

Legal Practice in Fifteenth-century Brycheiniog

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The text edited and discussed in this article, a representative of a rare *genre* in Welsh legal writing, is preserved in a manuscript of poetry, NLW Peniarth 67.¹ It describes how a claim to land is prosecuted in Brycheiniog but the legal procedure is neither Welsh nor English; it is a combination of both laws and may be an example of the law used in Marcher lordships. Welsh law is preserved in some forty medieval manuscripts from the mid-thirteenth century onwards. However, the lawbooks do not show the law in action and information on how their rules were practised is rare. It is unlikely that the lawbooks were followed to the letter even in the thirteenth century, but some elements of the laws were used until the sixteenth century, examples appearing in the late medieval court rolls. Land law was one of the elements that survived, and this is not surprising as the system of land holding is often a tenaciously conservative element in social custom. *Llyfr Iorwerth*, considered representative of thirteenth-century Welsh law, sets out how to conduct a claim for land.² The procedure described was inappropriate to the conditions that prevailed in post-conquest Wales, the presence of the king and some of his officers being one feature that had no relevance in late medieval society. Precise indications as to how cases were conducted in the late period are scant. The court rolls – for example, the Dyffryn Clwyd court rolls – provide the names of the litigants, a brief indication of the nature of the action and its outcome, but usually give little detail on court procedure. A case from Cao, Carmarthenshire, dated to 1540, setting out in Welsh the arguments of the parties and the judge's verdict is thus a record of exceptional interest.³

Unlike the Cao case, the *dadl croes* examined in this article is not an actual case with claimant and defendant and an account of their legal argument but rather a description of the procedure to be followed in a certain type of claim for land, providing an account of the several means by which a case could be resolved. The text is unique in that, although some model complaints are found in late medieval manuscripts, such as the complaints found in manuscript Q, Wynnstey MS 36, the texts tend to concentrate on what

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¹ *Peniarth MS. 67*, ed. E. Stanton Roberts (University of Wales Guild of Graduates, Reprints of Welsh Manuscripts, Cardiff, 1918).

² A. Rh. Wiliam (ed.), *Llyfr Iorwerth* (Cardiff, 1960), §72–8, 44–50. On the dating of the law texts see H. Pryce, 'Lawbooks and literacy in medieval Wales' *Speculum*, 75 (2000), 35–6.

³ T. Jones Pierce, 'The law of Wales: the last phase', *Transactions of the Honourable Society of Cymmrodorion* (1963), 1–32 [THSC]; and idem, *Medieval Welsh Society. Selected Essays*, ed. J. B. Smith (Cardiff, 1972), 369–89.

is said, rather than on the non-verbal aspects of the procedure. Moreover, whereas the Caeo case shows how a particular case concerning land in 1540 was settled, the Peniarth 67 *dadl croes* shows that the law, in this connection at least, was flexible in that the case could be settled at any time and in a number of ways. Despite the fact that it is neither an example of the law in action, nor an exemplar of the verbal formulae to be used in a case, the text in Peniarth 67 is an important addition to the tiny corpus of Welsh legal writing outside the tradition of the lawbooks that reveals the development of law in late medieval Wales. The reasons for the completion of the text are far from clear. It may have been made to meet the practical needs of an official but certain features of the text noticed below have an antiquarian flavour.

The Manuscript

J. Gwenogvryn Evans dated the manuscript from which this case is taken to the late fifteenth century, and modern experts agree with this dating.⁴ Most of the poems in the manuscript are by Hywel Dafí (fl. 1450–80). While Evans stated that the manuscript is in the poet's own hand, Stanton Roberts disagreed, arguing that internal evidence suggests that the poet was not the scribe of this manuscript.⁵ However, Daniel Huws has confirmed that Peniarth 67, and other manuscripts, are in Hywel Dafí's own hand, a fairly distinctive script, with an erratic system of word division.⁶ Peniarth 67 is written on paper and is in the same hand throughout, apart from two sections that have been written by a very incompetent scribe.⁷ Peniarth 67 consists mainly of religious poetry, with some poems in praise of various members of the gentry. Little is known of Hywel Dafí's life and his poems remain largely unedited.⁸ He had connections with Brycheiniog and some of his patrons were from the area, for example, Syr Rhosier Fychan and Thomas ap Gwilym from Tretower, and the descendants of Dafydd Gam. Internal evidence in Peniarth 67 suggests that Hywel Dafí was a steward in Tretower; a poem (no. 74 in Roberts's edition), attributed to Bedo Brwynllys, has a section which reads:

hywel sy vchel y son
 Davi naddwr defnyddyon
 Ystiwert yn oes devwr
 Yw n rrvor tai yn rre r twr⁹

There is much praise of Hywel
 Dafí, sculptor of materials,
 A steward in the time of two men
 . . . of houses in Tretower

⁴ Daniel Huws, *Medieval Welsh Manuscripts* (Aberystwyth, 2000), 63.

⁵ J. G. Evans, *Report on Manuscripts in the Welsh Language* (Historical Manuscripts Commission, 1898–1910), i, 460; Stanton Roberts, *Peniarth 67*, pp. iii–iv.

⁶ My thanks are due to Daniel Huws for his com-

ments on this manuscript and others.

⁷ *Peniarth MS. 67*, p. vi, referring to sections 42 and 43 in the edn.

⁸ *The Dictionary of Welsh Biography down to 1940* (London, 1959). [DWB]

⁹ *Peniarth MS. 67*, 112.

The manuscript has a prose entry which Stanton Roberts calls a ‘Money Account’ in his list of the subject-matter of the prose pieces, and elsewhere describes as possibly ‘a leaf from the day-book of an itinerant poet’.¹⁰ Daniel Huws states that there are no known poets in this list so it is unlikely that it is a list of payments to poets, but it could be a list of accounts for an estate. The fact that Hywel Dafi was a steward may explain his interest in the law and the administration of the law, and perhaps he committed the *dadl croes* to paper for personal reference; he may even have seen or conducted a claim for land following the procedure he set out in his book of poetry. This may explain the nature of the text: a *cyngaws* (in *cynghawsedd* the *cyngaws* would argue the case) or a plaintiff (who would write or state a *cwyn*, complaint) would have had to speak in court and therefore would need formulae or models for their guidance. Hywel Dafi, as a steward in a position of authority, may have had no need to argue or speak in court, but he needed to know how the case was going to be conducted, and this may explain why the text gives only the bare procedure with no verbal formulae. Amongst the few prose items in Peniarth 67 is a list of the seven different types of complaints, *saith ryw gwyn*, (no. 20 in Roberts’ edition) which I have prefixed to the *dadl croes*; there is also a list of triads, and a prayer. The *dadl croes* is the longest prose section by far, and is also longer than any of the poems. Despite the length of the item, and the fact that the poet considered it important enough to be included in his collection, the *dadl croes* is not in a prime position in the manuscript; it is sandwiched between two poems and is the thirtieth item in Stanton Roberts’s edition (which follows the sequence of the manuscript exactly).

