



# King Arthur Pendragon

Titular Head and Chosen Chief

Loyal Arthurian Warbands

L /\ W

[www.warband.org.uk](http://www.warband.org.uk)

  
[https://twitter.com/Stonehenge\\_King](https://twitter.com/Stonehenge_King)  


O=={ { :::::::15th April 2019:::::}>

Please find Attached;

DOCUMENTS x 3

(1) Witness statement 1997

(2) Pendragon-v-Unoited Kingdom 1998

(3) Closing submission Public Inquiry 2011

In support of Application to give Oral evidence.

Document (1)

Will illustrate my standing in the Pagan and Druid community.

Document (2)

Will illustrate my involvment with and partisipation of The seasonal celebrations at Stonehenge, and the legality of same, as it applies to the exercising of 'our' rights under Articles 9.10.11 and 14 of the Human Rights Act.

Document (3)

Will illustrate the reliance on the 'Rights of way' and the By-ways Open to All Traffic in and around Stonehenge as it effects the Pagan and Druid community and our ability to exercise such rights at times of celebration.

King Arthur Pendragon /\

### (3) CLOSING SUBMISSIONS - Public Inquiry 2011

King Arthur Pendragon

I have presented my case to this inquiry and that of the Council of British Druid Orders in what I hope is a dignified and professional ( if somewhat impassioned at times) manner, and I hope to do likewise with my closing submissions.

I am not a civil or religious rights lawyer, trained in such matters as are learned counsel for the Authorities, but have presented my evidence, and that of the membership and general public that I represent as Advocate and thank the Inspector for this opportunity.

This Inquiry has heard from a number of Objectors on a number of differing issues. I will confine my closing submissions to what may be deemed 'our' objections, that is not too say, that we are not in agreement with the other objectors or the evidence that they have presented before this Inquiry, but merely that we would not wish here to unnecessarily burden the Inspector with repetition.

Our case as set out in our evidence relies on the European convention of Human Rights, and specifically to, Articles 9, 10,11, & 14, now co-opted into British Law as The Human Rights Act; We rely also on, Custom and Use in British law and on the fact that it is incumbent on the Authorities to protect such 'rights' or at the very least not to place unnecessary restrictions on the exercising of any such rights; which in my submission the introduction of the Traffic Regulatory Order sought here today would do; Therefore making it illegal to progress such an order (without modification) in its present form.

English Heritage and Wiltshire Council have throughout this Inquiry claimed the support from other agencies including Wiltshire Police and the National Trust. Neither of which attended this Inquiry although I understand that they were invited to do so.

You may take from that what you will, I believe that it shows 'tacit support' at best for their position, and at worst a reluctance to lay themselves open to public scrutiny of their position.

I would have liked answers to some of my concerns regarding the Safety aspect of introducing this proposed Traffic Regulatory Order from the Police.

And from National Trust the where-with-all should it be introduced to access their land by the general public but any assurances I may have sought on these matter were not forthcoming.

We have heard in evidence that it is the duty of the Promoting Authority to balance the use of ALL highway users, and in deed this is in the enabling legislation, and is in my submission, the very reason for this Inquiry. I therefore invite the Inspector to take the view that until that has occurred the rights and opinions of any third party such as English Heritage, whether in their capacity as a Government Agency or a neighbouring land owner are of little or no consequence.

Had this Inquiry of confined itself to the views of the Highway users alone it is my submission that any such balancing would have been heavily weighted against these proposals.

Much has been made of the fact that Other Agencies, a wide variety of Stakeholder, Public consultations, This report, that report, the over arching strategy etc, and we have heard in evidence the A303 referred too as 'The Elephant in the room' It is quite clear to me (as one of the respondents to many of these consultations) that the 'goal posts' have most definitely been moved over the years as modifications have been put in place.

It was the original plan (with little or no thought to the By-ways) to remove Traffic, the traffic in question being carried along the A303 corridor and the A344 that we The Council of British Druid Orders and in my submission many of the other agencies and groups consulted signed up to.

Not the proposals that are currently on the table, and most if not All the work done in securing our support and in my submission that of the other Agencies and certainly the wider public was done on the premise that the A303 be removed from the World Heritage Site.

It may be that some thought the loss of Amenity (the ability to use the by-ways for Vehicular access) was 'a small price to pay' given the greater gain to the Amenity of the World Heritage Site of the removal of the A303 and A344, but a far larger price to pay with the retention of the A303.

