

Chapter 1 : A (much) smaller Social History of Ancient Ireland - Chapter VI - The Brehon Laws

Brehon Law is the body of ancient native Irish law which was generally operational in Gaelic areas until the completion of the English conquest of Ireland in the early 17th century.

Comments Painting of one of the Brehons recording ancient Irish law Wiki Commons Brehon Law is the body of ancient native Irish law which was generally operational in Gaelic areas until the completion of the English conquest of Ireland in the early 17th century. They were first set down on parchment in the 7th century and were named after wanderings lawyers, the Brehons. By the time of Elizabeth I, the Brehon laws were considered to be old, lewd, and unreasonable. They were banned and English common law was introduced. However, thankfully, some of the Brehons thought to hide the precious manuscripts and a good number of them survived. In the words of another Irish scholar, D. The harpist is the only musician who is of noble standing. Flute players, trumpeters and timpanists as well as jugglers, conjurers, and equestrians who stand on the back of horses at fairs, have no status of their own in the community, only that of the noble chieftain to whom they are attached. The poet who overcharges for a poem shall be stripped of half his rank in society. National Museum of Ireland. The creditor who holds your brooch, your necklet of your earrings as a pledge against your loan must return them so you may wear them at the great assembly. Or he will be fined for your humiliation. For the best arable land, the price is 24 cows. The price for dry, coarse land is 12 dry cows. Relationships 6 February first is the day on which husband and wife may decide to walk away from the marriage. The husband-to-be shall pay a bride price of land, cattle, horses, gold or silver to the father of the bride. Husband and wife retain individual rights to all land, flocks and household goods each brings to the marriage. A husband who through listlessness does not go to his wife in her bed must pay a fine. If a pregnant woman craves a morsel of food and her husband withholds it though stinginess or neglect he must pay a fine. If a woman makes an assignation with a man to come to her in a bed or behind a bush, the man is not considered guilty even if she screams. If she has not agreed to a meeting, however, he is guilty as soon as she screams. When you become old your family must provide you with one oatcake a day plus a container of sour milk. They must bathe you every 20th night and wash your head every Saturday. Seventeen sticks of firewood is the allotment for keeping you warm. No bad news to be brought and no talking across the bed. No grunts of pigs or barking of dogs outside. If the doctor heals your wound but it breaks out a new because of his carelessness, neglect or gross want of skill he must return the fee you paid. He must also pay you damages as if he himself had wounded you. Random 6 Whoever comes to your door you must feed him and care for him with no questions asked. It is illegal to give somebody food that has been found with a dead mouse or weasel. A layman may drink six pints of ale with his dinner but a monk my drink only three pints. This is so he will not be intoxicated when prayer-time arrives.

Chapter 2 : Brehon - Wikipedia

Early Irish law, also called Brehon law, comprised the statutes which governed everyday life in Early Medieval Ireland. The law was partially eclipsed by the Norman invasion of 1169, but underwent a resurgence from the 13th until the 17th centuries, over the majority of the island, and survived into Early Modern Ireland in parallel with English law.

A chorographical description of the county of West-Meath. An account of two ancient instruments lately discovered. The Brehon laws of Ireland. Of the literature of the Irish nation in heathenish times. Translation of a fragment of the Brehon laws. The gavel law of the ancient Irish explained. Of the literature of the Irish after the establishment of Christianity. An enquiry into the first inhabitants of Ireland. An essay on the study of Irish antiquities. A dissertation on the round towers in Ireland. Memoirs of Dunamase and Shean castle Of the origin and language of the Irish; and of the learning of the druids. An essay on the antiquity of the Irish language. Remarks [signed Celticus] on the Essay on the antiquity of the Irish language. A continuation of the Brehon laws. The Chinese language collated with the Irish. The Japonese language collated with the Irish. On the round towers of Ireland. Reflections on the history of Ireland A letter from Curio. Antient topography of Ireland. Some observations on Irish antiquities. Preface [to his Vindication of the ancient history Ireland] clxxv p. Of All hallow eve. Of the gule of August, or Lammas day. Description of the banqueting hall of Tamar or Tara. Of the kiss of salutation. A vindication of the ancient history of Ireland. The Uraikeft, or book of Oghams. An essay on the origin of alphabet writing. Terms of the Brehon-Amhan laws explained. Origin of the feudal system of government. An essay on the language of the gypsies. A second essay on the round towers of Ireland. An account of several Ogham inscriptions. An essay on the money of the ancient Irish. Account of a double patera of gold. Account of an extraordinary carn. Ancient dress and ornaments of the Irish ladies. Essay on the astronomy of the ancient Irish, compared with that of the Chaldaeans.

Chapter 3 : Marriage in the Celtic World | Award-Winning Author Nicole Evelina

Brehon law. Related links History of the law from to the present. Prior to English rule, Ireland had its own indigenous system of law dating from Celtic times, which survived until the 17th century when it was finally supplanted by the English common law.