The Text: Context and Background

The *dadl croes* is a description of a legal procedure by which land is claimed; the procedure involved a cross, and this element gave its name to the whole. The procedure is said to be customary in Brycheiniog, although there are no other references to places. The word ‘lordship’ appears, but we are not told whether this is Brycheiniog or not, and, though there are references to the lord himself, he is not named. Brycheiniog was a part of the March of Wales, whose lordships, varying in size, character and population, were sufficiently detached from royal justice to develop distinctive legal traditions, and although English customs were introduced and practised in the area, native Welsh traditions often continued.¹¹ The March of Wales was a ‘hybrid society’,¹² its population often separately located in Welshries and Englishries, where the inhabitants followed their respective legal and social customs.¹³ Elsewhere, the population might be mixed, and this is reflected in the variety of customs and traditions found.¹⁴ One issue that needs to be addressed is whether our text describes the law for the whole of Brycheiniog, for one of its mesne lordships, such as Pencelli, Cantref Selyf or Tretower, or just for

¹⁰ *Peniarth MS. 67*, 63, vii, ix.

¹¹ K. Mann, ‘The March of Wales: a question of terminology’, *WHR*, 18 (1996–7), 1.

¹² R. R. Davies, *Lordship and Society in the March of Wales* (Oxford, 1978), 9–10.

¹³ W. Rees, *South Wales and the March 1284–1415*

(Oxford, 1924), 28–31. In the case of Dyffryn Clwyd there were separate rentals for the Welshry and the Englishry; R. R. Davies, ‘The law of the March’, *WHR*, 5 (1970–1), 156.

¹⁴ *Ibid.*, 25–6.

the Welshry in one lordship.¹⁵ Its language suggests an entire lordship: the word *arglwyd-diaeth*, 'lordship', is used, and the title suggests that it describes the procedure normal for the whole of Brycheiniog. On the other hand, Hywel Dafi's office as steward at Tretower may suggest that the lordship which concerned him was not Brycheiniog as a whole but Tretower in particular. The lord of Tretower within Hywel Dafi's lifetime was Sir Rhosier Fychan (or Roger Vaughan), to whom Tretower, in Ystrad Yw, was given by his half-brother, William Herbert, earl of Pembroke, and he was also lord of Cantref Selyf and Pencelli. He was executed by Jasper Tudor in 1471. His son, Sir Thomas Fychan, inherited Tretower and was the patron of many poets, Hywel Dafi being among those who praised him.¹⁶

The 'law of the March' to which records often refer was a generic term, subject to many regional variations, and different from both English common law and the Welsh law of Hywel Dda.¹⁷ Evidence of its operation is difficult to find, for court rolls are comparatively few in most lordships, and they provide, in many instances, only a very brief record of a case, often no more than a record of the fine levied, and besides, cases settled out of court are not normally registered on the court roll. But like the March itself and its peoples, it was a composite law, the lord being able to keep those parts of Welsh law that were convenient and profitable to him, the dues and payments obligatory in Welsh law being retained as a steady source of income. Thus there is evidence that the *amobr* payment, due to a lord when a girl lost her virginity, was kept in the March, but it was changed, probably by analogy with English *leywrite*, so that the lord received a payment for every sexual offence a girl committed, rather than the one payment as specified under Welsh law.¹⁸ Some areas of law tended to attract the use of Welsh law: *galanas*, *cyrch cyhoeddawg*, *sarhaed* and *trais* in criminal law and cases of *amodwyr* in civil law.¹⁹ Sometimes the Welsh method of compurgation would be used as an alternative to verdict by jury.²⁰ In Cydweli in 1413 a case of theft was tried following Welsh law: the defendant swore his innocence by compurgators.²¹ As the jury became popular in the March, the court rolls often show Welsh cases, such as those concerning *amobr*, *sarhaed* and *tir pryd*, being tried by jury.²² Our text has an example of the fusion of two traditions: the three options for settling the case include the jury (*deuddeg*, 'the twelve'). The method of resolving a dispute is here applied, moreover, to land law which, with land tenure proving a particularly resilient aspect of native law, was more than any other, the aspect of law for which Welsh practices continued to be used.²³ Land held under Welsh custom was best dealt with by Welsh law.²⁴ The procedure discussed here is part

¹⁵ J. Beverley Smith, 'Marcher regality: *quo warranto* proceedings relating to Cantrefsellyf in the lordship of Brecon', *BBCS*, 28 (1978–80), 288.

¹⁶ *DWB*, q.v. Vaughan family of Tretower.

¹⁷ *Magna Carta 1215*, ed. J. C. Holt (Cambridge, 1965), 333 (clause 56); R. R. Davies, 'Law of the March', 1.

¹⁸ R. R. Davies, 'Twilight of Welsh law 1284–1536', *History*, 51 (1966), 137, citing P. Vinogradoff and F. Morgan (eds.), *Survey of the Honour of Denbigh* (London, 1914), 313–14.

¹⁹ R. R. Davies, 'Twilight of Welsh law', 154–6.

²⁰ *Ibid.*, 17–18.

²¹ *Ibid.*, 154.

²² *Ibid.*, 149.

²³ T. Jones Pierce, 'Law of Wales', 19–20. In the principality, the use of Welsh law was allowed under the Statute of Rhuddlan but there was an attempt to make English law more attractive. Common law triumphed in most civil actions and in the court rolls the Welsh law was 'diluted'; also R. R. Davies, 'Law of the March', 19, 23.

²⁴ T. Jones Pierce, 'Law of Wales', 19.

of land law, the procedure of placing a cross on the land subject to dispute being ‘extensively employed in the later middle ages’.²⁵

The Text: Form and Content

The text sets out the procedures to be followed in sequence, starting with the action that begins the legal process, the placing of the cross, and proceeds step by step until the defendant has no option but to end the case. The text assumes that the defendant is unwilling to settle the case either in court or outside it, and therefore takes the longest conceivable path the procedure could follow, and thus gives a full account of the possibilities. The procedure can be divided into three phases, the first two describing the ritual actions of placing the cross and cutting a sod.