It may however be simply that little or no thought had been given to the possible loss of this (the By-ways Open to All Traffic's) Amenity, Which did not surface until much later in the consultation process. Either way, it seems to me that the general public were and still are, largely unaware of the ramifications of this proposed Traffic Regulatory Order.

Were Moray to conduct a survey on the High Street of any of our major cities today I would be very surprised if many, or any surveyed were aware of these proceedings or that the right to pull over anywhere in the World Heritage Site, save for English Heritage's car park (as and when they deem to open) was to be determined by the possible introduction of a Traffic Regulatory Order by Wiltshire Council.

Indeed I would be surprised if many had even heard of a TRO, let alone thought for one minute that such a minor thing could alter the way future generations view Stonehenge, as has been conceded to by English Heritage when giving evidence to this Inquiry.

Visitors to Stonehenge and the World Heritage site oft' times turn up even now after how many years? And are surprised to find the current visitors centre and are often both shocked and amazed to find they are required to pay in order to view what they consider 'Their' Heritage.

Many choosing in stead to view the 'Stones' from the roadside. It is this 'right' that the introductions of the proposed TRO will extinguish.

A right (perceived or otherwise) we the Council of British Druid Orders claim. To be a 'right' that has in one way or another existed since 'time in memorial' a term used to denote time before legal memory, a time set by the statute of Westminster 1275 as 1189.

And in my submission

A 'Right' enshrined in British law

My reading of the relevant law is as follows;

## CUSTOM

A rule of conduct, obligatory on those within its scope, established by long usage.

A valid custom must be of immemorial antiquity, certain and reasonable, obligatory, not repugnant to Statute law though it may derogate from common law.

General Customs are those of the whole country, for example' the general custom of merchants.

Particular customs are the usage of particular trades

Local Customs are customs of certain parts of the country

## USAGE

A uniformity of conduct of persons with regard to the same act or matter. A usage may harden into custom.

## TIME IMMEMORIAL

Term used to denote a time before legal memory.

The Statute of Westminster 1275 fixed it at 1189

In my submission this is a right far greater than that of a provincial Council to wave away 'at a stroke of a pen' with such a minor order as is sought here today. As is the protection of my 'Rights' as contained in Articles 9,10,11, & 14, Human Rights Act. Formally a Treaty Obligation, now co-opted into British Law. Therefore in my submissions the Traffic Regulatory Order sought here today would be (were it implemented without modification) Illegal.

We have heard from English Heritage, how they propose to cater for the Solstice's and Equinox, the proposal they put forward without consultation I might add, with us or any of the other Pagan or Druid Groups, Is ill-conceived, unrealistic, totally inadequate and unworkable as they would have realised had we been consulted, and will in my submission, create far more problems than it aims to solve.

They would have 'us' turn up punctually on the day and date given (arbitrarily set in stone) timing our arrival to coincide with their opening, with no thought to the prevailing traffic conditions on the various motorway networks and arterial routes throughout Britain and beyond, that we must use, as our members and congregation embark upon their pilgrimages from differing towns, villages, and cities, throughout Britain and increasingly in recent times the remainder of Europe, and arrive punctually as one, in an orderly fashion.

It is oft' time said, by me at least, that organising Pagans is likened to "Herding cats" but with the best will in the world it is in my submission totally unrealistic to think that any group, (Pagan or otherwise) would find this achievable let alone in any way acceptable.

And what part of a three day festival do they fail to understand?

And then what?

The German Motorcyclist, and yes he does exist, as does the French motorist, and the Robin Reliant driver from the South coast, and the trucks from London, Glastonbury, and Derbyshire and the car drivers from Leeds Liverpool and Birmingham, and many more to numerous to mention from Amesbury to Aberdeen, Brighton to Belfast, Kent to Kentish Town, who attend Solstice and Equinox, they are all not only expected to arrive at the same time to coincide with the opening of the English Heritage car park but then to depart without rest bite or having communed with their colleges and make their return journey in an equally ordered fashion?

No longer 'allowed' to access the World Heritage site, to stop and talk, to share in a glass of communal mead, to converse with friends old and new. But in stead, forced to rush from their religious observances in order to 'clear' the EH car parks for the arrival of the 'paying' visitor.

