

OLD WELSH *Y DIRUY HAY CAMCUL* AND SOME PROBLEMS
RELATED TO MIDDLE WELSH LEGAL TERMINOLOGY

THE PHRASE *y diruy hay camcul* which occurs in the Old Welsh text of the so-called 'Privilege of Teilo' (*Breint Teilo*) is omitted in the Latin rendering of the text, so that we have no precise evidence as to what the scribes of the Book of Llandâv thought its meaning was. It was translated as 'fines and penalties' by J. Gwenogvryn Evans¹ and paraphrased in Modern Welsh as 'ei dirwy a'i chamgwyl' by E. D. Jones.² W. Davies³ translated it as 'all the fines' and offers *dirwy a chamgwyl* as a Modern Welsh parallel. The term *diruy* (later *dirwy*) denotes, in the Medieval Welsh law-texts, a standard financial penalty of twelve cows or £3, and it is etymologically related to early Irish *dire*. Any interpretation of the term *camcul*, particularly in this Old Welsh text, raises several difficulties.

According to *GPC*,⁴ p. 401, Welsh *camgwyl* denotes 'penalty, fine, forfeit; blame' and is etymologically a tautological compound (*cam* = 'wrong', *cwl* = 'fault, sin, wrong'). The term seems to be only marginally attested in mediaeval Welsh jurisprudence; judging from the collection of examples offered in *GPC* it does not occur frequently in the language of early Welsh law. In later glossaries and dictionaries it is rendered by Latin *culpa* (1632), or English 'blame, or fault, a default' (1725) and 'a forfeit, fine, or penalty' (1753). However, a derivative in *-us*, namely *camgylus*, also occurs in the law-texts. This paper seeks to review the instances of *camgwyl*, and its derivative, found in the Medieval Welsh law books, as well as in other texts of the Middle Welsh period, and to offer a suggestion regarding what this may tell us about the relative chronology of three of the law-texts.

The only purely technical usage of *camgwyl*, meaning a penalty or fine, is found in a Latin text of the Welsh Laws, according to *GPC* quoting A. Owen's *Ancient Laws and Institutes of Wales*. A. Owen offers the following transcript of this passage:

vi. Siqⁱs ier ad audiend̄ iudiciū c iudicibz sñ licentia, reddat
tres uaccas *kamgul* [multe]⁵

¹See J. Gwenogvryn Evans and J. Rhys (ed.), *The text of the Book of Llan Dav* (Oxford 1893) 365.

²See E. D. Jones, 'The Book of Llandaff', *The National Library of Wales Journal* 4 (1946) 122–157, at 132.

³See W. Davies, 'Braint Teilo', *BBCS* 26 (1976) 123–33, at 136.

⁴*GPC* = R. J. Thomas and G. A. Bevan (ed.), *Geiriadur Prifysgol Cymru* (Caerdydd 1950–).

⁵A. Owen (ed.), *Ancient laws and institutes of Wales* ii (London 1841) 900.

In H. Emanuel's edition of this text (the so-called 'Redaction C of the Latin versions of the Welsh Laws') which derives from BL Harleian MS 1796, f. 28, the phrase is published as *si quis ierit ad audiendum iudicum cum iudicibus sine licentia, reddat tres vaccas kamgul*.⁶ According to Emanuel,⁷ the source for this passage could be a fragment in Redaction B (B.M. Cotton MS Vespasian E XI): *si quis ierit ad audiendum iudicum cum iudicibus sine licentia, reddat tres vaccas trasgressionis, id est, camlury*. The passage also finds a parallel in Redaction A (NLW Peniarth MS 28, p. 8, c. 1): *si quis sine licentia ad audiendum iudices accesserit iudeicantes ut auscultet, regi reddat tres vaccas camlury*.⁸ The other Latin redactions also use *camlury* in the rendering of this passage for Latin Redactions E⁹ and D.¹⁰

