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Livestock in the Brehon Laws

By J. O'LOAN

IN his conquest of Gaul (58–50 B.C.) Caesar liquidated most of the Celtic civilizations of western Europe, apart from those in Britain and Ireland. If the Celtic kingdoms of the continental mainland had any literature at the time of their downfall it perished then, and so the literary history of Celtic western Europe is almost exclusively dependent on surviving Irish documents. Considering the vicissitudes through which the majority of these passed, it is amazing that so many have survived. As a source of historical information, the most important, and in fact in its original source the earliest, body of this literature to survive is the Brehon Law tracts. A concise explanation of what these tracts are in nature and origin is given as follows by our best known authority, Dr D. A. Binchy.—

"For centuries this ancient lore (Old Irish Law Tracts) was preserved orally in the native professional schools. Then in the seventh century—or perhaps even in the sixth—doubtless under the influence of the Christian monastic schools, it was committed to writing, and finally about the beginning of the eighth century it was embodied in a series of canonical texts which were henceforward regarded as sacrosanct and immutable, capable of being interpreted by later jurists but not of being altered. The pattern of society outlined in these ancient tracts goes back far beyond the eighth century—indeed to pre-Christian times, for though the Irish Laws . . . have a Christian façade their basic structure is pagan."[1]

The content of Brehon Law is as varied as the life of the people, and ranges from law of the person to the regulation of almost trivial details of farming. In this latter context Brehon Law constitutes an agricultural literature which is almost, if not quite, unique so far as western Europe is concerned, and nothing comparable with it in descriptive detail was produced in this country until the mid-eighteenth century. While some parts of the Laws may be regarded as theorizing or fanciful, the material which follows here indicates that far from being abstract, much of it is practical, down-to-earth farming detail, the accuracy of which is becoming more apparent with the development of scientific farming knowledge. That the period which produced the Laws was also one of enlightened farming is therefore an obvious inference.

In arriving at these conclusions one is tempted to speculate on such questions as whether a contemporary, comparable period did not exist in

[1] D. A. Binchy, *Early Irish Society*, ed. Dillon, Dublin, 1954, p. 53.

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Celtic Gaul or Celtic Britain. Was Caesar attracted to those countries by the existence of a rude populace or by a people proficient in the production of wealth from the soil, but not his equals in the art of war? Did he create such havoc as to prevent the development there of a body of social and farming literature comparable to the Brehon Laws? Do the Laws of Ine tend to confirm this speculation? Must it not be accepted that the attraction for Caesar, as for the Norse and Normans centuries later, was farming wealth being produced by a people whose military defences were vulnerable?

The style and manner in which much of the Laws are expressed is primitive in that the scribe presumes in his reader an acquaintance with the circumstances and matters he treats of almost equal to his own. Unfortunately our acquaintance with the circumstances is no longer close, nor is there much analogous contemporary material to assist in elucidating the picture. After the collapse of the Celtic political system (1603), the old manuscript copies of the Brehon Laws were hawked around for nearly two centuries, but eventually found their way into safe keeping. A little over a century ago (1852) a commission was set up to undertake the work of transcription and translation. This task devolved mainly on two Celtic scholars, John O'Donovan and Eugene O'Curry, neither of whom lived to see the work completed; but completed it was eventually, though, in consequence of the undeveloped state of Celtic philology at the time, imperfectly. None the less, a great work was performed which has preserved for future generations a literary basis for Irish history of which other countries would possibly have made better use. The entire work is included in five volumes, with a sixth for glossary. Text and glosses and translations cover a total of over 2,000 quarto pages. Since the first publication, corrected transcriptions and translations have been prepared of some sections, mainly by Dr Binchy and the late Professors McNeill and Thurneysen. (The latter's translations are into German.) This work is still in progress.