We were told in evidence that Churches, Synagogues and Mosques have 'opening times' and I do not doubt it, but One Night and three hours, three times a year, Could one imagine making such an offer to members of other faiths, and their reaction to such an offer?

Furthermore, there is no reference what-so-ever in the evidence we have heard to any other times of the year, for our Spiritual and Religious observances and I am far from convinced that such crumbs as may be dropped from the masters table are in anyway a fulfilment of the legal obligation of a government agency to protect my rights.

It is my submission that the implementation of the proposed Traffic Regulatory Order sought here today will make it impossible for my rights and that of others under Articles 9, 10, 11, and 14 of the Human rights act to be protected.

Nor am I satisfied that this responsibility for some reason unbeknown and unexplained to me, should have been somehow passed on to English Heritage by Wiltshire Council.

We have heard from Wiltshire council, there justification for the implementation of the orders sought here today and again I am far from convinced. They would have us believe that the loss of Amenity is in the interests of improving the Amenity somewhat of an oxymoron I think, and I can see little or no gain in closing the By-ways to traffic, whilst leaving them open to Agricultural vehicles and failing to address the problems associated with the A303.

We have heard both from the Authority and their supporters how they are being very selective in their interpretation of the Management plan, and make no secret of it.

Reducing traffic in the WHS to them means its ok for Tractors but not recreational vehicle users, ok to move the same volume of traffic around the site and actually increase traffic within the World Heritage

Site by the addition of their Vehicle Transit System, Which I personally find both offensive and intrusive.

When asked about what possible damage this might cause to the Amenity of the world Heritage site the County Archaeologist could not even guess as to the length or weight of this land train and again relied on English Heritage's evidence, clearly showing that all studies and assessments and the responsibility for them had been undertaken by English Heritage whom it was agreed in cross examination where and remain an interested party.

We have as I have already stated here, heard a lot about Action plans and schemes. The original vision that I signed up on behalf of The Council of British Druid Orders (having attended innumerable meetings hosted by Mot McDonald and the Highways agency) seems to have been lost along the way.

Replaced with a watered down version, more akin to 'Theme park Stonehenge' No longer is the A303 trunk to be removed from The WHS and I submit that without that any partial solution is nothing more than window dressing, an exercise in being seen to do the right thing.

Never have I witnessed such a vivid demonstration of 'the tail wagging the dog' as I have done at these proceedings. English Heritage may be a Government agency but it is Wiltshire Council, whose logo 'Where everybody matters' who should be leading this charge and in stead, as these proceedings clearly demonstrated are being steadily pushed from behind. It would seem to me that some obviously matter more than others.

And never have I witnessed so much 'Buck passing' as I have in these proceedings. Wiltshire council and their counsel relying on bias interpretation of Data prepared to support English Heritages planning application, and English Heritage when questioned on safety issues arising from the interpretation of such data, offering the baton to the Highways Agency, who like so many other agencies where not at the Inquiry to be challenged.

We have heard, the same 'trite' answers over and over again how it is said to improved the Amenity of the World Heritage Site, to deny access to motor vehicle users and how much better it will be.

Better for whom I ask?



Not, better for the casual visitor to the World Heritage site who will be forced to park (at no doubt considerable expense) in English Heritages car park.

Not, better for the 'out of hours visitor who simply will not be able to pull over anywhere within the World Heritage Site.

Not, better, for the recreational Vehicle user who will be excluded.

Not, better for the Pilgrim who would wish to witness Sun-rise and Sun-set in the Environs of Stonehenge (for which it was built).

Not, better for the Pagan or Druid who would wish to make his or her observances in the Environs of their Temple.

Not, better for the attendees of Solstice and Equinox who will be given a few crumbs from the Masters Table.

Not, better for the foreign tourist, who would be no longer able to break their journey to the West Country.

Not, better for the English who believe it is their Heritage.

No better simply for English heritage who believe it is theirs.

No The Order sought here today is in my submission are aimed fairly and squarely at the casual visitor, and we (my Order) have presented to this Inquiry a petition signed by over 800 of them gathered in less than one month who chose to 'pull over' on by-way 12.

That is;

Over 800 people who chose not to use English Heritages car park,

Over 800 people who chose not to avail themselves of English Heritage's services,

Over 800 people who refused to pay to park

Over 800 people who refused to 'Pay for view'

Over 800 potentially lost customers for EH,

Over 800 people should this order be implemented who will be left with No alternative but to pay to park, and pay to view

Over 800 people who would potentially risk life and limb to pull over on the verges of the A303 instead. But, that will not happen of course because we have been assured by the traffic modelling expert employed by English Heritage to promote this plan otherwise haven't we? I for one am NOT convinced by any such assurances.