The word *camgwl* is found once again in a different passage of Latin Redaction C (f. 32). The text reads: *penchenid debet habere iii^{am} partem de diru venatorum, et de kamgul et ebediu eorum, ac ammohoreu merched*.¹¹ The corresponding passage in Redaction B is *ipse debet habere terciam partem de dirwy, et de camlury et ebediw, et de mercede filiarum venatorum sibi subditorum*.¹² Among the Latin Redactions, A has *camlury*,¹³ D *camlwrw*,¹⁴ and E *camluri*.¹⁵ It should be noted also that in the passage taken from BL Harleian MS 1796 (Latin C), all the Welsh intrusions are glossed in Latin, with the exceptions of *penchenid*, which is, however, glossed by Latin *princeps venatorum* on page 17 of the manuscript, and *kamgul* — the sole Welsh form in this paragraph which is left un glossed.

The word occurs in a legal context again in Redaction C, with *cangul* standing for *camgul*. The text reads *quicumque abstulerit illa legalia fercula sine licencia venatorum reddat tres vaccas cangul pro unoquoque, id est xxxvi vaccas pro omnibus*.¹⁶ The corresponding word in Redaction B is *transgressionis*.¹⁷

It is clear that in these passages, quoted from Latin Redaction C, *camgwl* is used as a legal term with precisely the same meaning as *camlwrw* in the other Latin Redactions, as well as in the Welsh versions of the law-texts. *Camlwrw* is used throughout the texts of mediaeval Welsh law to denote 'the smaller of two standard financial penalties for

⁶H. Emanuel, *The Latin texts of the Welsh law* (Cardiff 1967) 283.9–11.

⁷*Ibid.* 199.1–2.

⁸*Ibid.* 115.35–6.

⁹*Ibid.* 443.34–5.

¹⁰*Ibid.* 325.10–11. For *camlury* instead of *camlurw* see D. Jenkins and M. E. Owen (ed.), *The Welsh law of women* (Cardiff 1980) 194.

¹¹Emanuel, *Latin texts*, 287.25–7.

¹²*Ibid.* 203.6–7.

¹³*Ibid.* 117.6.

¹⁴*Ibid.* 328.1

¹⁵*Ibid.* 445.16.

¹⁶*Ibid.* 286.10–12.

¹⁷*Ibid.* 201.33

wrongdoing, valued at three kine or 180 d.¹⁸ Since the sole early attestation of the term *camgwyl* outside Latin Redaction C occurs in the 'Privilege of Teilo', one way in which the perspective of the analysis may be broadened is by discussing the form *camgyllus*, which is a derivative of *camgwyl*.

The word *camgyllus* is found with the following meanings: 'blameable, blameworthy, guilty; liable to a fine or penalty'.¹⁹ In the law-texts this term, as far as I know, occurs only in the fragment which deals with the eight packhorses of the king. It is noteworthy that *camgyllus* seems to occur in the Iorwerth family of texts of early Welsh law (Owen's Venedotian Code), where it does not have a strict technical meaning. In the standard edition of the BL Cotton MS Titus D. ii, there is listed, among the other sources of the king's income, *camgyllus e caffo dirue neu kamluru e ganthau*,²⁰ which is translated by D. Jenkins as 'an offender from whom he gets *dirwy* or *camlwrw*'.²¹ The reading of the Black Book of Chirk (Peniarth 29), *kankeluus e kafer dyrwy a kamluru*, may also be considered.²² *Camgyllus* is not used at all in the renderings of this passage in *Llyfr Blegywryd*,²³ nor in the Latin Redactions.²⁴ The passage does not occur in the text of the Gwentian code published in *The ancient laws and institutes of Wales*; in the Cyfnerth redaction of manuscripts W (Cleopatra A XIV f. 66^a)²⁵ and V (Harleian MS 4353 f. 29^a),²⁶ while the passage occurs, the word is not included in it.