I. Placing the cross

A brief prologue explains what the text is about. *Dadl croes* seems to be an unique title, *dadl* being used here in the legal sense of an ‘action in law, plea, lawsuit, plaint’, *Geiriadur Prifysgol Cymru* citations including that from William Salesbury’s dictionary (1547): ‘*dadyl*, plee’. The text then describes the first element of the procedure: placing the cross. The symbolic ceremony of placing a cross is attested from the earliest Welsh lawbooks, and is one of the rituals that include the lighting of a fire to claim ownership of a house. It is thought that *dadannudd*, which is one way of claiming land in Welsh law, originally meant uncovering a fire on the paternal hearth.²⁶ In Welsh land law, if a cross was placed in disputed land, its purpose was probably to register that a legal action over the land had been initiated.²⁷ A cross could also be ‘broken’ by the defendant: in an example taken from a model plaint according to Welsh law, the claimant placed a cross on the land, but the defendant put cattle out to graze on the same land, ignoring the cross of interdiction.²⁸ The point of using the cross may have been to make sure that the defendant came to court. It would certainly appear that, as the *dadl croes* is so prolonged, the cross was not meant to prevent the use of the land until the case had been settled, for the longest legal path envisaged could take a year or more. If this is so, the use of the cross was not prohibitive in this text, unlike the cross of interdiction found in Welsh law. It may have been unnecessary to have the extra threat of the land being disused to enforce the settling of the case, as the lord was involved in the proceedings in the *dadl croes* and may have compelled the defendant to settle the case in the end. By the fifteenth century the ritual elements of using the cross had perhaps faded but it was retained to mark the beginning of the case.

²⁵ R. R. Davies, ‘Twilight of Welsh law’, 158.

²⁶ *Llyfr Blegwryd*, ed. S. J. Williams and E. Powell (Cardiff, 1942), 71–3. See also T. M. Charles-Edwards, *Early Irish and Welsh Kinship* (Oxford, 1993), 274.

²⁷ *Ancient Laws and Institutes of Wales*, ed. A. Owen (London, 1841), IV. iv. 1, IX. xxv. 3, XIV. iv. 8. [AL] References to *Ancient Laws* follow the convention set

out by the Welsh Law Colloquium of stating the book number in roman numerals, upper case, the chapter number in roman numerals, lower case, and the sentence number in Arabic.

²⁸ *AL*, XII. xiii. Denying *tor croes* is also found in X. i. 10.

In the cross cases an actual cross must be produced for the action to be valid. The cross also had to be given to the claimant by a person in authority, for example, the lord or his representative, and it thus came to reinforce seigneurial justice.²⁹ A cross was often used to mark boundaries and the idea of using a cross for such purposes probably originated with church lands but was expanded to include secular and privately owned lands. Similarly in Ireland ‘cross lands’ were church lands and they were defended by crosses to mark their boundary. Huw Pryce refers to a fine which was payable both to the lord and the church when someone violated the rules regarding crosses: the *dirwy croes* occurs in an arbitration of 1252, the text of which is preserved in the ‘Record of Caernarvon’ but not in the law texts.³⁰ However, it suggests that the link between the church and using crosses in legal actions was still remembered. A cross was taken from the lord and placed in his land and since bishops or abbots could be landowners, a cross could also be obtained from them.³¹ Generally, the cross was a symbol of disputed lands being claimed.³² In the Welsh legal texts, however, the references to crosses are more widespread.

Pawb a fo dlyet iddaw mewn peth a eill roi croes yn y peth yny ddsparther.

Every body who may have a right to a thing, can place a cross in that thing, until it shall be settled.³³

AL, XIV. xli, taken from Peniarth MS 164, a fourteenth-century manuscript, has by far the longest section dedicated to crosses, and it covers many of the points discussed below.³⁴ A cross is placed on the land by the claimant, and the defendant is required to ask for legal action.³⁵ Crosses are naturally also mentioned in the case of swearing oaths on relics, but the references to land cases in the law texts only match *dadl croes* loosely. In the lawbooks it is noted that a cross should be taken from the lord at all times, except one – in the case of a *prïodor*, a rightful owner, claiming the land of his father used by another.³⁶ A cross only lasts for a year, however, and once a year has passed after the placing of the cross, no action can be taken. In a section on houses situated on land which is divided, there is a set procedure but in this text placing a cross prevents any use of the land and requires a different legal process to be sought.³⁷ Placing a cross in Welsh law therefore prohibits use of land claimed to be unlawful but induces legal action.

In record sources there is an example of a cross being used in legal action in the comote court proceedings in Ardudwy in 1325–6.³⁸ There are also several examples of offences related to the use of a cross as a prohibition or a marker in the Dyffryn Clwyd court rolls. Breaking of a cross and unjust placing of a cross are found, and a longer entry occurs in a case on the bishop of Bangor’s lands there. In that particular case,

²⁹ *AL*, XIV. xli. 17.

³⁰ H. Pryce, *Native Law and the Church in Medieval Wales* (Oxford, 1993), 220.

³¹ *AL*, XIV. xli. 30, and note 44, below.

³² R. R. Davies, ‘Twilight of Welsh law’, 158.

³³ *AL*, XIV. xli. 2.

³⁴ *AL*, XIV. xli. 1–40.

³⁵ *AL*, IV. iv. 1. The bishop is a lord over his lands, and according to the lawbooks, the cross must be

taken from the lord who rules the land in question; see note 48, below.

³⁶ *AL*, IX. xvii. 1.

³⁷ *AL*, XIV. xxxiii. 5.

³⁸ E. A. Lewis, ‘The proceedings of the small hundred court of the commote of Ardudwy in the county of Meirioneth from 8 October 1325 to 18 September, 1326’, *BBCS*, 4 (1928–9), 162.

Gruffudd ab Ithel ab Einion received a cross from the lord's *rhingyll* and placed it in hereditary land. However, the bishop has '*rhaglaw, rhingyll, cross and court for terminating things which pertain to a cross*'. The issue, then, is whether he should have taken the cross from the bishop's officials or from the lord.³⁹ In the *dadl croes*, once the cross has been placed, the defendant must give surety that he will answer the law. Thus, as in Welsh law, the cross is being used to induce the defendant to participate in a legal process and, if the defendant does not make an appearance before fifteen days have passed, the case ends. The claimant must have witnesses to his placing a cross, the word used in the text being *deiliad* which appears twice. In a Welsh land procedure, *gwybyddiaid* (eyewitnesses) and *ceidwaid* might be called upon. The *ceidwaid* are neighbouring land-holders, the Welsh equivalent of the tenants named here; they are 'guarding' a neighbouring piece of land. The fact that *deiliad* is used here rather than *ceidwad* suggests a different legal background but that the same legal practices were being followed. Next in the text, an official becomes involved, and though it is not explained who or what the official is, he is probably a representative of the lord. In Welsh law we would expect him to be the *rhingyll*, later to become the reeve. William Rees states that the *rhingyll*, amongst other things, made the summonses, acted as clerk in the court and maintained public order.⁴⁰