The word Brehon comes from the Irish brithem, meaning jurist. These brithem essentially filled one of the many roles previously tended by the Druids and preserved and interpreted the laws that had been handed down orally through the centuries. These laws were eventually written down first between AD in the old Irish period. The periods of the Irish language are roughly as follows: The texts only survive in 14th cent manuscripts which are often incomplete or corrupted and early translations and publications are problematic. I would like to stress however that just because these laws were written down, it does not mean that these laws were applicable across the entire country. The Church eventually had an influence on many of the laws and vice versa, and the native laws also affected later English common law which would eventually replace the native system. There are many misconceptions on the internet in relation to the Brehon laws and how advanced they were although there were many aspects that were advanced, with people often taking items out of context, so I hope to address some of this below. The system was compensation based unlike our modern system of incarceration, but it was heavily dependent on your social status and rank. Medieval Ireland was far from the equal, utopian society that people paint it as. The society was Hierarchical and inegalitarian. The laws clearly reflect this and show that Rank was important. Ergo an offence against a person of higher rank entails greater penalty than that of the same attack on someone of lower class. Native law never felt the same as Roman law with all citizens being equal, canon law however was different. I will cover this in greater detail below. First I will explain the makeup of the manuscripts themselves, two of the main schools of law and will then detail some of the material the laws cover such as status, slavery, sexual assault, status of women, fosterage and a number of other items. While this is no way an exhaustive list, it is a bit lengthy, so grab a cup of coffee and thank you for taking the time to read it. I hope you enjoy it and come away with a deeper understanding of the laws. Canon, Glosses and Commentaries When looking at the manuscripts like pictured above you will notice writing between the lines and on the side. The main text in the center is the original law canonical. The writing in between the lines of text are the glosses, added to update or comment on the law and then the writing in the margins are the later commentaries. These commentaries often show the difference between Irish laws and the common law that was starting to be introduced but can often be problematic due to errors in translation or misunderstanding on the part of the scribe. The typical dates of this material are roughly: These laws were laws of ecclesiastical inspiration that were promulgated by secular kings and rulers over large areas. Examples of two of the legal schools: The book is a compilation of older native law, codifying it. The native laws had become popular again in later centuries as a way of combating the common law. This was to legitimise these laws in the eyes of the church to remove any inclination of pagan practice essentially saying if it was good enough for Patrick, it's good enough for everyone else. It deals with: The Filid consisted of seven grades and these Grades were determined, in part, by the number of stories and poems they had to know by memory. One of the reasons for the convention was an attempt to censure the filid due to their extravagant demands and lifestyle. It ultimately had no effect on them and their high status remained unchecked for centuries. Not to be confused with Bards who were a later emergence and lower class. You were either considered a person of legal standing Aurrad or an outsider Deorad. Being an outsider you were often considered an Ambue non-person. Being an Ambue it was not considered an offence for someone to refuse to pay your body fine erec if they injure you. So essentially there were no rights for ordinary freeman outside his territory. Except on military service, oenach, or on pilgrimage. Nemed people or clerics were not included in this. This was an outsider from overseas. He also has no say in rearing the kids. This was essentially referring to travelling monks or peregrini. These had Special privileges such as the fact their word cannot be overturned by king. May have been set adrift a punishment where someone was placed in a boat with no oars and set adrift. This is the price a person would have to pay if they caused an offence against you:

Yearling heifer for a fer midboth man of middle huts, semi independent youth Aithech fortha substitute churl: This was a person of lower status to allow some sort of equality and to allow someone of low status and allows them to sue a king. Same hp as a cleric regardless of their social status. You could not go surety for greater than your Honour price. Any evidence given is weighed according to your status which means that if someone of higher status gives evidence against you, then they are automatically believed over you. This is known as overswearing. Change in status It was possible to rise or fall in status or even become nemed. If you were demoted your family did not suffer wife and son honour price remained the same Breithe crolige says: If someone could acquire enough wealth to support clients. They can be best illustrated by looking at the crime of kinslaying. This was especially frowned upon as the compensation system, which required payment from not only the transgressor, but also his kin, meant that the whole system fell apart with the act of kinslaying. A fort in which fingal was committed could be destroyed with impunity. Slaves Slavery is usually thought of as something that the Vikings introduced to Ireland but in truth we had been well practised at for centuries. The most common names for slaves in Irish were mug for male and cumal for female slaves. Cumal was also widely used as a unit of value. These could either be prisoners of war or debt slaves. The legal treatise Di Astud chirt acus dligid is against the release of slaves. Includes it among things that would make corn, milk and fruit to fail. Status of women The status of women in medieval Ireland or in celtic society in general is one of the most misinterpreted and misquoted things on the internet in relation to Brehon laws. The internet would have you believe that Ireland was a utopia for women and that they could fight and own their own property. This is not exactly the case I will add a caveat that they were afforded some things which were unique in the context of Europe at the time, such as attitudes towards sexual assault, divorce and in certain special circumstances the right to own property. There is a huge discrepancy between literature and reality when it comes to women i. No mention in annals of female political or military leader. There are mentions of warrior women in literature but no historic examples of note to back up the claim. Banchomarbae female heir This is an exception in terms of women having rights and the thing that is most misinterpreted in terms of women owning property. There are counterparts in the Torah tirza and also Indian parallels. The memes and false info circulating always mention that women could own their own property. This was however VERY rare. This was only in the case where a father died with no male heirs. Her children could not inherit the land after her death it returned to the fathers kin and she also only still had very limited legal capacity in terms of making contracts and still had a relatively small honour price. Offences against a woman An offence against a woman is usually considered a crime against her guardian who would have a higher honour price. This meant that the Murder of a woman could mean losing a hand and foot, being put to death and your kin having to 7 cumals. It was promulgated first at the synod of Birr in and was aimed at making it a serious offence to kill non-combatants especially women, children and clerics. It was endorsed by over 90 kings and bishops from Ireland and Scotland. If a woman committed murder, arson, or theft from a church, she was to be set adrift in a boat with one paddle and a container of gruel. This left the judgment up to God and avoided violating the proscription against killing a woman. A pregnant woman could steal food without penalty if she had a craving. Divorce A woman could Divorce Imscarad if husband rejected her for another woman, fails to support her, spreads a false story or satire or if he tricked her into marriage by sorcery. He is allowed to strike her to correct he, but she can leave if it leaves a blemish. There are also options to separate for a time for pilgrimage or if one is barren etc. Rape or sexual harassment There 2 types of rape listed in early laws: Sleth is considered as bad as forcor, but there are circumstances where they have no redress. Married woman alone in a tavern cannot get compensation for Sleth. A gloss on this mentions the shaming of a woman by raising her dress. In these regards, the Brehon laws were very progressive. Showing how powerful it was. Satire was a powerful tool if used correctly and could be used to exert pressure but illegal satire required the full honour price payment and included things such as mocking through gesture, publicising a blemishcoining a nickname that sticks. Female satirists were especially feared and had freedom to move around wherever they wished. Fosterage It was very common to foster children out at an early age. The bond between foster kids and parents can be seen through Intimate forms of language like mammy over mother being used for the foster parents instead of parents. Unusual in an Indo-European language. Fosterage served a number of fuctions such as