Apart from the Iorwerth family of law-texts, where it is found with a general meaning in one particular section, *camgyllus* is attested in several medieval Welsh texts; see the list of references in *GPC*, p. 402. Like the instance quoted from the Iorwerth texts, these examples do not have a strictly technical sense as, for example, in the following fragment from 'Chwedleu seith doethon Rufein': *a hi yssyd drwc a chamgyllus* 'and she is bad and blameable'.²⁷ This passage could hardly be interpreted as 'and she is bad and liable to a financial penalty'; at the same time, a derivative of *camlwrw*, namely *camlyrus*, which shares the same type of word formation, is attested with this precise technical meaning: *holl affeithu gweithret, o affeithu galanas neu losc neu letrat, dirwyus vyd pob vn ohonunt; tauawtrud a llygatrud, heb weithret llaw neu troet, kamlyrus vyd*.²⁸ Moreover, in the Blegywryd passage,

¹⁸ See D. Jenkins, *The law of Hywel Dda* (Llandysul 1986) 322.

¹⁹ See *GPC*, p. 402.

²⁰ See A. William (ed.), *Llyfr Iorwerth* (Cardiff 1960) § 43, (Ior., p. 23).

²¹ Jenkins, *Law of Hywel Dda*, 40.

²² See J. Gwenogvryn Evans (ed.), *Facsimile of the Chirk Codex of the Welsh laws* (Llanbedrog 1909) 365.

²³ See S. J. Williams and J. E. Powell (ed.), *Llyfr Blegywryd* (Cardiff 1961) 47.1–6.

²⁴ For Latin A, B, D and E see Emanuel, *Latin texts*, 137, 205, 377 and 469, respectively.

²⁵ See A. W. Wade-Evans, *Welsh medieval law* (Oxford 1909) 65.1–4.

²⁶ *Ibid.* 67.1–2.

²⁷ See H. Lewis, *Chwedleu seith doethon Rufein* (Caerdydd 1958) 55.

²⁸ See Williams and Powell, *Llyfr Blegywryd*, 35.1–4. I translate this passage as follows: 'All the accessories to an act of *galanas*, or arson, or theft — each of them is liable to a

camlyryus is used in contrast with another adjective referring to a financial penalty, namely *dirwyus*. In a passage from the *Llyvyr Agkyr Llandewivrevi* (15.5), namely *pony bydei ef gamgylus yna*, the word *camgylus* renders Latin *reus* (*non esset reus*).²⁹ *Reus* is a legal term ('a party accused, defendant'); it should be noted that in a Renaissance dictionary, the *Dictionarium Duplex* of John Davies (1632), the adjective *camgylus* is glossed by Latin *culpatus*, *culpabilis*, and *reus*. But in this instance both the Latin word and its Welsh rendering are used in a more general sense, namely 'blamed' or the like, and of course the Welsh passage has nothing to do with the strictly defined financial penalties, though there is no proof that the underlying term could not be used in the technical sense. The semantic ambiguity of *camgylus* may be illustrated by a passage from 'The Chronicles of the Princes'. T. Jones, following the text of Peniarth 18, gives the reading: *ac yn y diwed y barnawyt yn gamgylus ac yn orchyfeddic* and translates it as 'after that he was judged guilty (*camgylus*) and convicted'.³⁰ He notes that the versions found in the Red Book of Hergest, Mostyn MS 116 and Peniarth MS 19 have *gamlyryus* instead of *camgylus*; for these texts he translates this fragment as 'judged liable to a fine'. Morfydd E. Owen suggests to me (personal communication) that *camgylus* in the quoted passage from Peniarth 18 could, like *camlyryus* in the other versions of the text, denote 'liable to a fine', and that T. Jones might not have been aware of the possible relationship between *camgwyl* and *camlwrw*.

Now, it seems obvious that *camgylus* (unlike *camlyryus*) is not attested in the contexts where it unambiguously refers to the smaller of two standard financial penalties defined by Welsh law. It could of course be the case that we simply do not have the relevant texts at our disposal. As for the base from which this adjective was derived, historical associations between *camgwyl* and *camlwrw*, originally 'wrong-track' (cf. English *misdemeanour*), have long been noted. It has also been suggested that '*camlwrw* has replaced an earlier *camgwyl*'.³¹ This observation must be based predominantly on two assumptions; first, that in the 'Privilege of Teilo' the word is used as a legal term; and, second, that Latin Redaction C would preserve the archaic core of the legal vocabulary.