Let's face it; All the objectors here at this inquiry are nothing more that collateral damage. As EH have stated in Evidence "There will be some losers, and I for one do not intend to be one of them. I will not yield my Human rights up to the great God of Revenue Protection and see NO reason why the recreational Motor vehicle user, and others should do either.

We have heard that the phrase "NOT VIABLE" with regard to English Heritage's new visitors centre was used no less than seven times in the minutes of a meeting when deciding to adopt these Traffic Regulatory Orders. These measures are not aimed at The Pagan community nor the Recreational Motor Vehicle user quite simply because neither group, pay to park or pay to view. As I have stated, we are merely 'the losers' collateral damage.

English Heritage would have us believe that the light use of light motorcyclists will or possibly could do more damage than a heavy weight farm tractor that will not be excluded from using these By-ways, I may not be a civil engineer or an Archaeologist or in any way an expert in this field but really?

We have heard a lot of well rehearsed and trite answers, but we have not heard, from perhaps the only person in the room that could have provided sensible answers;

The only person in the room with first hand and hands on experience of running Stonehenge for English Heritage and all of the associated problems of a Three day Celebration, Peter Carsen Director of Stonehenge English Heritage.

When I requested he be called as a Hostile witness this was denied and I was forced to address my questions elsewhere and was directed to refrain from questioning the witness on matters out of their field of expertise. Denied also the right to question the other agencies NT, Wiltshire Police, The Highways Agency and offered in stead a plethora of Archaeologists, a traffic management specialist who was employed to promote English Heritage's planning application for the proposed new visitor centre and an Officer of Wiltshire Council who continually referred the Inquiry to the evidence of English Heritage.

The effect on this proposed Traffic Regulatory Order would be to enforce a Curfew on the World Heritage site. The supporting witnesses have conceded that it will change the way Stonehenge is viewed for future generations and have used words and phrases such as "Ordered parking" and "Improvement to Amenity" to justify such a change and drawn the analogy to The Tower of London, Salisbury Cathedral, Blenheim Palace and the Roman Baths. In my submission Stonehenge and its environs is so much more and that is why it has World Heritage Site status. A point that seem to have been totally lost on English Heritage when marketing Stonehenge but conveniently remembered when it comes to backing, nay requesting, a Total ban on parking save for in their new visitors centre on payment of a fee of course.

So now we come to the remedy where common sense may hopefully prevail;

I invite the Inspector to recommend a modification to the order be made in that should the Stopping Up

Order be placed on the lower section of the A344 the remaining section of the metalled road be restricted by a Traffic Regulatory Order as requested.

A No right turn onto BY-Way 12 West bound on the A303 is sought from the Highways Agency and the By-ways Open to All Traffic be left as they are at present and as the name implies, BY-ways Open to All traffic.

And I reiterate what I said in my opening statement

“Should this Inquiry choose to recommend and or the Authorities try to implement said Order, we will mount a legal challenge based on the facts as we see them and contained in my and our Evidence.

We will be robust in any such challenge and will pursue every avenue open to us.

Whilst other Pagan and Druid groups may procrastinate and possibly demonstrate, we, (and My Order in particular) will leave no stone unturned in the pursuit of natural Justice. Nor will we shirk from our responsibilities to future generations who would be denied such freedoms as we hold so dear and that would be denied to them by the imposition of such an orders as is sought here today.”

It is noted that neither counsel for Promoting Authority or Their Supporting agency, Wiltshire Council and English Heritage have challenged our assertions under European or British Law (time in memorial) as to our Rights;

And in my submission,

It is these ‘Rights’ that both Authorities have a statutory duty to protect and have throughout the evidence given to this Inquiry failed to fulfil as would the implementation and application of this Order were it to be progressed without modification.

Any attempt by the Authorities to prevent us from exercising our Lawful rights as contained in Articles

9.10.11, and 14 of the convention, British law (custom and use) or common law, will result Not only in a Legal challenge but in a withdrawal and removal of our support for any of the agencies concerned.