creating bonds between families and providing education. Children were typically fostered down the social ladder and there were two types of fosterage: For this, there was no fee involved and the child was usually from the mothers kin. Altram was the standard fosterage.

Chapter 4 : Marriage and Brehon Law in Ancient Ireland – Stair na hÁireann/History of Ireland

Brehon laws, Gaelic Feinechus, ancient laws of Ireland. The text of these laws, written in the most archaic form of the Gaelic language, dates back to the 7th and 8th centuries and is so difficult to translate that the official renderings are to some extent conjectural. The ancient Irish judge, or Brehon, was an arbitrator, umpire, and expounder of the law, rather than a judge in the modern sense.

The Brehons Law formed a most important factor both in public and private life in ancient Ireland. The native legal system, as briefly outlined in this chapter, existed in its fullness before the ninth century. It was somewhat disturbed by the Danish and Anglo-Norman invasions, and still more by the English settlement; but it continued in use till finally abolished in the beginning of the seventeenth century. In this short chapter I merely attempt a popular sketch of the main features of the Brehon laws, devoid of technical legal terms. In Ireland a judge was called a brehon, whence the native Irish law is commonly known as the "Brehon Law": The brehons had absolutely in their hands the interpretation of the laws and the application of them to individual cases. They were therefore a very influential class of men and those attached to chiefs had free lands for their maintenance, which, like the profession itself, remained in the same family for generations. Those not so attached lived simply on the fees of their profession, and many eminent brehons became wealthy. The brehon had to be very careful; for he was himself liable for damages, besides forfeiting his fee, if he delivered a false or unjust judgement. To become a brehon a person had to go through a regular, well-defined course of study and training. It would appear that the same course qualified for any branch of the legal profession, and that once a man had mastered the course he set up as a brehon or judge proper, a consulting lawyer, an advocate, or a law-agent. In very early times the brehon was regarded as a mysterious, half-inspired person, and a divine power kept watch over his pronouncements to punish him for unjust judgements: All this agrees with the whole tenor of Irish literature, whether legendary, legal, or historical, which shows the great respect the Irish entertained for justice pure and simple according to law, and their horror of unjust decisions. It was the same at the most ancient period as it was in the beginning of the seventeenth century, when Sir John Davies -an Englishman- the Irish attorney-general of James I. The Senchus Mor and other Books of Law The brehons had collections of laws in volumes or tracts, all in the Irish language, by which they regulated their judgements, and which those of them who kept law-schools expounded to their scholars ; each tract treating of one subject or one group of subjects. Many of these have been preserved, and of late years the most important have been published, with translations, forming five printed volumes with a sixth consisting of a valuable Glossary to the preceding five. In the ancient Introduction to the Senchus Mor the following account is given of its original compilation. In the year A. Patrick; and Laegaire [Laery] King of Ireland, appointed a committee of nine learned and eminent persons, including himself and St. Patrick, to revise them. At the end of three years these nine produced a new code, from which everything that clashed with the Christian doctrine had been carefully excluded. The very book left by St. Patrick and the others has been long lost. Successive copies were made from time to time with commentaries and explanations appended, till the manuscripts we now possess were produced. Commentaries on the text, in a smaller hand Glosses or explanations on words and phrases of the text, in a hand still smaller: Of these the text, as might be expected, is the most ancient. Resume at 9 and go on in like manner-sometimes upwards, sometimes downwards-to the end: Even the authors of the Commentaries and Glosses who wrote hundreds of years ago, and were themselves learned brehons, were often quite at fault in their attempts to explain the archaic text: It will then be readily understood that the task of translating these laws was a very difficult one, rendered all the more so by the number of technical terms and phrases, many of which are to this day obscure, as well as by the peculiar style, which is very elliptical and abrupt-often incomplete sentences, or mere catch-words of rules not written down in full, but held in memory by the experts of the time. Another circumstance that greatly adds to the difficulty of deciphering these mss. The explanatory note under fig. As they had to retain the legal terms and the elliptical style, even the translation is hard enough to understand, and is often unintelligible. It is, moreover, imperfect for another reason: Suitability of the Brehon Laws The Brehon Code forms a great body of civil, military, and

