of land besides their five acres as free men (68, 71). The smith, mason, and carpenter all had equal rights (73). No bondman was to learn the arts of freemen; if he did so he was free (69), but his sons reverted to bondage (70). Hereditary learning therefore kept the family free, before the nine generations of bondage were over.

The most remarkable part of the law was the respect to foreigners. A foreigner under the protection of the tribe must be assisted in travel (A 8). He was as a trader not to be oppressed or injured though speaking a barbarous tongue (78). The foreigner practising arts obtained the status of freeman in the third generation (70). He was to be allowed an advocate in law courts (209), protection and support from the taxes (209), and to be excused in case of capital crime, as ignorant (23). In case he was shipwrecked on the coast he had free maintenance (198, 199).

These laws give a remarkable view of a community with the greatest respect for weakness and misfortune, high rights for women, full consideration for foreigners, and great privilege for learning, for the arts, and the crafts. Social duty was strongly held, and the full power rested on the vote of every free man and woman, even to deposing the king. Arms were prohibited civil assembly, and the harp was as necessary to a free man his coat and his cooking-pot. The whole air is that of simple conditions and a free life, with much personal cultivation and sympathy in general conduct. It would be impossible to produce such a code from a savage or violent people, and this intimate view of their life is the best ground for judging of their qualities. That there was generally a well-organized peace kept in the country is shown by Caesar's statement that 'the number of the people is countless, and their buildings exceedingly numerous.'

## Notes

1. Flinders Petrie, W.M. Neglected British History. Proc. Brit. Academy. 1917. Vol. VIII. pp. 1-28.
2. Probert, W. (trans). The Ancient Laws of Cambria. 1823. pp. 8-14.
3. *ibid.* pp. 15-87.

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