According to David Stephenson, the role of the *rhingyll* in the thirteenth and fourteenth centuries developed from that found in the lawbooks and he became an appariter and summoner, and kept order when the court was in session.⁴¹ Furthermore, 'he was responsible, in some cases at least, for setting up the cross of interdiction, a preliminary to many cases relating to real property'. Stephenson quotes a case from the Dyffryn Clwyd court rolls where a man takes the cross from the hand of the *rhingyll* and places it in land. In the case mentioned above from the same source, the cross was taken from the *rhingyll* of the lord.⁴² In the procedure described in the present text, the cross is taken not from the *rhingyll* but from the *uchelfaer*. The *uchelfaer*, 'high steward', is not attested anywhere else, for, whereas the *maer* appears in the law texts the *uchelfaer* does not.⁴³ As the claimant takes his cross from him rather than the lord, he is probably a high-ranking representative of the lord. Another possibility is that it is a later form of the office of *cynghellor*, found in the lawtexts. The *cynghellor* worked closely with the *rhingyll* and he is named in one lawbook as one of the 'tri arffedo(c) croes' (the three protectors of a cross); the other two are the *rhingyll* and the lord.⁴⁴ The *uchelfaer* was most probably the steward of the lordship, so what we may have here is a Welsh description of a Marcher office that in any official record of proceedings would have been recorded in Latin.⁴⁵

Our official starts with a 'smooth summons', and follows it with a 'rough summons' to increase the pressure on the defendant, and if that does not work, he calls upon wit-

³⁹ *Dyffryn Clwyd Court Rolls Database*, Llan 2/2741 (13 September 1352, Llannerch).

⁴⁰ Rees, *South Wales and the March*, 9.

⁴¹ D. Stephenson, *The Governance of Gwynedd* (Cardiff, 1984), 44.

⁴² *Ibid.*; *Dyffryn Clwyd Court Rolls Database*, Llan 2/2741 (see above, note 35).

⁴³ *Llyfr Blegywryd*, 48–9. For the corresponding passage, see *Llyfr Iorwerth*, 61.

⁴⁴ Stephenson, *Governance of Gwynedd*, 44, n. 17; *AL*, XIV. xli. 30.

⁴⁵ For example, T. B. Pugh, *The Marcher Lordships of South Wales, 1415–1536: Select Documents* (Cardiff, 1963).

nesses. The defendant does not have to answer any of these summonses but, if he does, the rest of the procedure is void, and the three options given at the end are applied. By placing the cross the plaintiff starts an action of his own accord, although his action is registered in that the cross is given to him by the *uchelfaer*. He also notifies the defendant, according to the word *rybyddyaw*, verbally. This differs from the *dadannudd* procedure in Welsh law, and its Irish counterpart *tellach*, where no warning is given and there is only the symbolic act.⁴⁶ In our procedure we have both the symbolic cross and a more ‘legal’ warning.

II. Cutting the sod

The second stage of the procedure, cutting the sod, is again a symbolic act, and is designed to increase the pressure on the defendant. It is also paired with giving and taking surety. In the first instance the defendant gives his own surety, the second time he gives the surety of his neighbour, and the third time he may not give surety at all and must appear in court. This also increases the pressure on the defendant, as giving his neighbour as surety is more serious than he himself giving surety. The sod symbolizes taking possession of the land, since to be in possession of something is to hold it in your hand. A similar ceremony is sometimes found with feudal investiture and is common in medieval land transactions, but is not attested in Welsh law.⁴⁷ The defendant may counter this by taking possession on surety. However, with the third taking of possession by the official, the pressure is increased still further in that the defendant is no longer answerable to the claimant but to the lord himself, through his representative. It is uncertain what this third possession, *gafael wrth bost* (taking possession by post/pillar) means, but it seems to be a known legal term. The *rhingyll* in the lawbooks is linked to posts. In the *rhingyll*'s section in the laws of the court in *Llyfr Blegywryd*, he is described as making summonses (Melville Richards translates the *rhingyll* as ‘the summoner’), and his words are to be believed. However, no one can impeach a *rhingyll*'s summons if he either brings witnesses or strikes the post three times.⁴⁸ No explanation is given for the post, although in Ireland stone pillars were used as boundary-markers.⁴⁹ Our text also has a summons by witnesses, and although in the *dadl croes* the post is mentioned in the context of taking possession, it is the third taking of possession, and therefore a serious measure. It may thus be connected to the third summons in *Llyfr Blegywryd* in some way. No explanation is given here either, but the linking of the pillar with claiming land seems significant, and we may have some sort of parallel to an early Irish text in the *dadl croes*, although the details are unclear in both sources.

A claim is now made against the defendant, but the land has been formally taken into the possession of the lord. It is understood that the defendant is advised not to plead

⁴⁶ Charles-Edwards, *Early Irish and Welsh Kinship*, 259–303.

⁴⁷ F. L. Ganshof, *Feudalism* (London, 1952), 110–12. On investiture, he states: ‘The rite of investiture consisted in the handing over by the lord of some symbolic object, representing either the action of vesting

or the object vested . . . it might be a cornstalk, a piece of earth or turf.

⁴⁸ *Llyfr Blegywryd*, 29; M. Richards, *The Laws of Hywel Dda* (Liverpool, 1954), 43.

⁴⁹ Charles-Edwards, *Early Irish and Welsh Kinship*, 417–18.

until the land is in his possession again, so he holds the sod and takes possession of the land.

It is at this point that the long-drawn-out process of this case is described at its longest and most complicated. Reconciliation is understood to be desirable, and plenty of opportunity is given. Welsh law was sometimes chosen by litigants in the March because of the delays that could occur, for it could sometimes be to a party's advantage to prolong a case – 'in Welsh law a defendant was allowed to ignore a summons thrice (*tremyg*) before judgement was pronounced against him'.⁵⁰ In our text *tremyg* is not mentioned, but instead a Welsh loan from the English legal term *essoïn* (*asswyn*).⁵¹ *Geiriadur Prifysgol Cymru* offers two homonyms of the word *asswyn*, one being an English borrowing. *Essoïn* or as(s)oyne is 'the allegation of an excuse for non-appearance in court at the appointed time; the excuse itself'.⁵² It seems that the legal *essoïn* was assimilated to an existing Welsh word during the process of borrowing, and Welsh *tremyg* is similar to the English *essoïn* action in that a man may ignore a summons (*tremyg*) under certain circumstances.

