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'Though leaves are many, the root is one'

Drawing on the works of Turner (1969), Legendre (1985) and Greenhouse (1989), the overall aim of this paper is to explore the conceptual oppositions between linear and cyclical time which characterise different legal cultures.

Using the specific examples of *Le Resolution des Justices Touchant Le Irish Custome de Gavelkind* (1605) Dav. 49 and *Le Case de Tanistry* (1608) Dav. 28, the paper will first examine how Brehon law defined and encoded temporal logic – defined as generational passage through the practise of Tanistry (Irish customary law of succession) – to preserve its social processes and organisation. It will then go on to examine how proponents of the common law used the rhetoric of temporality in the later case to raise the validity of Tanistry as a custom as part of the wider colonisation agenda. Indeed, the record shows that the native laws of a country could survive British rule, only if '3 choses doent concurre [...], antiquity, continuance, & reason. Et est expressement trove q cest custome est auntient devant temps de memory, & continuall de temps dont memorie e Court' [trans. 3 things ought to concur, antiquity, continuance and reason. And it is expressly found that this custom is ancient beyond time, and continual time out of mind]. In other words the custom had to be 'reasonable, certain, of immemorial usage and compatible with crown sovereignty.' The custom failed the test.

The paper concludes by suggesting that subsequent to these cases, the common law legitimised its own deterministic direction (linear time) through recursive use of the past as a supporting reference to establish its own mythical/sacred nature; in effect allowing the social logic of linear time (the common law) to displace cyclical time (customary law) and in the process legitimising the sovereignty of the English conquest.