criminal law. It regulates the various ranks of society, from the king down to the slave, and enumerates their several rights and privileges. There are minute rules for the management of property, for the several industries - building, brewing, mills, water-courses, fishing-weirs, bees and honey - for distress or seizure of goods, for tithes, trespass, and evidence. The relations of landlord and tenant, the fees of professional men - doctors, judges, teachers, builders, artificers, - the mutual duties of father and son, of foster-parents and foster-children, of master and servant, are all carefully regulated. In that portion corresponding to what is now known as criminal law, the various offences are minutely distinguished - murder, manslaughter, assaults, wounding, thefts, and all sorts of wilful damage ; and accidental injuries from flails, sledgehammers, machines, and weapons of all kinds ; and the amount of compensation is laid down in detail for almost every possible variety of injury. The Brehon Law was vehemently condemned by English writers ; and in several acts of parliament it was made treason for the English settlers to use it. But these testimonies are to be received with much reserve as coming from prejudiced and interested parties. We have good reason to believe that the Brehon Law was very well suited to the society in which, and from which, it grew up. This view is confirmed by the well-known fact that when the English settlers living outside the Pale adopted the Irish manners and customs, they all, both high and low, abandoned their own law and adopted the Brehon Code, to which they became quite as much attached as the Irish themselves.

Structure of Society

Five main Classes of People

The lay people were divided into classes, from the king down to the slave, and the Brehon Law took cognisance of all - setting forth their rights, duties, and privileges. The leading, though not the sole, qualification to confer rank was property; the rank being, roughly speaking, in proportion to the amount. Under certain conditions, persons could pass from one class to the next above, always provided their character was unimpeachable. There were five main classes of people - Kings of several grades, from the king of the tuath or cantred up to the king of Ireland: Nobles, which class indeed included kings: Non-noble Freeman with property: Non-noble Freeman without property, or with some, but not sufficient to place them among the class next above: The first three - Kings, Nobles, non-noble Freeman with property-were the privileged classes ; a person belonging to these was an aire [arra] or chief. Kings have been treated of in chapter ii.

Flaiths or Nobles

The Nobles were those who had land as their own property, for which they did not pay rent: An aire of this class was called a Flaith [flah], i. There were several ranks of nobles, the rank depending chiefly on the amount of landed property.

Non-noble Freeman with Property

A person belonging to the other class of aire - a non-noble rent-paying freeman with property No. He should rent a certain amount of land, and possess a certain amount of property in cattle and other goods, to entitle him to rank as an aire. As in the case of the nobles, there were several classes of bo-aire, ranking according to their property. If a person belonging to the highest class of bo-aire could prove that he had twice as much property as was required for the lowest rank of noble, and complied with certain other conditions and formalities, and also provided his father and grandfather had been aires who owned land, he was himself entitled to take rank as a noble of the lowest rank. The three preceding main classes-kings, nobles, and bo-aire - were all aires, chiefs, or privileged people: All three had some part in the government of the country and in the administration of the law, as kings, tanists, nobles, military chiefs, magistrates, and persons otherwise in authority; and they commonly wore a fleisc or bracelet on the arm as a mark of their dignity. Tradesmen formed another very important class of freemen. The greater number belonged to the fourth class - freemen without property.

The Non-free Classes

So far we have treated of freemen, that is those who enjoyed all the rights of the tribe, of which the most important was the right to the use of a portion of the tribe-land and commons We now come to treat of the non-free classes. The non-free people were those who had not the full rights of the free people of the tribe. They had no claim to any part of the tribe-land, though they were permitted, under strict conditions, to till little plots for mere subsistence. This was by far the most serious of their disabilities. Their standing varied, some being absolute slaves, some little removed from slavery, and others far above it. That slavery pure and simple existed in Ireland in early times we know from the law-books as well as from history; and that it continued to a comparatively late period is proved by the testimony of Giraldus Cambrensis - twelfth century-who relates that it was a common custom among the English to sell their children and other relatives to the Irish for slaves - Bristol being the great mart for the trade. From this, as well as from our own records, we see that some slaves were imported. But the greater