The material in the Laws is composed of two sections, the text, or original immutable part, which may be dated as seventh-century or earlier, and the glosses, which may be roughly eighth- to fifteenth-century though most are eleventh- to twelfth-century. The extracts quoted here are from the text except where otherwise indicated, and consequently reflect data and facts as at a period perhaps little less than two thousand years ago. The matters dealt with in this paper are merely a sample of the wealth of farming history which the laws contain.

In the physical characters of livestock mentioned in Brehon Law or deducible from the details given we are provided with textual descriptions of animals for a period for which agricultural historians in neighbouring

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countries have to depend on the evidence of skeletal specimens discovered by archaeological excavation.

COWS

Under the law of distress or distraint (Athgabail), "three white cows were taken by Asal from Mogh son of Nuadhat by an immediate seizure; and they lay down a night at Ferta [=Slane, Co. Meath] on the Boyne; they escaped from him; they had left their calves and their white milk flowed upon the ground. He went in pursuit of them and seized six milch cows at the house at day-break. . . .

"The cow land (Tir-ba) of Conn Cedorach from which these horned cows were taken had been given to Fergus. . . ."[1]

Two physical features of these cows are mentioned, the colour and the horns. The specification of colour indicates by inference that cattle colours other than white existed and presumably were so common that they might as readily have been seized as the three white cows. The mention of the fact that the cows were horned implies that polled cattle were known: such physical features as are possessed by all cattle, e.g. tails and ears, are not mentioned. It is probably significant also that the colour of the six cows is not mentioned.

The particular reference to the white milk flowing on to the ground suggests, though it does not conclusively prove, a plentiful supply of milk, in contrast perhaps with the generally held belief that milking quality in cattle is of modern origin.

This seizure was by no means a marauding expedition, but, as indicated, a legal seizure under the law of distraint. Under this law it was not permissible to seize goods in excess of the value of the damage claimed. This may possibly suggest a premium on the value of white cows, as three of them evidently equalled six milch cows of unspecified colour. Premium value may account for the specific mention of the colour, and if this inference is correct it suggests specialized breeding. That this kind of specialization did in fact prevail in the eighth or early ninth century is indicated by the first recension about that period of the *Tain Bo*, the prose saga describing the Great Cattle Raid of Cooley.

The evidence contained in the seizure recorded here would lend support to the belief that the *Tain Bo*, as well as being a great literary epic, has its foundation in fact which antedates recorded history.

The gloss to this quotation makes Mogh Nuadhat a contemporary of Conn of the Hundred Battles. In legend Mogh Nuadhat was Conn's rival for high kingship. Their period is placed in the second century A.D.[2]

[1] *Ancient Laws of Ireland*, I, Dublin, 1861, p. 65.

[2] Hayden & Moonan, *A Short History of the Irish People*, London, 1927, p. 14.

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A system of livestock farming (Cain Aigillne) in which the farmer or stockman borrowed livestock from the Chief of the tuath (district) and repaid the loan at or before the end of three years in the form of similar or comparable animals is treated of in the Laws. (A practice still operated in the south-western dairying district before the last war; the dairy herd was leased to an operator who got the calves for his work, the owner of the herd and land getting the value of the milk delivered to the creamery. This, if not a survival of Cain Aigillne, is much akin to it.)

Under Cain Aigillne various animals are specified as suitable for repayment, and to prevent dispute as to quality, the type of animal is described in some detail. A cow is to be "twenty fists in girth whose fat is one third of it."[1] This dimension can be translated with sufficient accuracy for comparison with present-day cattle. Considerable effort was evidently made under the Laws to standardize measurement. The length of three barley grains was an inch or finger breadth. Four inches or finger breadths were a hand or fist, and three hands or fists a foot.[2] Also two hands or fists with the thumbs extended were a foot. As hands, fists, and feet would admit of considerable variations, depending on the individual, "the legitimate hand which is used for estimating and measuring" is prescribed and the term "lawful measure" is so emphasized as to leave no doubt of the care taken (II, p. 247). It is not apparent how the "legitimate hand" was determined, but it is not taxing credulity to assume that in case of doubt or serious dispute the barley grains were referred to.