It is my belief that in all probability, this in turn would have a knock on effect that would lead to our membership and the membership of other organisation, and individuals making where appropriate acts of civil disobedience, against any such Authority, and a return to the confrontational tactics employed by both Authority and Protestor alike in the late eighties, and early nineties.

We have fought hard for what little rights we have in and around Stonehenge and we will not give them up lightly.

We would consider the imposition of this Order not only a violation of our rights but a betrayal of trust and as such as said in my opening statement, The Battle lines are and in deed, had they not already have been, would most certainly be drawn”.

And I for my part am not styled Battlechieftain without good reason. We will not go quietly into the night. We shall rise up with one voice. And the Battle Cry shall be;

Freedom, Freedom, Freedom.....

(2) Pendragon v United Kingdom 1998

AS TO THE ADMISSIBILITY OF

ApplicationNo. 31416/96

by Arthur U. PENDRAGON

against the United Kingdom

TheEuropean Commission of Human Rights sitting in private on 19 October 1998, thefollowing members  
being present:

MM S. TRECHSEL, President

J.-C. GEUS

M.P. PELLONPÄÄ

E. BUSUTTIL

G. JÖRUNDSSON

A.S. GÖZÜBÜYÜK

A. WEITZEL

J.-C. SOYER

H. DANELIUS

Mrs G.H. THUNE

MM F. MARTINEZ

C.L. ROZAKIS

Mrs J. LIDDY

MM L. LOUCAIDES

M.A. NOWICKI

I. CABRAL BARRETO

N. BRATZA

I. BÉKÉS

D. ŠVÁBY

G. RESS

A. PERENIČ

C. BÎRSAN

P. LORENZEN

E. BIELIŪNAS

E.A. ALKEMA

M. VILAAMIGÓ

Mrs M. HION

MM R. NICOLINI

A. ARABADJIEV

Mr M.de SALVIA, Secretary to the Commission

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 21 November 1995 by Arthur U. PENDRAGON against the United Kingdom and registered on 7 May 1996 under file No.31416/96;

Having regard to :

- the reports provided for in Rule 47 of the Rules of Procedure of the Commission;
- the observations submitted by the respondent Government on 5 November 1997 and the observations in reply submitted by the applicant on 6 March 1998;

Having deliberated;

Decides as follows:

#### THE FACTS

The applicant is a British citizen, born in 1954 and resident in Hampshire. He is represented before the Commission by Mr P. Leach, a solicitor from the organisation "Liberty", based in London. The facts of the case, as submitted by the parties, may be summarised as follows.

#### A. The particular circumstances of the case

The applicant is the Honoured Pendragon of the Glastonbury Order of Druids. In 1995 the applicant wished to hold a Druidic service at the summer solstice on 21 June, at the Hele Stone which is near to a

main road and close to the monument "Stonehenge" (in recent years the applicant has been denied access to Stonehenge itself). For the preceding seven years the applicant had held similar services at the spring and autumn equinox and winter solstice, attracting about thirty people on each occasion, without causing any disorder.

Stonehenge is a monument that predates the Iron Age and consists of a circle of stones which are aligned to the midsummer sunrise. The sun rises above the Hele Stone on the date of the summer solstice. It is accepted by prehistorians that the original purpose of Stonehenge was as a scene of gatherings at the moment of the midsummer sunrise. The Iron Age Druids of Britain were highly-respected healers, judges, prophets and teachers of mystical philosophy. Whilst it appears that there is no evidence that Iron Age Druids built or presided at Stonehenge, it is likely that the tribes of the Stonehenge period (about two thousand years before the Iron Age Druids) had Druid-like figures amongst their number.

The modern Druid Orders have been reconstructing rituals, that are favoured by academics as possibly having been performed by the builders of Stonehenge, since the beginning of this century. These reconstructed rituals have taken place continuously for approximately the last 100 years at Stonehenge, prior to such assemblies being forbidden in the late 1980s.

In the mid 1980s many non-Druid people also attended Stonehenge for the summer solstice, often staying, camping and holding festivals in the surrounding area. In 1983 and 1984, some 30,000 people attended, and serious disorder broke out.

The Druid Orders were recognised by the police and English Heritage (who control the Stonehenge site), as having responsibly attempted to organise lawful and peaceful gatherings at Stonehenge. However, in 1986 English Heritage closed the site for the summer solstice and have done so since. Following the enactment of the Public Order Act 1986 (as amended) ("the Act"), various powers conferred on the police were used to prevent public order disturbances at Stonehenge at the time of the summer solstice.

