

THOMAS PETER ELLIS
WELSH TRIBAL LAW
AND CUSTOM
IN THE MIDDLE AGES

IN 2 VOLUMES

VOLUME II

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PART V
THE LAW OF
CIVIL OBLIGATIONS

I

THE FORMALITIES OF BARGAINING

1. *Introductory.*

§ 1. The Welsh Law of bargaining, using the word bargaining in a wide sense to cover all transactions of a civil nature whereby one person entered into an undertaking with another, can be considered in two aspects, the one dealing with the form in which bargains were entered into, or to use the Welsh term, the 'bond of bargain' forming the nexus between the parties to it, the other dealing with the nature of the bargain entered into.¹

§ 2. The characteristic of all early law relative to bargain is that the formalities attendant upon the bargain, not the subject-matter of the agreement, form the contract, and without the observance of the formalities there is nothing to enforce.

The conception that an agreement without the prescribed formalities was enforceable was a later development.

Hence we find the Welsh Laws, like other early laws, deal mainly with the formalities and the legal consequences ensuing on the observance or non-observance of those formalities rather than with the agreement itself.

We have in the Codes matter dealing with the subject of agreements, e.g. the sale of goods, loans, and the like, but we have a larger volume of law dealing with the procedure to be observed on entering into a transaction.

The Welsh Laws recognized three principal modes of agreement, 'briduw', 'amod', and 'machni'.

2. '*Briduw.*'

§ 1. Not much is said in the laws about 'briduw'.

The word is said to mean 'the dignity or honour of God', but the origin of the phrase seems to be a popular mistranslation of an oath beginning with 'Pro Deo'.

¹ IX. 304 ; XIV. 658.

<i>Rhwym dadl.</i>	Bond of suit.
<i>Rhyddid.</i>	Freedom.
<i>Sarhad, saraad.</i>	Insult, honour-price.
<i>Symwd car.</i>	See 'car-gychwyn'.
<i>Taeog.</i>	'Aillt', q.v.
<i>Taeog-tref.</i>	An unfree ville.
<i>Tafod.</i>	Tongue.
<i>Tafodiog.†</i>	Tongue-man. A class of conclusive witnesses.
<i>Tan.</i>	Fire, arson.
<i>Tarian.</i>	Shield.
<i>Teisbantyle.†</i>	A word of doubtful origin. Commonly rendered 'family representative'. Possible origin 'teis-ban', the pivot or cartilage, of the 'tyle', couch, i.e. the husband or head of family.
<i>Teithi.</i>	Full qualities.
<i>Telyn.</i>	Harp.
<i>Terfyn.</i>	Boundary.
<i>Terfysg.</i>	Tumult.
<i>Tir.</i>	Land.
<i>Tir-bwrdd.</i>	Board land of the lord.
<i>Tir caeth.</i>	Bond land.
<i>Tir cyfrif, trefgefery.†</i>	Class of unfree land, in which there was no succession.
<i>Tir cynnyf, cynyd, pryd, pryn.</i>	Purchased or acquired land.
<i>Tir gwelyog, truwelloghe.†</i>	Land held by a free or unfree 'gwely'.
<i>Tir rhyd.</i>	Free land.
<i>Tom.†</i>	MW. dirt. Special meaning in Laws appears to be derived from long-extinct word meaning 'draught', drawing.
<i>Tomawg.†</i>	Adjective from 'tom'.
<i>Tonawg.†</i>	Broken. Cf. 'ton', a breaker.
<i>Tref.</i>	A settlement, a ville.
<i>Tref y tad, tadawc.</i>	The paternal or ancestral settlement.
<i>Treis.</i>	Violence.
<i>Treth.</i>	Land dues, excluding 'twnc'. MW. tax.
<i>Twnc, tunc.†</i>	Commuted 'gwestfa'.
<i>Twrf cyfraithol.</i>	Lawful disturbance.
<i>Ty a tal.</i>	= 'ty a dal', house to hold, a site for a house, not MW. 'ty a tal', house and gable-end.
<i>Tyddyn.</i>	Homestead.
<i>Tyst, -ion.</i>	Witness, especially a court attestator.
<i>Tystiolaeth.</i>	Testimony.
<i>Tystiolaeth marwol.</i>	Dead testimony.
<i>Uchelwr.</i>	Head or high man. Gentleman of position.
<i>Wynebwerth,† -warth.</i>	Lit. face-value. Equals 'sarhad'.
<i>Wyrion.</i>	Lit. grandsons. A body of clansmen.
<i>Ymladd.</i>	Fighting.
<i>Ymwrthyn.†</i>	To oppose one another. Land-suit based on trespass.
<i>Ymwystlo.</i>	To give mutual pledges. Challenge of judge.
<i>Ynys Prydain.</i>	Isle of Britain.
<i>Ysgar, esgar.</i>	Divorce, separation.