It may be contended that barley grains of the period under discussion had only a tenuous connection with grain of modern times and that no justifiable conclusions can be based on present-day grain. It has been found instructive, if not something of a revelation, to place barley grains end to end in a row and measure their lengths. The first feature to note is the almost uncanny uniformity in grain length in an ordinary sample, and the second is the accuracy of three grains to the inch. Fig. I shows the first 72 barley grains poured from a completely random sample and placed in random order in three lines of 24 grains each. The total length of eight inches per line and the uniformity of three grains to an inch are remarkable. The available evidence indicates little or no change in the stature of our people over the past two thousand years, and a normal hand is still four inches. Inferentially, therefore, barley grain has altered little or nothing in this period. Nor is it rash to assume that in choosing barley grains to determine length, grains of normal size would have been selected.

[1] *Ancient Laws of Ireland*, II, Dublin, 1869, p. 249. [2] *Ibid.*, III, Dublin, 1873, p. 335.

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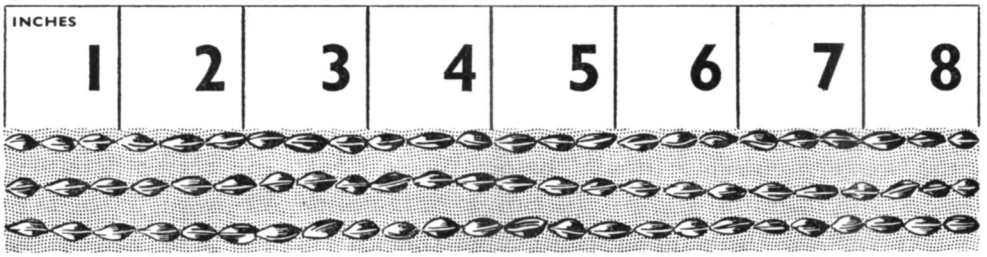


FIG. I (*reduced*).

The hand was of course the standard of measure in many ancient civilizations, and in the present period of change from equine to mechanical traction it may not be out of place to record that most farmers in the past (and many still) could estimate the height of horses in hands with commendable accuracy. Having regard therefore to the emphasis laid on measurements in Brehon Law and to the history of measures generally, it would probably be very wrong to assume that the Brehon measurements were haphazard or only approximate.

It is to be presumed that the 20-hand measurement specified was the minimum cow ordinarily acceptable as repayment, and therefore a good cow rather than one of such unusual quality as would constitute difficulty in payment. It would seem a reasonable inference that cattle size at the period in question differed little from present-day stock. This deduction may be in some contrast to general opinion about livestock for the period in question. It is not improbable that the 20-hand girth stipulation applied particularly to cattle of the central plain and other fertile pasture lands, and that in the hill areas smaller cattle prevailed as at present, and were acceptable as rent.

A cow's girth is not of course a reliable guide to her weight even within particular breeds. The relationship of girth to weight or size would also be influenced by the condition of the animal at any particular time. A considerable number of measurements of Ayrshires in full milk and in average farm condition suggests that relatively few cows of this breed reach a girth of twenty hands.

The following measurements and particulars of cows exhibited at the Royal Dublin Society's Spring Show in May 1958 may be taken as a fair indication of the girth-weight relationship:

(1) Friesian 1st calf heifer *c.* 7½ cwt, 72 inches girth = 18 hands
(2) Friesian cow *c.* 11 cwt, 80 inches girth = 20 hands
(3) Friesian cow *c.* 12 cwt, 76 inches girth = 19 hands

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(4) Friesian cow *c.* 13 cwt, 80½ inches girth = 20⅛ hands
(5) Hereford big aged cow, 88 inches girth = 22 hands
(6) Aberdeen Angus young cow *c.* 10 cwt, 73½ inches girth = 18⅜ hands
(7) Aberdeen Angus young cow *c.* 8 cwt, 71 inches girth = 17¾ hands
(8) Kerry big cow, 76 inches girth = 19 hands
(9) Dairy Shorthorn cow *c.* 13 cwt, 84 inches girth = 21 hands

All these beasts were in show condition. No. 8 was the biggest Kerry in the Show, and her girth suggests that few animals of this breed would make 20 hands' girth. No. 9 won the first prize in her class.