It has been generally maintained that the sections in which *camgwyl* occurs in BL Harleian MS 1796 (Latin Redaction C) 'represent a paraphrase, at times approaching a transcript, of Redaction B'.³² Until recently it has also been accepted that Latin Redactions A and B

dirwy; tongue-reddening and eye-reddening without an act of hand or foot will be liable to *kamlwrw*.'

²⁹J. Morris Jones and J. Rhys (ed.), *The Elucidarium and other tracts in Welsh from Llyvyr Agkyr Llandewivrevi* (Oxford 1894) 15, 183.

³⁰T. Jones, *Brut y Tywysogion* (Cardiff 1955) 48-9.

³¹Jenkins and Owen, *Welsh law of women*, 194.

³²Emanuel, *Latin texts*, 48.

predate Redaction C, which is dated to the second half of the thirteenth century or, more precisely, to the period immediately following 1258 and, as has been argued, uses both redactions as its sources.³³ Now, with a new date for the Redaction A proposed by Daniel Huws,³⁴ the interrelationship between the early Latin texts of the Welsh law must be reconsidered. In this important article, Huws dates Peniarth MS 28 to the mid thirteenth century; he also notes that ‘“mid-thirteenth century” is a rough term for a period whose bounds might be as wide as 1230 and 1282’.³⁵ The date offered by H. Emanuel³⁶ for Redaction B — mid thirteenth century — to my knowledge has not been challenged. The chronology of these redactions may then be set out as follows:

Redaction A: mid thirteenth century (in fact between 1230 and 1282).

Redaction B: mid thirteenth century (no specification).

Redaction C: second half of the thirteenth century.

It is evident from this that Redaction A could, in fact, post-date Redaction C.³⁷ The main reason for suggesting a somewhat later date for Redaction C in comparison to Redaction B is based on the assumption that C draws upon B as its main source.³⁸ It could be argued, however, that Redaction C could have used a different source which was very close to, but not identical with, that of Redaction B. The possibility that these details point to different adaptations of an earlier underlying text should also be considered. However, if Redaction C really post-dates Redaction B and draws on it, it is somewhat difficult to understand why the scribe would deliberately use a (possibly) archaic form *camgwl* instead of the current *camlwrw*, unless this betrays a regional usage; the northern affinities of Redaction C are well established. However, a northern provenance has been posited³⁹ both for Latin Redaction B and for *Llyfr Iorwerth*,⁴⁰ but neither of them makes use of *camgwl*. Alternatively, if Redaction C pre-dates Redaction B (as it pre-dates Latin A),⁴¹

³³ *Ibid.* 45–53.

³⁴ D. Huws, ‘Leges Howelda at Canterbury’, *The National Library of Wales Journal* 19 (1975–76) 340–343, at 342–3.

³⁵ *Ibid.*

³⁶ Emanuel, *Latin texts*, 44.

³⁷ Cf. Jenkins and Owen, *Welsh law of women*, 147, and H. Pryce, *Native law and the church in Medieval Wales* (Oxford 1993) 7, fn. 23.

³⁸ Emanuel, *Latin texts*, 53. For the sources of Latin Redaction B see Pryce, *Native law and the church*, 24–5.

³⁹ Though now Daniel Huws has argued convincingly that the material in Latin B originated in the south and went northwards; see D. Huws, ‘Descriptions of the Welsh Manuscripts’, in T. M. Charles-Edwards, Morfydd E. Owen and P. Russell (ed.), *The Welsh King and his court* (Cardiff 2000) 415–24, at 415f.

⁴⁰ Pryce, *Native law and the church*, 7; T. Charles-Edwards, *The Welsh laws* (Cardiff 1989) 20.

⁴¹ See Jenkins and Owen, *Welsh law of women*, 147, and H. Pryce, ‘The prologues to the Welsh lawbooks’, *BBCS* 33 (1986) 151–87, at 158, fn. 2.

or its underlying text pre-dates the corresponding *ur*-text, and provided that in fact the term *camgwl* is older than *camlwrw*, it is quite understandable that *camgwl* was replaced in Redaction B by a term which was then in a current usage.