On 17 January 1995 the Chief Constable of Wiltshire applied to the Salisbury District Council for an order under section 14A of the Act, prohibiting all trespassory assemblies within a radius of 4 miles from the junction of roads adjoining the Stonehenge Monument, between 11.59 p.m. on 17 June 1995 and 11.59 p.m. on 21 June 1995. In the ten or so previous years, similar orders had been made, aimed at preventing gatherings. In his application the Chief Constable stated (inter alia):

"My belief at this stage is that there is still a strong desire on the part of many New Age Travellers, and others, to establish festival sites on vulnerable pieces of land and, in particular, on the symbolic Stonehenge Monument site at the time of the summer solstice. In 1994 a total of 40 persons attempted to gain access to the Stonehenge Monument site at the summer solstice dawn which signifies a continuing hard core of individuals intent on gaining access. Whilst I am encouraged by the diminishing confrontations which have occurred at Stonehenge in recent years, in my judgment it is still necessary to reinforce the messages emanating from our recent successful operations."

The District Council acceded to the request, and the Secretary of State was asked, as required by the Act,



for his consent. On 4 May 1995, the applicant made written representations through his lawyer to the Secretary of State to complain about the impact of such an order on his ability to carry out any Druidic ceremonies near Stonehenge. The Secretary of State considered the representations made on behalf of the applicant, and gave his consent to the order before it was made on 22 May 1995. In his reply of 9 June 1995 to the applicant's solicitor's letter the Secretary of State explained:

"4. The matters raised in your letter were indeed considered in discussions between this Department, the Council and Wiltshire Constabulary.

5. Following these discussions, the Secretary of State was fully satisfied that the application for the order was properly made by the police within the terms of section 14A and that the Council were entirely justified in seeking his consent to the order. He also concluded that the proposed order was reasonable and necessary, and accordingly gave his consent.

6. The Secretary of State did consider what modifications might be made to the order, in particular as to its duration and geographical extent. However, he took the view that the order proposed by the Council, in the terms proposed, was required to meet the circumstances anticipated by the police.

7. I am not sure what "special provisions" you envisaged might be made for Druids generally, or your client in particular. You will know that by section 14A(5) an order prohibits any [his emphasis] assembly fitting the descriptions in that subsection. It would not therefore be possible to limit an order so that it does not apply to certain categories of trespassory assembly, other than those described in subsection (5); in particular, it cannot apply to an assembly held with the permission of the landowner.

...

9. You say that you are nevertheless concerned that the police may take the view that your client and those wishing to attend the Druid service cannot attend the area subject to the order, and that any dispute about this may lead to your client or others being arrested. You ask for an assurance from the council or the police that the order will not be applied to your client and his followers.

10. The manner in which the order is enforced in respect of your client, his followers or anyone else is for the Chief Constable and his officers, acting according to sections 14B and 14C of the Act. This is not something which is subject to directions from the Home Office."

On 8 May 1995, there was a mass trespass at Stonehenge and damage to the monument. There was a further trespass on 1 June which resulted in the monument being invaded by about 30 people.

On 9 June 1995, the applicant brought judicial review proceedings in the High Court. He challenged the lawfulness of the order made by Salisbury District Council, on the basis that insufficient weight had been given to his rights to freedom of religion and/or freedom of assembly before the order was made. Mr Justice Laws rejected the applicant's challenge to the order on the basis that to hold an assembly on a public highway would amount to a civil wrong, that the Secretary of State was entitled to balance the applicant's rights against those of the wider community and that whilst there was no evidence that the applicant or any of the Druids who might attend his meeting would cause any trouble or act other than

peacefully, under section 14A of the Act, it was impossible to make an order prohibiting only those intent on trouble or those with non-peaceful intentions, from Stonehenge.

On 21 June 1995, at 00.11 hrs. the applicant was arrested outside the Stonehenge perimeter fence in the proximity of the Helestone, which was within the 4 mile exclusion zone. There were in excess of 20 people at the service being held by the applicant, who was in full ceremonial dress. The police approached the gathering and using a loudhailer made a broadcast that the assembly was contrary to section 14A of the Act and the participants should leave immediately or be arrested. The applicant was in addition served with a written notice explaining the 4 mile exclusion zone. The police requested the applicant to leave the site; however he refused and was consequently arrested. The applicant was taken to Salisbury Police Station, where he arrived at 00.53 hrs. He was charged at 5.37 hrs. on 21 June 1995 with taking part in a prohibited assembly contrary to section 14A (5) of the Act (the charge was subsequently amended to refer to section 14B (2) of the Act). He was detained for approximately 11 1/2 hours in total and was then taken before the magistrates and released on unconditional bail at 11.45 hrs. on 21 June 1995 (several hours after the summer solstice sunrise had taken place).