The general inference therefore is that a cow of twenty hands' girth is a biggish animal in any of our modern breeds.

Part of the fee of fosterage was a cow "which on being milked into a twelve-inch vessel fills it" (gloss, II, p. 177). Unfortunately only one dimension, probably the diameter, of this vessel is given, but the text continues: "It takes the materials for three cakes of man's baking or six of woman's baking to fill the vessel." A cake of woman's baking was two fists broad and a fist thick (II, p. 255). The dough for six such cakes baked from whole wheat meal would have a volume of *c.* 9 quarts, while a vessel 12 inches diameter, 6 inches deep, and slightly tub-shaped, would give the same volume. A cow in full milk giving nine quarts at a milking would under modern conditions yield about 800 gallons per lactation. The basis for this estimate is unfortunately anything but exact, but the desire has been to depress rather than magnify the figure. This, together with the fact that while they contain many obvious mistakes due usually to transcription, the laws generally indicate little or no tendency to magnify unduly, suggests that cows were flush of milk, and is in keeping with the observation of the white milk flowing from Mogh's cows when seized and driven a distance. In this context may also be mentioned that under Brehon Law the highest unit of value was "the great milch cow" worth 24 screpals of silver.

The stipulation of one-third fat in the cow is of considerable interest. This can obviously apply only to the carcase of the beast after slaughter.

In a detailed investigation conducted at Cambridge University School of Agriculture with cattle of varying degrees of fatness, to assess, *inter alia*, the palatability of the meat, the highest award given by a panel of trained meat tasters was to an animal in which the fat was 28 per cent of the carcase and 33⅓ per cent of the particular joint cooked for tasting. The report says, "Tasting tests revealed that there is a close connection between the fatness of a joint and its palatability when roasted. Up to the point at which rather more than one-third of the joint is fatty tissue the palatability is en-

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hanced as fatness increases. Beyond this point the palatability diminishes."[1]

The result of this investigation into a matter hitherto but poorly understood, but of considerable practical importance, renders the Brehon Law stipulation, to say the least of it, remarkable. It is also convincing evidence that the ancient system of measurement was anything but haphazard. It suggests also a knowledge of livestock generally associated only with modern times.

YOUNG STOCK

Repayment under Cain Aigillne could also be made in the form of young stock. "A calf value a sack (of wheat), eight hands in girth, healthy after castration, grazed with the milking cows (or with the milch cows on grass), with only the space of three fingers between his two loins and his kidneys, not killed by 'fairy-plague' (kidney disease, gloss) but slaughtered as it was intended to be by the breeder . . ." (II, p. 239).

"A calf value two sacks, sound after castration, also grazed with the milch cows from the beginning of the summer till it is exhibited to the chief (to whom the merit is due); ten hands its girth, its loins cover its kidneys as before, sound, of good body, well formed, well grazed . . ." (II, p. 245).

"A calf of the value of three sacks, twelve hands its girth, sound equally as before, grazed with the milking cows from the beginning of the summer until it is presented to the chief in the winter time, to be presented lawfully together with its measurements and estimations and with proper assurances . . ." (II, p. 249).

"A calf of the value of four sacks, a male stirk, 14 hands the lawful measurement of its girth, which has remained healthy till it became a yearling bull (*do erna slan ina Dartadas*), its two loins cover its kidneys, grazed with the milch cows till exhibited, free from injury or disease . . ." (II, p. 253).

"A calf of the value of a sack to be roasted in summer and a calf value four sacks to be boiled in summer."