A day is set for viewing the land, a common procedure in land cases.⁵³ By the time the defendant has refused to come to twelve sessions (excusing himself from four courts three times each), the concern is to bring the case to an end somehow. This is the significance of the attempt to fix a love day, a day of reconciliation and out-of-court discussion.⁵⁴ The love day, *jour d'amour* or *dies amoris*, is a well-known convention in legal history where love (peace) and law are closely related. In Anglo-Saxon law, a thegn has two choices – *lufu* or *lagu*.⁵⁵ Love here means an agreement out of court, an effort to make peace, its detailed procedures seldom found in the records. However, love days are mentioned briefly in *Bracton* so they were bordering on the official law.⁵⁶ Llinos Beverley Smith states that arbitration was not necessarily the easier option: 'the arbitral process demanded a level of forbearance and accommodation from each party which many, in the end, could not achieve'; furthermore, as arbitration cases are often unrecorded, it is difficult to know where in the process it occurs, whether as a first resort, during the proceedings, the last step or even after an unfavourable verdict for either party.⁵⁷ A love day therefore is a set day for resolving disputes out of court. It is often found in the March, related to border disputes.⁵⁸ According to Llinos Beverley Smith,

⁵⁰ R. R. Davies, 'Twilight of Welsh law', 160–1.

⁵¹ *Tremyg* is found in *Llyfr Blegywryd* and it seems that a man is only allowed to refuse to answer three summonses (p. 76), more or less what is happening in our text. *Tremyg* seems to be a Welsh version of *essoïn*, and it is explained on p. 125.

⁵² *GPC* s.v. *aswyn*². *Aswyn*¹ is the one found in *Culhwch ac Olwen* as *asswynaw*. It is an 'entreaty, petition (for blessing or protection); protection, blessing': *The White Book Mabinogion*, ed. J. G. Evans (Pwllheli, 1907); see also the discussion in P. K. Ford, 'Welsh *asswynaw* and Celtic Legal idiom', *BBCS*, 26 (1974–6), 147–70.

⁵³ *The Treatise on the Laws and Customs of the Realm of England commonly called Glanvill*, ed. G. D. G. Hall (London 1965), 152.

⁵⁴ On love days, see M. Clanchy, 'Law and love in

the Middle Ages', in J. Bossy, (ed.), *Disputes and Settlements: Law and Human Relations in the West* (Cambridge 1983), 47–67, and J. Bennett 'The mediæval loveday', *Speculum*, 33 (1958), 351–70.

⁵⁵ M. Clanchy, 'Law and love in the Middle Ages', 47.

⁵⁶ *Bracton: De Legibus et Consuetudinibus Angliae*, vol. 4, ed. G. F. Woodbine (London, 1977), 64, 94, 129, 159–60.

⁵⁷ Ll. Beverley Smith, 'Disputes and settlements in medieval Wales: the role of arbitration', *English Historical Review*, 106/421 (1991), 836–7.

⁵⁸ R. R. Davies, 'Frontier arrangements in fragmented societies: Ireland and Wales', in R. Bartlett and A. Mackay (eds.), *Medieval Frontier Societies* (Oxford, 1989), 96.

Gilbert de Clare claimed that, by the custom of Wales, the barons of Wales, when a contention arose between them, would hold a *parliamentum* or 'love day' or 'day of the march' where, by means of common neighbours and friends who were as if judge . . . the dispute might be settled.⁵⁹

This is not unusual or unexpected, and it fits in well with the rest of the procedure where going to court is avoided if possible.

III. *The final paths to a decision*

The third and final part of the procedure is stated in the confusing and hurried last sentence. The case can be settled in one of three ways – 'memory', 'judgement' or 'twelve'. The triad is an important form in medieval Welsh literature and many references to threes are found in this text. For example, the defendant is usually allowed to ignore three summonses at each stage, as with *tremyg*, taking possession of the land happens three times (using the sod) and, when the defendant actually has to appear in court, it is a third court. Triads are also found in Welsh law, such as the three forms of *dadannudd*.⁶⁰ The three options given in the triad are applied if arbitration fails, in which case a decision follows. Here, unusually, the triad contains an English element, the 'twelve', which probably indicates the twelve men of the jury. Trial by jury was common in the March of Wales so it is fitting in this procedure from Brycheiniog.⁶¹ There is a similar Latin triad in Redaction D of the Welsh laws in which it is indicated that judgement is one way of terminating a case, the other two being a meeting between the litigants, and the use of an arbitrator.⁶² Judgement could mean a judgement by a judge, or, especially in the law of south Wales, a judgement could be made by the court. Either would be appropriate here. *Cof* can refer to tradition as well as memory,⁶³ and memory could mean that the case was resolved by the testimony of witnesses. There were two types of witnesses in Welsh law – *gwybyddiaid*, eyewitnesses, or *ceidwaid*, maintainers. The evidence of maintainers was a privileged kind of hearsay, passed from generation to generation. Only immediate neighbours could give it, and then only about the descent of land. There were certain cases where one or the other type of witnesses was used in Welsh law depending on what the claimant wanted to maintain. If he wished to accuse the defendant of taking possession forcibly, the defendant would have to provide eyewitnesses. If the accusation was that he was not the true owner, a case that called for tracing his lineage and one for which he could not provide eyewitnesses, the defendant would have to provide maintainers. There is another reference to *cof*, the memory of a justice, in Llyfr Iorwerth as the only thing that can postpone a day of judgement.⁶⁴ In Llyfr Blegywryd, in one instance, memory can stand in place of witnesses.⁶⁵ It seems that the tradition of referring either to the memory of the court, the justice, or individuals is more common in Blegywryd and perhaps is more widespread in the south.

⁵⁹ Ll. Beverley Smith, 'Disputes and settlements', 841.

⁶⁰ *Llyfr Blegywryd*, 71–3.

⁶¹ R. R. Davies, 'Twilight of Welsh law', 149; the Welsh princes also made use of trial by jury, *ibid.*, 145.

⁶² *The Latin Texts of the Welsh Laws* ed. H. D. Emanuel (Cardiff, 1967), 357.

⁶³ *GPC* s.v. *cof*.

⁶⁴ *Llyfr Iorwerth*, §81/5.

⁶⁵ *Llyfr Blegywryd*, 110.

It is doubtful whether the memory of the court would go back far enough to serve the purpose needed in land cases, so the *cof* we have here is probably a reference to the Welsh *ceidwaid*.