The applicant was tried before the Salisbury Magistrates' Court and acquitted on 13 September 1995.

#### B. Relevant domestic law

Section 14A of the Public Order Act 1986 (as amended by section 70 of the Criminal Justice and Public Order Act 1994) ("the Act") provides, so far as relevant, as follows:

"(1) If at any time the chief officer of police reasonably believes that an assembly is intended to be held in any district at a place on land to which the public has no right of access or only a limited right of access and that the assembly-

(a) is likely to be held without the permission of the occupier of the land or to conduct itself in such a way as to exceed the limits of any permission of his or the limits of the public's right of access and

(b) may result-

(i) in serious disruption to the life of the community, or

(ii) where the land, or a building or monument on it, is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument,

he may apply to the council of the district for an order prohibiting for a specified period the holding of all trespassory assemblies in the district or a part of it, as specified.

(2) On receiving such an application, a council may-

(a) in England and Wales, with the consent of the Secretary of State make an order either in the terms of the application or with such modifications as may be approved by the Secretary of State;

.....

(5) An order prohibiting the holding of trespassory assemblies operates to prohibit any assembly which-

(a) is held on land to which the public has no right of access or only a limited right of access, and

(b) takes place in the prohibited circumstances, that is to say, without the permission of the occupier of the land or so as to exceed the limits of any permission of his or the limits of the public's right of access.

(6) No order under this section shall prohibit the holding of assemblies for a period exceeding 4 days or in an area exceeding an area represented by a circle with a radius of 5 miles from a specified centre.

(9) ...

"assembly" means an assembly of 20 or more persons."

Section 14B of the Public Order Act 1986 (as amended by section 70 of the Criminal Justice and Public Order Act 1994) provides, so far as relevant:

"(2) A person who takes part in an assembly which he knows is prohibited by an order under section 14A is guilty of an offence."

#### COMPLAINTS

The applicant complains that his rights under Articles 9, 10 and 11 of the Convention were violated, in that he was prevented from being present or carrying out a Druid ceremony at Stonehenge at the sunrise of 21 June 1995 and was arrested and detained in police custody. He complains that the law in the United Kingdom failed to protect these rights sufficiently under Articles 9, 10 and 11 of the Convention.

Further the applicant complains of a violation of Article 14 of the Convention, because by prohibiting all people from celebrating the summer solstice at Stonehenge, Druids were disproportionately discriminated against, since the summer solstice has particular significance for their beliefs.

Finally, the applicant complains under Article 13 of the Convention that he had no remedy available to him in the law of the United Kingdom capable of effectively challenging the order made under the Act.

#### PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 21 November 1995 and registered on 7 May 1996.

On 20 May 1997 the Plenary Commission decided to transfer the application to it.

On 27 May 1997 the Commission decided to communicate the application to the respondent Government.

The Government's written observations were submitted on 5 November 1997, after an extension of the time-limit fixed for that purpose. The applicant replied on 6 March 1998, after two extensions of the time-limit.

On 12 December 1997 the Commission granted the applicant legal aid.

## THE LAW

1. The applicant complains that the order made under section 14A of the Act has denied him his right to freedom of religion, expression and assembly in breach of Articles 9, 10 and 11 of the Convention.

The Commission recalls that it has previously declared inadmissible a case concerning druidic access to Stonehenge (*Chappell v. the United Kingdom*, No. 12587/86, Dec. 14.7.97, D.R. 53, p.241). That case dealt principally with the complaints raised under Article 9 of the Convention, although it also considered the Article 11 issues. In the present case, the Commission notes that the powers exercised by the police derived from the Public Order Act 1986 as amended, and those powers are concerned principally with limitations on certain types of assembly. In the present case, the Commission will therefore deal with the case principally under Article 11 of the Convention, whilst having regard to Articles 9 and 10 of the Convention (see also No. 25522/94, Dec. 6.4.95, D.R. 81-A, p. 146, at p.151).