number were native Irish, who, from various causes had lost their liberty and had been reduced to a state of slavery. Groups of Society The people were formed into groups of various sizes, from the family upwards. The Family was the group consisting of the living parents and all their descendants. The Sept was a larger group, descended from common parents long since dead: All the members of a sept were nearly related, and in later times bore the same surname. The Clan or house was still larger. The word fine [finna] usually meant a group of persons related by blood within certain degrees of consanguinity, all residing in the same neighbourhood; but it was often applied in a much wider sense. The Tribe tuath was made up of several septs, clans, or houses, and usually claimed, like the subordinate groups, to be descended from a common ancestor. The adoption of strangers-sometimes individuals, sometimes whole groups - into the family or clan was common; but it required the consent of the fine or circle of near relations - formally given at a court meeting. From all this it will be seen that in every tribe there was much admixture; and the theory of common descent from one ancestor became a fiction, except for the leading families, who kept a careful record of their genealogy. The Laws relating to Land Land originally common Property It would appear that originally - in prehistoric times - the land was all common property, belonging to the tribe, not to individuals, and chief and people were liable to be called on to give up their portions for a new distribution. But as time went on, this custom was gradually broken in upon ; and the lands held by some, after long possession, came to be looked upon as private property. As far back as our records go, there was some private ownership in land. Five ways of holding Land Within historic times the following were the rules of land tenure, as set forth chiefly in the Brehon Laws, and also in some important points by early English writers. The tribe or aggregate or tribes , under the rule of one king or chief held permanently a definite district of the country. The tribe was divided, as already described, into smaller groups-clans or septs - each of which, being governed by a sub-chief under the chief of the tribe, was a sort of miniature of the whole tribe ; and each clan was permanently settled down on a separate portion of the land, which was considered as their separate property, and which was not interfered with by any other clans or septs of the tribe. The land was held by individuals in some one of five different ways. The chief, whether of tribe or of the sept, had a portion as mensal land, for life or for as long as he remained chief. Another portion was held as private property by persons who had come, in various ways, to own the land. Persons held, as tenants, portions of the lands belonging to those who owned it as private property, or portions of the mensal land of the chief - much like tenants of the present day: The term was commonly seven years, and they might sublet to under-tenants. The rest of the arable land, which was called the Tribe-land - equivalent to the folc or folk land of England - forming by far the largest part of the territory, belonged to the people in general, the several subdivisions of it to the several septs, no part being private property. This was occupied by the free members of the sept, who were owners for the time being, each of his own farm. Every free man had a right to his share - a right never questioned. Those who occupied the tribe-land did not hold for any fixed term, for the land of the sept was liable to gavelkind below or redistribution from time to time - once every three or four years. Yet they were not tenants at will, for they could not be disturbed till the time of gavelling; even then each man kept his crops and got compensation for unexhausted improvements; and although he gave up one farm, he always got another. The non-arable or waste land - mountain, forest, bog, etc. This was not appropriated by individuals; but every free man had a right to use it for grazing, for procuring fuel, or for the chase. There was no need of subdividing the commons by fences, for the cattle of all grazed over it without distinction. This custom still exists in many places all through Ireland.

Chapter 5 : Brehon law : HERITAGE : Courts Service of Ireland

In Ireland judges were called Brehons; and the law they administered "the ancient law of Ireland" is now commonly known as the Brehon law. To become a brehon, a person had to go through a regular, well defined course of training.

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Brehon law is the usual term for Irish native law, as administered in Ireland down to almost the middle of the seventeenth century, and in fact amongst the native Irish until the final consummation of the English conquest.

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In this short chapter I merely attempt a popular sketch of the main features of the Brehon laws, devoid of technical legal terms. In Ireland a judge was called a brehon, whence the native Irish law is commonly known as the "Brehon Law": but its proper designation is FÁ©nechas, i.e. the law of the FÁ©ine or FÁ©ne, or free land-tillers. The brehons had absolutely in their hands the interpretation of the laws and the application of them to individual cases.

Marriage is what brings us together, today. Marriage, that blessed arrangement, that dwells within a dweller. Celtic marriage was very different from what we think of today. It also was not a religious event, but a contractual agreement. It is known as the law of Ireland, but likely similar laws existed in Britain as well. The laws governing marriage were set up to ensure children were protected illegitimacy did not exist – more on that in a future post, make clear the rights of the husband and wife, and protect the property rights of both parties. You may have heard of the practice of handfasting, trial marriages that lasted a year and a day. These did happen, most commonly on Lughnasa when the tribes were together, but when this occurred, it was more like an engagement. The realities of contractual marriage were much more complex. A first degree union takes place between partners of equal rank and property. A second degree union in which a woman has less property than the man and is supported by him. A fifth degree union is the mutual consent of the man and woman to share their bodies, but live under separate roofs. This marriage is valid only as long as the man can keep the woman with him. We see this a lot in Arthurian legend and traditional Welsh tales. A ninth degree union is a union by forcible rape this also occurs in Arthurian legend and Celtic folk stories. A tenth degree union occurs between feeble-minded or insane people. Under the law, women had the right choose their husbands and could not be forced to marry. Although, given the nature of some of the types of marriage listed above, and the likely influence read: Dowries were very important, as brides were purchased from their fathers by their husbands for what became known as a bride-price. Some of this was kept in reserve for the woman, should her marriage end at the fault of her husband, so she would not be left destitute. More on divorce in a future post. Multiple husbands were less common, but not unheard of. There were even laws that stated a first wife could legally murder the second wife within the first three days of marriage! She would still have to pay a fine, but other than that she was within her rights. Brehon Law used the payment of fines to solve just about every problem, from divorce to murder. Some say this is where the tradition of a honeymoon, or a husband and second wife going away for the first few days of their marriage, originated. We know that by the time these laws were written down by Irish monks, they were already amending pagan-era rules to suit their Christian audiences.