Our jury, ‘twelve’, would give a verdict, distinguished from judgement, a decision. The verdict of a jury is an English idea, whereas memory is reminiscent of Welsh law, in particular, of the Book of Cynglawydd.⁶⁶ The text itself is made up of both English and Welsh elements, in harmony, in one legal procedure. We can distinguish the legal traditions, but it would be interesting to know how they chose which of the three methods to use, or how the decision was enforced.

Procedure for land cases makes up a significant section of the ‘laws of the country’ in the Welsh lawbooks. However, their procedures differ from this case. There are more officials involved in Welsh law, for example, and certain times are prescribed in which land cases may be held. The process included a fixed meeting between the claimant and the defendant, with their separate eyewitnesses and maintainers, and the king or his representative should be present. The parties meet on the disputed land according to a prescribed seating plan and model pleadings are provided. The procedure is very detailed and there are numerous rules that should be adhered to and guidelines to follow, for example, on taking counsel. There are fines to be paid if the rules are broken or the guidelines are not followed.⁶⁷ It is possible that the procedure in Welsh law had developed further than is demonstrated in the texts and it may have been closer to our text in practice.⁶⁸ The *dadl croes* seems to be more informal than the law texts suggest. There are two main issues at work here. First, there have been changes over time between the lawbooks and the fifteenth-century *dadl croes*. Similarly, though the case from Cao, Carmarthenshire, in 1540 is argued in the terminology and concepts of Welsh law (such as *priodor*, *treftadaeth* and *braint*), the procedure is not one found in the lawbooks. Secondly, there were local variations, such as the differences found between the customs in Brycheiniog and the neighbouring lordship, Cantref Bychan in Ystrad Tywi. Cantref Bychan was, by the later medieval period, also in the March but retained Welsh law to a greater extent. In Wynnstay MS 36 (*Q* in *AL*), also a fifteenth-century Welsh law manuscript, there are complaints which can be located in the area around Llandovery in Cantref Bychan. Several of these complaints refer to land cases, including a complaint of *ach ac edryf* and three complaints of *camwresgyn* in various forms.⁶⁹ These terms, as well as *dadannudd*, are what we would expect to find in our text were it closer to the law set out in the lawbooks, rather than *dadl croes*, which, although it is a Welsh way of labelling the case, is more subject to English influence. The contrast between these two neighbouring lord-

⁶⁶ *AL*, VII. i. 10; also *Llyfr Blegywryd*, 127.

⁶⁷ *Llyfr Iorwerth*, ¶ 77/7: ‘ac ena e mae yaun e’r egnat dyweduyt, “Cosp er anostec”. Sef yu henne, teyr buu kamluru neu nav vgeynt o aryant’.

⁶⁸ T. Jones Pierce, ‘Law of Wales’, 25–6. The text he uses is also a Welsh case, but the method of settling the matter does not follow the lawbooks closely. Jones Pierce argues that Welsh law was still develop-

ing after the lawbooks were written and that the lawyers adapted their land procedures to fit in with the changing economic climate in the thirteenth century, pp. 10–14.

⁶⁹ *AL*, XII. i–x, and discussed and summarized in G. Evans, ‘The story of the ancient churches of Llandovery’, *THSC* (1910–12), 42–250.

ships is striking: one seems to be more Anglicized than the other. It may also be the case that the *dadl croes* is neither English nor Welsh law, but local custom particular to Brycheiniog and it may not be a standard example for the March in general. It is a Welsh source demonstrating a local procedure which combines legal ideas from two traditions in a seamless text.

Apart from the ten plaints from *Q*, Wynnstay MS 36 published in Book XII, there are a series of plaints from another manuscript, the Book of Trev Alun, now lost.⁷⁰ These plaints can, as with the *Q* plaints, be located, but this time in Dyffryn Clwyd and Denbigh. Although they are similar to the Llandovery plaints in form, the subjects discussed are different, and provide material which calls for closer comparison with the Brycheiniog text. They include two plaints on crosses: a plaint of *tor croes* (breaking a cross) and *camgroes* (wrong cross). In the plaint of *tor croes*, breaking the rules after a cross has been placed, Ieuan ap Llywelyn ap Madog put his cows to graze on land where a cross had been placed.⁷¹ As explained in the law texts, once a cross has been placed, the land may not be used and legal action must be sought. The fine in the plaint for this offence is twenty pieces of gold or silver. In the plaint of wrong cross, the same Ieuan ap Llywelyn ap Madog is fined 15 shillings for setting up a wrong cross. These plaints, like the Llandovery examples, are model plaints, invented examples, rather than actual cases, but the fact that there are two plaints regarding crosses in the Trev Alun series suggests that land action involving crosses was a significant part of the Welsh laws, and a part that survived until the later Middle Ages, in the March of Wales at least. This is again borne out, as we have seen, by the Dyffryn Clwyd court rolls.

The *saith ryw gwyn* which appears earlier in the Peniarth 67 manuscript is also a legal item, but it is no more than a short sentence listing seven types of plaints. A brief look at the vocabulary found in the sentence shows that this, in contrast to the *dadl croes*, although written in Welsh, does not combine Welsh and English ideas in the same way; in fact, all the concepts in the item can be called English and are not found in Welsh law. What we have here is English law set out in Welsh: the list is written in Welsh, albeit Anglicized Welsh (*cambressentment* is a very poor attempt at a translation, as is *dysait*). This is not altogether unusual as references to Welsh law are found in the court rolls of Dyffryn Clwyd and Bromfield and Yale, and examples of translations of English terms into Welsh are found in BL Add. MS 46,846, where words such as *ffwrffed*, *redeinder* and *cwyn trespas* are included in the Welsh text.⁷²

In medieval English law appeal (*apêl* in this text), is not used in the modern legal sense of appealing against a judgement, but is derived from Latin *appello*, to name, make known or pronounce, and refers to the accusation or the criminal charge.⁷³ Appeal goes hand in hand with the seventh item on the list, *cambressentment*. Presentment was an idea

⁷⁰ *AL*, XII. xii–xvii.

⁷¹ *AL*, XII. xiii.

⁷² *Dyffryn Clwyd Court Rolls Database*, BL Add. MS 10,013 and BL Add. MS 46,846; I wish to thank Professor Rees Davies for drawing my attention to these manuscripts and the fact that they are compa-

able to the legal items in Peniarth 67 in that they combine legal traditions.