The first three girth measurements of eight, ten, and twelve hands obviously apply to calves in their first season. The calf of the value of a sack to be roasted in summer would be little more than a veal calf, as calving was presumably timed to coincide with spring grass. The twelve-hand-girth animal was shown in winter and so presumably between six and nine months old.

The fourteen-hand-girth is of a young bull in his second summer and presumably towards the end of summer (he is to be boiled in summer), when he had grazed the season with the milch cows, and therefore approaching eighteen months old.

The space of three fingers behind the ribs is interesting. This is the

[1] E. H. Callow in *Journal of Agricultural Science*, XXXIV, 1944, p. 177.

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measure still applied by the ordinary cattle jobber buying on the hoof—evidently a time-honoured test.

These measurements refer to cattle of substantial size and definitely not to smaller dairy breeds such as present-day Kerrys or Jerseys. As already mentioned, the dimensions quoted are all from the text and therefore relate to the early centuries of the Christian era or perhaps even earlier.

PIGS

Pigs were also legal tender. "A (pig's) belly worth a sack, nine fists its length, a fist with the thumb extended is the width (between the fore legs) of the front fork, and a fist the width of its hind fork, three fists its breadth in the middle, and three fingers its average thickness." (II, p. 239.)

"A flitch the fat and lean measuring two fingers each . . . two fingers from the lean to the cut in back, two fists of thin and two fists of thick, eight fists its length and four fists its width, from a two- to a three-year-old pig." (II, p. 247.)

The gloss refers to a two-year-old pig as a pig of two litters and a three-year-old pig as a pig of three litters. This might suggest that hogs were slaughtered at a moderately early age. Although forest pannage was evidently important if not the main food, there is reference to fattening on corn and milk (II, p. 367). The two fists each of thin and thick obviously refer to equal widths of 'streaky' and 'back'.

"A flitch three fingers between its fat and lean, eight fists its length and four fists its breadth, from a two-year-old to a three-year-old." In this case the gloss refers simply to a two-year-old pig as a pig of two years and a three-year-old as a pig of three years (II, p. 249).

"And a flitch three fingers at the base of the hand, for this is the average of all the measurements mentioned hitherto; of the fat and lean, eight fists its length and four fists its breadth." (II, p. 251.)

"And a flitch the thickness of a hand at the base of the fingers—of the hand of the lawful measure—between the fat and lean, eight fists its length and four fists its width." (II, p. 255.)

Apart from the interesting detail of a fist with the thumb extended between the fore legs and a fist between the hind legs, we have thus the following picture:

(1) A belly 9 hands long 3 hands wide and 3 fingers thick
(2) A flitch 8 hands long 4 hands wide and 2 fingers fat and 2 lean
(3) A flitch 8 hands long 4 hands wide and 3 fingers thick
(4) A flitch 8 hands long 4 hands wide and 3 fingers thick
(5) A flitch 8 hands long 4 hands wide and 4 fingers thick

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The reference to the width of a fist between the hind legs and of a fist with the thumb extended between the fore legs is an interesting anatomical observation. Presumably this measurement was made with the pig on its back at the time of slaughter. We may have succeeded in breeding the fore-end a little narrower but as an approximation it is still not far wrong for a fat pig of 2 cwt live weight.

Unfortunately we cannot know between what points the length of the flitch was measured. In carcase grading as at present operated the measurement is from the indentation of the first rib to the anterior edge of the aitch bone. It is perhaps more than a coincidence that the length of side for the highest grade (AA+) in the English grading system for bacon pigs is 800 mm. (31½ inches) as compared with 8 hands (32 inches) required in Brehon Law.[1] The fact that the belly was a hand longer than the side is some guide on this point.

The four hands' breadth is normal for a high-grade pig of about two cwt live weight.