Chapter 8 : Table of Contents: Collectanea de rebus hibernicis.

Ireland, which differed in almost every way from the common calendrierdelascience.com is known as Brehon Law, from the Old Irish word brithemain, meaning 'judge' or 'jurist' This. system was implemented throughout the island of Ireland, from Celtic times until it was.

See Article History Alternative Title: Feinechus Brehon laws, Gaelic Feinechus, ancient laws of Ireland. The text of these laws, written in the most archaic form of the Gaelic language , dates back to the 7th and 8th centuries and is so difficult to translate that the official renderings are to some extent conjectural. The ancient Irish judge, or Brehon, was an arbitrator, umpire, and expounder of the law, rather than a judge in the modern sense. Analysis of the extant remains of the Brehon law manuscripts has revealed the character of ancient Irish life, society, and social institutions. The basis of that society was the clan. Kinship with the clan was an essential qualification for holding any office or property. The rules of kinship largely determined status with its correlative rights and obligations. The solidarity of the clan was its most important characteristic. The entire territory occupied by a clan was the common and absolute property of that clan, although in the course of time a large and increasing proportion of the good land became limited private property. Thus, the area of arable land available for the common use of the clansmen gradually diminished. Land was seldom sold and not often rented in ancient Ireland. Nobles and other persons holding large areas would rent to clansmen not the land itself but the right to graze cattle, and they sometimes even rented out the cattle themselves. There were two distinct methods of letting and hiring: On the other hand, daer tenure, whether of cattle or of the right to graze cattle, was subject to a security. No contract affecting land was valid unless made with the consent of the joint family. Other contracts had to be made in the presence of the noble or magistrate. The parties to a contract had to be free citizens, of full age, free to contract, and under no legal disability. A witness was in all cases important and, in some, essential to the validity of a contract. The criminal laws uniformly discountenanced revenge, retaliation, the punishment of one crime by another, and capital punishment. Reparations were paid to the family of the victim. Learn More in these related Britannica articles:

The Brehon Laws, or to use their proper name F nechas, was the native indigenous law system found in early medieval Ireland. The word Brehon comes from the Irish brithem, meaning jurist.

Brehon law is the usual term for Irish native law , as administered in Ireland down to almost the middle of the seventeenth century, and in fact amongst the native Irish until the final consummation of the English conquest. It derives its name from the Irish word Breitheamh genitive Breitheamhan, pronounced Brehoon or Brehon which means a judge. Nor was their labour by any means exhaustive. There are many more valuable Brehon documents still untranscribed in the library of Trinity College, in the British Museum, and in the Bodleian, and possibly some fragments in the Royal Irish Academy and other repositories. But these five large volumes do not by any means contain the whole of Irish law literature, which, in its widest sense, that is, including such pieces as the "Book of Rights", would probably fill at least ten such volumes. The second volume contains the Law of Hostage Sureties, also a very important item in ancient Irish life, the law of fosterage, of tenure of stock, and of social connections. The third volume contains the important document known as the "Book of Acaill" which is chiefly taken up with the law of torts and injuries. This book professes to be a compilation of the various dicta and judgments of King Cormac Mac Airt who lived in the third century, and of Cennfaeladh, a famous warrior who fought in the Battle of Moyrath c. The fourth and fifth volumes consist of isolated law tracts, on taking possession, on tenancy, right of water, divisions of land, social ranks, the laws relating to poets and their verse, the laws relating to the Church , chiefs, husbandmen, pledges, renewals of covenants, etc. Although all these tracts go commonly under the generic name of the Brehon Laws, they are not really codes of law at all, or at least not essentially so. They are rather the digests or compilations of generations of learned lawyers. That part of it relating to the law of immediate seizure must, according to M. The rest of the Seanchus is not so old. Patrick himself, who struck out of it all that "clashed with the law of God ". It is impossible to say how far certain parts of the law may have reached back into antiquity and become stereotyped by usage before they became stereotyped in writing. It is the great amount of commentaries written by generations of lawyers upon the text, and then the additional annotations written upon these commentaries by other lawyers, which swells the whole to such a size. Irish social organization We are able to gather fairly well from these books the remains only of what must once have been an immense law literature, the social organization of a pure Aryan people, closely cognate with the ancestors of the modern Gauls, Spaniards , and Britons; and from what we learn of the ancestors of the present Irish people we may deduce a good deal that is probably no less applicable to the other Aryan Celts. Broadly speaking, the country was governed by a ruling class called "Kings", of different grades, the highest being the King of Ireland , and next to these were the nobles or princes called in Irish Flaith pronounced like flah or floih. In all there were, including kings and flaiths, nominally at least, seven different kinds of aires arras , or nobles, and provision was carefully made that a wealthy farmer, or peasant grown rich through cattle, could, if he possessed twice the wealth of the lowest of the seven, and had held it for certain generations, become an aire, or noble, of the seventh, or lowest degree. Thus wealth and descent were carefully balanced over against each other. But it took care at the same time not to close to anyone the avenues to chieftainship. Under ancient Irish law the land did not belong to the king or the chief or the landlord, but to the tribe, and the lowest of the free-tribesmen had as much an inalienable right to his share as had the chief himself. In process of time parts of the tribal territory appear to have become alienated to subtribes or families , and the chief, who always exercised certain administrative duties with respect to the land, appears to have had certain specific portions of the tribal land allotted to himself for his own use, and for the maintenance of his household and relatives. He was in no sense, however, what is now known as a landlord, although the whole tendency of later times was to increase his power at the expense of his tribe and vassals. In process of time many of these in hours of distress naturally found themselves involved in something like pecuniary transactions with their head-chiefs, and, owing to poverty , or for some other reason, were driven to borrow or accept cattle from them, either for milk or tillage. The Saer-stock tenant â€” saer means free in the Irish language â€” accepted only a limited amount of stock;