⁷³ F. Pollock and F. Maitland, *The History of English Law before the time of Edward I*, 2 vols. (Cambridge, 1895), ii, 664.

introduced into local courts in England in the time of Henry II, and the original purpose was to collect accusations for serious offences. The presenting jury would swear an oath that a man is suspected of a crime.⁷⁴ The jury do not swear that they themselves suspect him, or that he is guilty, only that he is under suspicion; the effect would be to take him to trial.⁷⁵ Another pair found in the list are *tresbans* and *dioresgyn*. There is a Welsh way of claiming land called *camweresgyn*, but *dioresgyn* is not a term known elsewhere. If the scribe was trying to explain a Welsh idea, he would surely have used the well-known Welsh term for it. He has used *dioresgyn* which, although similar to the Welsh term *camweresgyn*, is clearly not the same thing. *Geiriadur Prifysgol Cymru* states that *dioresgyn* can mean dispossession.⁷⁶ If this refers to land law the English or Norman-French idea which the term may be describing is likely to be *disseisin*. *Novel disseisin* was the most common claim for land in thirteenth-century English law and in the law of the March it replaced *camweresgyn*. The Welsh and English ideas are similar enough to replace one another and it seems that this is what had happened by the time of the *saith ryw gwyn*, but the scribe needed a Welsh term, as he was writing his list in Welsh. He may even have attempted to assimilate his word to *disseisin* by using the *di-* prefix. Three plaints of *camweresgyn* are found amongst the model plaints in *Q*, Wynnstay MS 36, from Llandovery. According to D. W. Sutherland, *novel disseisin* was later replaced by trespass.⁷⁷ Trespass did not originally mean someone throwing the possessor from his land but troubling him, for example by building on the land, and it was not common until the time of Henry III.⁷⁸ In our list, both *disseisin* and trespass seem to be known, but this is not surprising as the transition did not happen overnight, and even when trespass had become the more popular action, *disseisin* was still found.

Camgynnal, wrongfully holding, could also be connected to land law, as *cynnal* can refer to holding land. If *cynnal* is maintaining, then it may refer to the practice of livery and maintenance, which became a problem in the fifteenth century, but this is not an action that would be commonly found in a local court such as in Brycheiniog. It could also refer to chattels, or moveable goods. This is known as unjust detinue in English law and was a very common offence, linked to debt. According to T. F. T. Plucknett, Glanville saw debt and detinue as the same thing but they became distinct.⁷⁹

Dlyed is a term known in Welsh law and it can mean entitlement in the law texts, depending on the context.⁸⁰ However, in this procedure it probably has the well-known modern Welsh meaning of debt. The term is never applied to debt in the Welsh law texts; in Welsh law debt comes under the section on contract, *mechniaeth*. This is clearly an English action, although it was rare in early English law.⁸¹

Dysait, deceit, is the remaining term, and it is not known in Welsh law. Deceit, coupled with *assumpsit* in English law, was a section of contract law and referred to a breach of an undertaking. This was a later development in the common law.⁸² The word is a

⁷⁴ *Ibid.*, 519, 642.

⁷⁵ *Ibid.*, 648.

⁷⁶ *GPC*, s.v. *dioresgynnaf*: *dioresgyn*.

⁷⁷ D. Sutherland, *The Assize of Novel Disseisin* (Oxford, 1973), 171.

⁷⁸ Pollock and Maitland, *History of English Law*, 53.

⁷⁹ T. F. T. Plucknett, *A Concise History of the Common Law*, 5th edn. (Boston, 1956), 364.

⁸⁰ D. Jenkins, *Hywel Dda: The Law* 3rd edn. (Llandysul, 2000), xli.

⁸¹ Pollock and Maitland, *History of English Law*, 205.

⁸² Plucknett, *Concise History of the Common Law*, 640.

borrowing from English, according to *Geiriadur Prifysgol Cymru*, and the only attestation is this one.⁸³ *Apêl* is also directly borrowed from English. *Presentment and cambresentment* do not appear in *Geiriadur Prifysgol Cymru*, unsurprisingly, but *presentiaf*, as a verb, is found, as is *presentu*, to present. An English borrowing, the earliest example is in *Llyfr yr Ancr*, used in the religious sense, and the legal examples are mainly sixteenth-century.⁸⁴

All the actions found here are common actions, and the Dyffryn Clwyd court rolls, for example, are littered with references to them. However, it is strange that the author limited himself to seven complaints and states authoritatively that these are the seven complaints. There were other common complaints in Wales and the Marches in the period.

Brycheiniog is the neighbouring lordship to Cantref Bychan, which is where the *Q* complaints seem to originate, for all the place names are from that area. The facts that the *Q* complaints are all Welsh in origin, that parallels to the claims can be found in the law-books, and that the *saith cwyn* from Brycheiniog, occurring in a manuscript which is similar in date to *Q*, contain English ideas only, show that some Marcher lordships were more Anglicized than others. The *dadl croes* in Peniarth 67 combines both English and Welsh legal ideas, but the *saith cwyn* suggest that in this area Marcher law, although it might use elements of both English and Welsh law together, was mainly constituted of English law.

The *dadl croes* is not an actual case, and although it throws some light on the procedure which may have been used, there are uncertainties as to when and for whom the law described was current. However, on the positive side, the *dadl croes*, like the *Caeo* case, is written in Welsh, the language of most of the local population, unlike the court rolls which are in Latin. It also gives various possible procedures showing that there are several routes for bringing the case to completion. In the court rolls we would not see all of these options and therefore they give us a more limited view of the procedures followed. The main point of interest to clerks would be the final judgement made in court, and the main purpose of the record was to provide details of the fines that would be levied for the lord's benefit. The *essoins* could be recorded in court rolls, but they generally do not tell us much about the cases and procedures. Hywel Dafi, the scribe of this text, however, was a steward, not a clerk.⁸⁵ Although the *dadl croes* is not evidence of the law in action, as in the *Caeo* case, it is a valuable source, particularly if combined with the other evidence available.

⁸³ *GPC* s.v. *dysâit*.

⁸⁴ *GPC*, s.v. *presentiaf*, *presentu*.

⁸⁵ *The Court Rolls of the Lordship of Ruthin or Dyffryn Clwyd* ed. R. A. Roberts (London, 1893).

Appendix

Punctuation is editorial; the scribe's erratic word division has been corrected, as have minor errors. Textual notes are identified by letters a – h.

NLW, PENIARTH MS 67, fos. 74, 97–103

Saith ry6 g6yn y sydd, nid amgen: k6yn apel, k6yn kamgynnal, k6yn dioresgyn,^ak6yn dysait, k6yn o dresbans, kwyn am ddlyet, kwyn kambressentment.^b A llyna y saith k6yn.

[97] Llyma *ddadl croes* am dir a dayar herwydd y ddefod yssydd y myrcheiniog arveredic.