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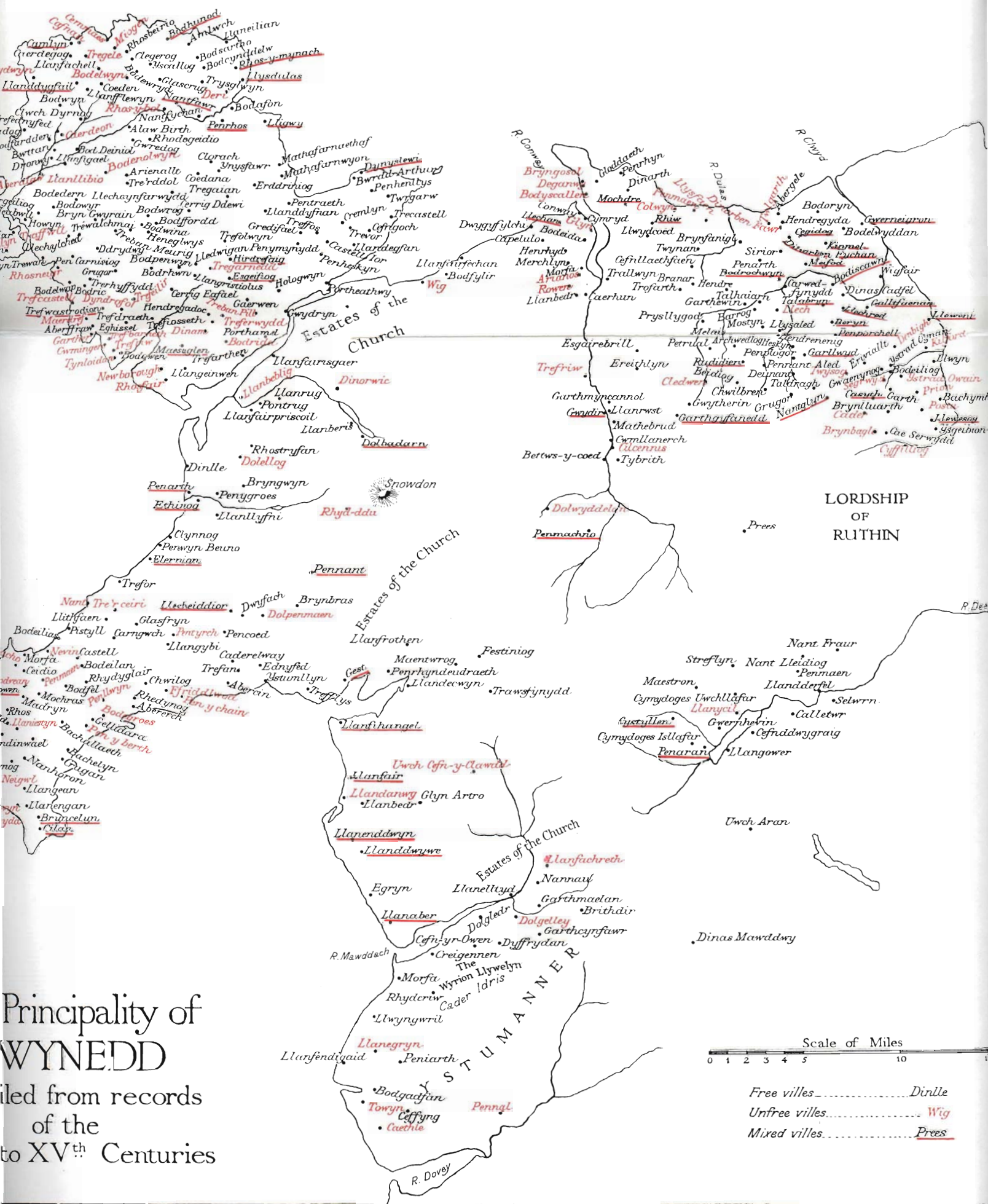
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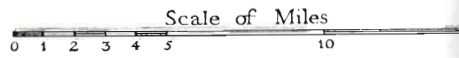
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Principality of
WYNNEDD
 compiled from records
 of the
 to XVth Centuries

LORDSHIP
 OF
 RUTHIN



Free viles Dindle
 Unfree viles Wig
 Mixed viles Prees