and retained his tribal rights, always most carefully guarded by the Brehon law, in their integrity. But the Daer-stock "daer means unfree" tenant, who took stock from his chief, became liable for heavier but still carefully defined duties. For instance for every three heifers deposited with him by his chief, he became liable to pay his chief the "proportionate stock of a calf of the value of a sack with its accompaniments", and refectons for three persons in the summer, and work for three days. The tribesman, it will be observed, by accepting stock from his chief parted to some extent with his freedom, but his interests were carefully looked after by law, and it was provided that after food-rent and service had been rendered for seven years, if the chief should die, the tenant should become entitled to the stock deposited with him. If, on the other hand, the tenant died, his heirs were partly relieved from their obligation. It will be observed that while this to some extent resembles the well-known Metayer system, so common on the continent of Europe, where the landlord supplies the stock and the land, and the tenant the labour and the skill, it differs from it in this, namely that in Ireland the saer- and daer-stock farmer did not supply the land, which was theirs by right of their free tribesmanship. These were known by the name of fuidirs or bothachs, i. They appear to have been principally composed of broken men, outcasts from foreign tribes, fugitives from justice, and the like, who, driven out of or forsaking their own tribes, sought refuge under some other chief. These men must have been natural objects of suspicion if not of detestation to the free tribesmen, and, being themselves absolutely helpless, and having no tribal rights of their own, they became entirely dependent upon their chief, who settled them down upon the outlying or waste lands of the tribe, or possibly at times upon his own separate land which as chief he held in severalty, and imposed upon them far heavier tolls or rents than the law permitted to be exacted from any other members of the tribe. As Ireland became more troubled by Northmen, Normans, and English, this class of tenant increased in numbers, so many tribes were broken or destroyed, and the survivors dispersed to find refuge in other tribes and under other chiefs. In this way there grew up gradually, even under Irish law, a body of tenants to whom their chiefs must have stood in the light of something like English landlords. The Irish family or fine A curious Irish social unit was the fine finna, consisting of one group of five persons and three groups of four, all males. The head of the family, called the ceann-fine Kan-finna, and four members made up the first group, called geil-fine, the other three groups of four each were called deirbh-fine true family, iar-fine after family, and inn-fine end family. On the birth of a new male member in the geil-fine the eldest member of the group was moved up into the next four the deirbh-fine, and one out of that four into the next four, and one out of the last four was moved out of the fine altogether, into the clan, or sept, this last male thereby ceasing to be a member of the family, or fine. The sept, to use the English term, sprang from the family, or the family after some generations grew into the sept and then into the clan, contracting a greater share of artificiality in proportion to its enlargement. Because, while all the members of the sept could actually point to a common descent, the descent from a single ancestor in the case of the whole tribe was more or less founded upon fiction. The portion of territory ruled over by a sub-king was called tuath too-a and contained within it, at all events in later times, members of different descents. The chief, both of the tuath and the sept, was elected by the tribe or clansmen. Irish criminal law There seems to have been no hard and fast line drawn between civil and criminal offences in the Brehon law. They were both sued for in the same way before a Brehon, who heard the case argued, and either acquitted or else found guilty and assessed the fine. In the case of a crime committed by an individual all the sept were liable. If the offence were one against the person, and the criminal happened to die, then the liability of the sept was wiped out, for, according to the maxim, "the crime dies with the criminal". If, however, the offence had been one causing damage to property or causing material loss, then the sept remained still liable for it, even after the death of the criminal. This regulation resulted in every member of the sept having a direct interest in suppressing crime. There was always a fine inflicted for manslaughter, even unpremeditated, which was called an eric. If the manslaughter was premeditated, or what we would call murder, the eric was doubled, and it was distributed to the relatives of the slain in the proportion to which they were entitled to inherit his property. If the eric were not paid, then the injured person or family had a right to put the criminal to death. This acceptance of a blood-fine or eric for murder was a great source of scandal to the English, but, as Keating points out in the preface to his history of Ireland written in Irish, it was really a beneficent and logical institution, made necessary by the number of