However, though there are striking similarities between Latin Redaction C and Latin Redactions B and A in passages which constantly substitute *camgwl* for *camluru*, at one point C employs a substitution which is extremely difficult to explain. Instead of using *camgwl* to render the standard *camlwrw* of the other Latin texts, the compiler quite unexpectedly utilises the term *diru*:

Redaction A: NLW Peniarth MS 28, p. 34 c. 1:⁴² Si quis contra regem superbe vel turpiter loquitur, reddat iiii vaccas *camlury* dupliciter.

Redaction B: BM Cotton MS Vespasian E XI p. 5r c. 1–2:⁴³ Si quis loquitur superbe vel turpiter contra regem, reddat tres vaccas *camlury* dupliciter.

Redaction C: BM Harleian MS 1796 p. 21:⁴⁴ Si quis loquitur contra regem prave vel turpiter, reddat tres vaccas *diru* dupliciter.

The Welsh law-texts treating this subject refer to *camlwrw* only, as in *pwbynnac a dywetto geyr anwar en erbyn brenhyn talet camluru deudeblyc ydau*,⁴⁵ which is translated by D. Jenkins⁴⁶ as ‘whosoever says an uncouth word against the King, let him pay him a double *camlwrw*’. *Diru*, however, is normally rendered in the law-text in question by the same word (*diru/dirwy*), cf. *os deu suiduiur certaverint, distein debet habere iii^{am} partem de diru eorum* (Latin C)⁴⁷ and *si duo de ministris regis certaverint, distein debet habere terciam partem de dirwy eorum* (Latin B).⁴⁸ Furthermore, it is highly unlikely that the compiler of Redaction C was unaware of the differences between these two terms; note in this respect the following passage in Redaction C: *penchenid debet habere iii^{am} partem de diru venatorum, et de kamgul et ebediu eorum, ac ammohoreu merched*⁴⁹ which lists the standard financial penalties, *diru* and *kamgul* (= *camlwrw*) alongside *ebediu* (a death duty). The unique case of using *diru* instead of *kamgul* in the passage from Redaction C noted above could be a scribal mistake; the payment (three cows) is specified here, and this is certainly the value of *camlwrw/camgwl*. Perhaps the scribe was confused by the term which

⁴² Emanuel, *Latin texts*, 141.15–16.

⁴³ *Ibid.* 199.18–19.

⁴⁴ *Ibid.* 283.26–7.

⁴⁵ William, *Llyfr Iorwerth*, § 43.

⁴⁶ Jenkins, *Law of Hywel Dda*, 41.

⁴⁷ Emanuel, *Latin texts*, 284.30–31.

⁴⁸ *Ibid.* 200.21–2.

⁴⁹ *Ibid.* 287.25–8.

occurred in the exemplar; one can only wonder what this word could be. It could also be posited that the fine for this offence (the uttering of 'an uncooth word against the King') in the source manuscript of Latin C was higher than that found in the other versions, but this seems unlikely. Alternatively, C could follow quite an early tradition which did not differentiate between financial penalties. The common origin of Welsh *diruy* and Irish *díre* should perhaps be taken into consideration. The underlying idea of both these terms is 'payment'. On the other hand there is nothing which corresponds to Welsh *camlwrw* in the vocabulary of early Irish law. It has been observed that certain terms, which originally (judging by the Irish evidence) meant something different, 'in the hands of the Welsh lawyers of the thirteenth century developed specialised meanings considerably removed from their original functions'.⁵⁰ A comparable development may be seen in the use of *camlwrw* (*camlour*) in the court practice of fourteenth-century Cardiganshire, where there was both an extension of meaning and a change in the nature of the penalty.⁵¹ But, as will be argued below, the differentiation between the two financial penalties in Welsh law was already attested by the end of the Old Welsh period, so the safest explanation is to consider this unparalleled usage as a slip of a pen. The reluctance of the compiler to use the term *camlwrw* stems from a different reason.