Dyfod a wna y dyn i bo hawl gantho ar dir att yr vhelvaer a chymryt kroes a mynnet a hi a'i dodi yn y tir drwy dystolyaeth dav ddeiliat, a rrybyddyaw y neb a vo yn dala y tir. A gwedy hynny y dyn a vo yn dala y tir yssydd raid iddaw ddyfot att yr arglwyddiaeth kynn y pvmthegvet dydd, nev golli y tir, a chymryt [98] y groes ar vachniaeth ateb y'r gyfraith. A gwedy hynny y daw y swyddoc y wyssyo yr amddiffynnwr y'r llys nessaf o'r honn wys a elwir gwys lefn, ac y'r llys honno ni ddaw ef onys mynn e hvn. Ac oni ddaw, y swyddoc eilwaith a'i gwyssa y'r ail llys, yr honn a elwir gwys arw, ac y'r llys honno ni ddaw ef onys myn^c e hvn. Ac oni ddaw, y sswyddoc a gwyssa y'r drydedd lys [99] drwy dystolyaeth dav ddeilyat, yr honn wys a elwir gwys drwy dystyon, ac y'r llys honno ni ddaw ef onys mynn e hvn. Ac oni ddaw ef, y sswyddoc a ddaw y'r tir ac ddyrr^d tywarchenn o'r tir i afael y tir, ac yna y daw yr amddiffynnwr a vo yn gwarchadw y tir ac y kymer yr afael ar vachni e hvn. Ac yna y'r bedwaredd lys ni ddaw ef onnis mynn. Ac ony ddaw ef, y swyddoc a gyrch [100] yr ail afael o'r tir, ac yna yr amddiffynnwr a gymer yr ail afael^e ar vachniaeth y gymodoc. Y'r bvmet lys ni ddaw ef onys mynn; ac ony mynn ef ddyfot, rraid y'r swyddoc vynet y'r tir y gyrchv y drydedd afel yr honn a elwir gafel wrth bost, a honno ni chair ar vechniaeth eithr mynet yn i hol y'r llys y sydd raid, a pan ddel yno, y holi a wnair am y tir. Y ateb yntav vydd manegi bot [101] y tir yn llaw yr arglwydd ac na ddyly ateb y'r hawl nes y gael yn i law ef y tir. Ac yna y bernir y'r swyddoc roddi y dywarchen yn llaw yr amddiffynnwr, ac yn ol hynny y kymerir meichiav gantaw ateb y'r gyfraith ac yna y holi a wnair yr ail waith am y tir. Y ateb yntav vydd manegi^c mae (y) men^f korff y dydd hwnnw y machniwyt am yr hawl honno, ac na [102] ddyly ateb i hawl y dydd y machnier amdeni. Ac yna y gorchmynnir yddaw ddyfot y'r llys nessaf yn ol hynny, ac y'r llys nessaf ac y'r ail llys asswyn a dychawn. Ac

^a MS. D is capital

^b MS. second M capital

^c MS. M capital

^d The soft mutation which occurs here would not be expected; the word *dyrr* should be left unlenited. The scribe would be expected to write *ac a dyrr*.

^e MS. *yr ar afael*; 'ail' makes better sense in the con-

text; having just written *yr*, the scribe mistakenly assimilated *ail* to it, producing *ar*.

^f MS. *men*; modern Welsh *ym mhen*, within, makes better sense in the context, and the spelling *men* and *y men* are not unusual as scribes often omitted to use the nasal mutation.

yn ol hynny rraid vydd yddaw ddyfot y'r llys i ateb ynttav. Y llys honno vydd gofyn^g gweled(ig)aeth^h o'r tir ac yna gossot dydd i gweledigaeth or tir os mynn. Ac yn ol hynny asswyn ddwy lys a ddychawn, a gwedy hynny dyfot [103] y'r llys ddevddegvet y sydd raid yddaw i ateb yntav. Y llys honno vydd galw am oet dydd karyat i heddychv ar blaid, a hynny a gaiff hyt y llys yn ol hynny. A gwety hynny, ony heddychir, dyfot y'r llys sydd raid yddaw a chymeryt kyffraith ddiohir am yr hawl honno a'i diweddy drwy vn o dair ffordd, nid amgen kof nev varn nev ddevddec. Ac val hyn i tervyna dadl kroes.

Translation

There are seven complaints, namely: complaint of appeal, complaint of unjust detainee, complaint of (novel) disseisin, complaint of deceit, complaint of trespass, complaint of debt, complaint of wrong presentment. And these are the seven complaints.

This is the cross case for land and earth according to the custom that is used in Brycheiniog.

The man who has a claim to the land comes to the high steward and takes a cross and goes with it and places it on the land with the testimony of two tenants, and warns the one who holds the land. And after that the one who holds the land must come to the lordship before the fifteenth day or lose the land, and he must take the cross on giving surety to answer the law. And after that the official will come to summon the defendant to the next court by the summons which is called smooth summons, and he does not come to that court unless he himself wishes. And if he does not come, the official for the second time summons him to the second court by the summons which is called rough summons, and he does not come to that court unless he himself wishes. And if he does not come, the official summons him to the third court through the testimony of two tenants by the summons which is called summons through witnesses, and he does not come to this court unless he himself wishes. And if he does not come, the official comes to the land and cuts a sod from the land to take possession of the land, and then the defendant who is holding the land comes and he takes the possession on his own surety and then he does not come to the fourth court unless he himself wishes. And if he does not come, the official seeks the second possession of the land, and then the defendant takes the second possession on the surety of his neighbour. He does not come to the fifth court unless he wishes, and if he does not wish to come, the official must go to the land to seek the third possession that which is called possession by a post and he [the defendant] cannot have this on surety but he must return to the court, and when he gets there a claim is made against him for the land. His answer will be to indicate that the land is in the hand of the lord and the claim to it should not be answered until the land is found in his hand. And then it is judged that the official should place the

^g MS. *vydd gofyn; a vydd yn gofyn, or vydd i ofyn* *vydd galw.*
might be expected. A parallel is found two lines down: ^h MS. *gweledaeth*

sod in the hand of the defendant; and after that surety is taken from him to answer the law; and then a claim will be made for the land the second time. His answer will be to indicate that surety was given within the body of that day for that claim and that he is not obliged to answer the claim on the day on which surety is given concerning it. And then it is ordered that he comes to the next court after that and to the next court and he can make an essoin for the second court. And after that he must come to the court to answer. That court will ask for a viewing of the land and then a day will be set to see the land if it wishes. And after that he can make an essoin of two courts, and after that he must come to the twelfth court for him to answer. That court shall call for a fixed date for a love day to make peace between the parties, and that he will get until the court after that. And after that, unless peace is made, he must come to the court and accept law without delay for that claim and end it through one of three ways, that is memory or judgement or twelve [jurymen]. And this is how a cross case ends.