tribes into which Ireland was divided. For every man, from king to fuidir the lowest class of tenant, had what was in Irish law termed his *eineachlan*, or honour-price, and this was forfeited in part or in whole, according to well-defined rules for various crimes. It was always forfeited for taking human life. Clergy we find more heavily punished than laymen. A man of high rank was always fined more than one of low rank for the same misdemeanour. An assault on a person of rank was more severely punished than one on an ordinary man. Fines for crimes against the person were particularly heavy; two cows, for instance, was the fine for a blow which raised a lump but did not draw the blood. The punishments awarded by the Brehons were of a most humane character. There is no trace of torture or of ordeal in ancient Irish law. From the earliest times in which the English invaders made the acquaintance of the Brehon law system they denounced it with the most unsparing invective. As early as an English Statute of Kilkenny denounced Brehon laws "wicked and damnable". The student, however, who views these laws dispassionately today, and merely from a juridical point of view, will find in them, to use the words of the great English jurist Sir Henry Maine, "a very remarkable body of archaic law unusually pure from its origin". It is, in fact, a body of law that reflects for us early Aryan custom in its purity, almost perfectly untainted or uninfluenced by that Roman law which overran so much of the rest of Europe. It is true that Brehon law does bear certain resemblances to Roman law, but they are of the slightest, and not even so strong as its resemblance to the Hindoo codes. It has in truth certain relations to all known bodies of Aryan law from the Tiber to the Ganges, some to the Roman laws of earliest times, some to the Scandinavian, some to the Slavonic, and some particularly strong ones to the Hindoo laws and quite enough to old Germanic law of all kinds "to render valueless", to use the words of Sir Henry Maine, "the comparison which the English observers so constantly institute with the laws of England". But he points out how heavily the Brehon Law pays in other respects for this striking anticipation of the modern legal spirit by its too frequent air of fancifulness and unreality and indulgence of imagination. In the "Book of Acaill", for instance, which, as mentioned before, is chiefly concerned with the law of torts, we find four long pages concerned solely with the injuries received from dogs in dogfights — Ireland was famous for its hounds, and dog-fights figure more than once in old Irish literature — setting forth in the most elaborate way all the qualifications of the governing rule required in the case of owners, in the case of spectators, in the case of the "impartial interposer", in the case of the "half-interposer", that is the man who tries to separate the dogs with a bias in favour of one of them, in the case of an accidental onlooker, in the case of a youth under age, and in the case of an idiot. The Brehons, in fact, appear to have never hesitated about inventing or imagining facts upon which to base their theoretical judgments. They endeavour to deal with all cases and all varieties of circumstances, and they have special rules for almost every relation of life and every detail of the social economy. A great number of the cases which come under discussion in the law books appear to be rather problematical than real, cases propounded by a teacher to his pupils to be argued on according to general principles, rather than actual subject for legal discussion. Origin and gradual growth Ancient Irish law was not produced by a process resembling legislation, but grew up gradually round the dicta and judgments of the most famous Brehons. These Brehons may very well have been in old times the Irish equivalents of the Gaulish Druids. There were only four periods in the entire history of Ireland when special laws were said to have been enacted by legislative authority: Patrick came; third, by Cormac mac Culinan, the King-Bishop of Cashel, who died in ; and lastly by Brian Boru, about a century later. But the great mass of the Brehon code appears to have been traditional or to have grown with the slow growth of custom. The very first paragraph of the Law of Distress takes us back to a case which happened in the reign of Conn of the Hundred Battles in the second century, and this passage was already so antique at the close of the ninth century that it required a gloss, for Cormac mac Culinan who died in alludes in his glossary to the gloss upon this passage. The text of the *Seanchus Mor* relies upon the judgments of famous Brehons such as *Sencha* in the first century, but there is no allusion in its text to any books or treatises. The gloss, however, is full of such allusions. Fourteen different books of civil law are alluded to in it. Cormac in his glossary alludes to five. Only one of the five alluded to by Cormac is among the fourteen mentioned in the *Seanchus Mor*. This shows that the number of books upon law must in old times have been legion. They perished, with so much of the rest of Irish literature, under the horrors of the English invasion and the penal laws, when an Irish manuscript was a source of

danger to the possessor. The essential idea of modern law is entirely absent from the Brehons, if by law is meant a command, given by some one possessing authority, to do or to forbear doing a certain thing under pains and penalties. There is no sanction laid down in the Brehon laws against those who violated them, nor did the State provide any such sanction. This was the great inherent weakness of Irish jurisprudence, that it lacked the controlling hand of a strong central government to enforce its decisions. It is a weakness inseparable from a tribal organization in which the idea of the State, which had begun to emerge under the early Irish kings, had been repressed. When a Brehon had heard a case and delivered his judgment, there was no machinery of law set in motion to force the litigant to accept it. The only executive authority in ancient Ireland which lay behind the decision of the judge was the traditional obedience and good sense of the people, and it does not appear that this was ever found wanting. The Brehons never appear to have had any trouble in getting their decisions accepted by the common people. This was indeed the very essence of democratic government, with no executive authority behind it but the will of the people. There can be no doubt whatever that the system trained an intelligent and law-abiding public. Even Sir John Davies, the Elizabethan jurist, confesses "there is no nation or people under the Sunne that doth love equall and indifferent justice better than the Irish; or will rest better satisfied with the execution thereof although it be against themselves, so that they may have the protection and benefit of the law when upon just cause they do desire it". Influence of the Catholic Church upon Brehon Law With regard to the influence of the Catholic Church upon Irish law as administered by the Brehons it is difficult to say much that is positive. Its influence was probably greatest in a negative direction. We have seen that the Brehons claimed the sanction of St. We may also take it for granted that it was owing to the introduction of Christianity that Irish law began to be written down.