In the rather complicated code of compensation dealt with in the Book of Aicle (one of the oldest sections of Brehon Law) the amounts payable are specified for the young pigs of a litter up to nine pigs with the proviso "if it be certain the sow would have had milk for them." (III, p. 373.) This suggests that while the sow might produce more at farrowing, nine was the maximum number normally expected to be reared. An average of nine per litter is still good farming. On the same page there is reference to "the litter of the year" (*al na bliadhna*) suggesting that normally one litter was expected. This agrees with the purport of the gloss referred to above regarding two- and three-year-old pigs.

HORSES

It is much to be regretted that the one measurement of a farm animal still reckoned in hands is not mentioned in Brehon Law. Practically all that is indicated in the various references to horses is that there were working horses, regarded as of only moderate value, and valuable animals, presumably saddle horses, which if borrowed might not be worked under penalty.

While it would appear reasonable to conclude from the material quoted that farm stock in Ireland in the early centuries of the Christian era resembled that of modern times much more closely than is generally assumed, what is also clear and equally interesting is the ancient stockman's awareness of quality and what constituted it in a beast. A pig was not just a pig, it was a pig with length and depth and a proper proportion of fat and lean. A young

[1] Fatstock Guarantee Scheme 1958–59 (HMSO), p. 25 (Scot. & N.I.).

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beast had to be sound, of good body, and well formed; a beef-cow carcass should be one-third fat.

Thurneysen's translation of "Cain Aigillne" and notes thereon in *Zeitschrift für Keltische Philologie*, Vols. 14, 15, and 16, and Binchy's vocabulary and legal glossary to *Crith Gablach* have been used for any necessary corrections of the original translations.

I am indebted to Dr Binchy for reading this article and discussing various points.

Notes and Comments

THE BRITISH AGRICULTURAL HISTORY SOCIETY

The Annual Conference this year took the form of a Joint Conference with the Economic History Society at Wye College in Kent on the subject of Agriculture and Rural Life. One hundred and four members of the two societies attended the Conference, which lasted from Friday, 10 April, until Monday, 13 April 1959. The proceedings opened on the Friday evening with a paper by Professor E. M. Carus-Wilson on English Industrial Villages in the Later Middle Ages. On Saturday morning papers were read by Dr Joan Thirsk on Tudor Enclosures and Mr G. P. Askew on The Development of the Romney Marsh Landscape. In the afternoon there were alternative excursions to Romney Marsh and Canterbury. In the evening the Vice-Principal of Wye College entertained the Conference to sherry and this was followed by Mr Colin Clark speaking on The Growth of the World's Agricultural Productivity. The two papers on Sunday morning were by Dr G. E. Mingay on The Changing Size of Farms in the Eighteenth Century and Mr Edwin Attwood on The Development of State Support for Agriculture. In the afternoon members of the Conference took part in a tour of the Wye College farms. In the evening the formal business of the Conference was concluded with a paper by Mr T. W. Fletcher on The Great Depression of English Agriculture, 1873–96.

The chair at the Annual General Meeting on the Sunday morning was taken by the Chairman of the Executive Committee, Mr George Ordish. Sir Keith Murray was elected President in place of Sir James Scott Watson, who retired after holding the office since the foundation of the Society. Mr G. E. Fussell paid tribute to Sir James's work for the Society and expressed the Society's pleasure at obtaining so distinguished a successor. The other officers were re-elected and Mr G. B. Bisset, Dr W. H. Chaloner, and Dr W. G. Hoskins were elected to fill the places on the Executive Committee vacated by Mr Victor Bonham-Carter, Mr George Houston, and Mr W. Harwood Long.

Mr George Ordish in presenting the report of the Executive Committee explained that membership had risen from 516 at the last Annual General Meeting to 559. He also expressed the Society's satisfaction at the success of the Joint Conference.

In presenting the Treasurer's Report, Professor Thomas expressed himself satisfied with the financial situation. The balance brought forward was £229 as opposed to £224 the previous year, despite the fact that printing, stationery, and postage costs had all risen.

At a meeting of the Executive Committee

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