With such meagre and debatable evidence it is very difficult, if not impossible, to offer an uncontroversial interpretation of *camcul* in the phrase cited from the 'Privilege of Teilo'. A further obstacle may be found in the ambiguity of the form *hay* in the phrase. This form occurs in several other passages of the 'Privilege of Teilo', cf. *hay guir hay braut di lytu yr ecluys y gundy Teliau yn Llantaf* 'right and judgement to the people of the church of Teilo's Gundy at Llandaff', *y thir hay dayr dy huyd* 'its lands (shall be) without military service'; translation is provided following Davies.⁵² In these passages *hay* apparently stands for *ha'y*, i.e. *a'y*, a combination of a conjunction with an infixed possessive pronoun. Apart from our phrase, this combination is found in Old Welsh in the so-called 'Surexit'-Memorandum (Chad 2), *tutbulc hai ceneit* 'Tudfwlch and his kin',⁵³ without indication of lenition. The passage in which *y diruy hay camcul* occurs, namely *y cyfreith idi yn hollaul* [...], *y diruy hay camcul yndi didi yn hollaul*, is rendered by W. Davies⁵⁴ as 'jurisdiction (shall be) to it completely [...] all the fines to it completely', lit. 'in it to it completely'. The conjugated pronouns *yndi*

⁵⁰See M. E. Owen, 'Shame and reparation: woman's place in the kin', in Jenkins and Owen, *Welsh law of women*, 40–68, at 68.

⁵¹Jenkins, *Law of Hywel Dda*, 322

⁵²See Davies, 'Brant Teilo', 136.

⁵³See D. Jenkins and M. Owen, 'The Welsh marginalia in the Lichfi eld gospels. Part II: The 'Surexit' Memorandum', *CMCS* 7 (1984) 91–120, at 91–2.

⁵⁴Davies, *Braint Teilo*, 136 and fn. 5

and *ddi* here are of course feminine (third person singular),⁵⁵ and this presupposes that the infixed pronoun in *hay* must be also feminine. If that is so, we would expect a spirant mutation of the radical of the word which follows it: in our case, **hay chamcul*. It could be argued that this mutation is simply not indicated in the text; cf. *ef hay plant* 'he and his children', in the second part of the text, where the lenition caused by the infixed masculine third singular pronoun is not indicated either. In another fragment, *dufyr ha guell hae choyt ha mays yn cyfrytin dy lytu Teliau* 'water and pasture and [its] woods and meadows equally to Teilo's people', the spirant mutation after an infixed third person singular feminine is indicated; the spelling of the pronoun itself is, however, different. The clear syntactic parallel to our phrase found in *y thir hay dayr dy luyd* 'its lands should be without military service' permits the retention of the interpretation of *y diruy hay camcul* offered by E. D. Jones, i.e. 'ei dirwy a'i chamgwyl'.⁵⁶

The syntactic pattern of *y diruy hay camcul* seems to be more or less clear; at least it does not contradict the rules of Welsh grammar and finds a perfect parallel in the text itself. The problem remains in the domain of semantics. Of course, 'its *dirwy*-fines and its *camlwrw*-fines' will give an excellent sense to our phrase, which then could refer to all financial penalties. The alternative reading, 'its *dirwy*-fines and its blame', does not make much sense and should perhaps be rejected. The easiest and most likely explanation is that *camgul* is an early term which was later replaced by *camlwrw*. The phrase should then be rendered as 'ei dirwy a'i chamlwrw'. The clearness and transparency of the basic meaning of *camgwyl* (as well as that of its substitute, *camlwrw*) is characteristic of early Celtic legal vocabulary, cf. Irish *dire* 'payment' (< *do-ren* 'pay') or Welsh *wynebwerth* ('face-value'). The reasons for the substitution are of course obscure.

If this interpretation is correct, namely that *camgwyl* is an earlier form than *camlwrw*, the use of this earlier form in Latin Redaction C is a small piece of evidence, which might be used in establishing a new relative dating for the Redactions of the Latin texts of the Welsh laws, and in showing that Latin Redaction C may well be the earliest of those Redactions.⁵⁷

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⁵⁵See D. Simon Evans, *A grammar of Middle Welsh* (Dublin 1964, repr. 1994) 60.

⁵⁶See Jones, 'Book of Llandaff', 132.

⁵⁷I am grateful to Dr Paul Russell for his comments on an earlier draft of this note. This study would have been impossible without the help of Ms Morfydd E. Owen.