Article 11 of the Convention provides as follows:

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society [inter alia]... for the prevention of disorder or crime..."

The Government accept that the order interfered with the applicant's right to freedom of peaceful assembly, but contend that such interference was justified as pursuing a legitimate aim and being necessary in a democratic society. In particular, they point out that the Act sets up a number of safeguards against an unnecessary resort to section 14A, namely the requirement that the Chief Constable, the local council and the Secretary of State must all agree on the order and its terms. The order was necessary because the other powers in the Act did not provide adequate protection against a threatened mass invasion of private or public property by disorderly elements causing danger to the public or sections of it, resulting in disorder, to the detriment and damage of a prehistoric site of incalculable importance and resulting in interference with the rights and freedoms of members of the public.

The applicant underlines that Article 11 declares a right, but contends that that right is absent from domestic law. He bases this contention on the findings in the case of *DPP v. Jones and Lloyd* ([1997] 2 All ER 119): the Divisional Court in that case held that use of the highway for purposes incidental to passage and repassage is limited where an order has been made under section 14A such that a peaceful assembly of 20 or more persons can become "trespassory". An appeal against that decision is pending before the House of Lords. He considers that the question whether the order complies with the requirements of Article 11 para. 2 of the Convention does not arise because domestic law rests on the premise that no right to peaceful assembly exists in English law.

The Commission recalls that under Article 11 of the Convention, the right to freedom of peaceful assembly may only be restricted if such restrictions are "prescribed by law and are necessary in a

democratic society [inter alia]... for the prevention of disorder or crime ...".

The applicant's arrest and subsequent detention interfered with his right to freedom of peaceful assembly.

The Commission does not accept the relevance of the applicant's submissions as to the case of DPP v. Jones and Lloyd. The question for the Commission is not whether or not domestic law contains a particular right (the Convention does not require incorporation of its substantive provisions into domestic law - see the Court's comments in the context of Article 13 in the case of James and others v. the United Kingdom, Series A no. 98, p. 47, para. 85), but rather whether the applicant's Convention right was respected. The Commission notes that the applicant was ultimately not convicted before the Salisbury Magistrates Court, and that the case of DPP v. Jones and Lloyd was decided later.

The Commission must therefore determine whether the interference with the applicant's rights was compatible with Article 11 para. 2 of the Convention.

The Commission recalls that a norm cannot be regarded as a "law" for the purposes of Article 11 para. 2 of the Convention unless it is "formulated with sufficient precision to enable the citizen - if need be, with appropriate advice - to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail" (see, for a case in the context of Article 11 of the Convention, Eur. Court HR, Ezelin v. France judgment of 26 April 1991, Series A no. 202, p. 21, para. 45). In the present case, the provisions of section 14A of the Act were known to the applicant, and they set up a clear procedure which had to be complied with before the order could be drawn up, involving input from the local council, the chief constable and the Secretary of State. The applicant was able to make representations before the order was drawn up, and was able to challenge it in court before it entered into force. Further, the order was limited in both time and space: it was valid for four days, and applied to an area of four miles around Stonehenge. It has not been suggested in the present case that the police powers of arrest were not prescribed by law.

The Commission thus considers that the restriction on the applicant's freedom of assembly was "prescribed by law" within the meaning of Article 11 para. 2 of the Convention.

The Commission has no doubt as to the need to protect Stonehenge, and accepts that the disorder at the site in previous years and immediately before the order was made could justify steps of a preventive nature. The aim pursued by the restriction was therefore compatible with Article 11 para. 2 of the Convention.

There remains the question of whether the steps taken were "necessary in a democratic society", that is, whether they were proportionate to the aim of preventing disorder, in particular given that the applicant himself (and his assembly) was not likely to create disorder, and given that he wished to use the site for the purpose for which it was in all likelihood originally intended. Further, the applicant did not expect to have access to the site itself, but would have been content to remain close to the Hele Stone, on the verge of a trunk road and outside the perimeter fence of the monument.

The Commission accepts that the applicant's assembly would have been legitimate, and that the assembly was of a religious nature, such that Article 9 of the Convention may also be relevant. However, as the Commission has held on a number of occasions, public order concerns may justify a prohibition in a given case (see, for example, No. 8440/78, Dec. 16.7.80, D.R. 21, p. 138, concerning a two month ban on public processions other than customary ones in London, or No. 25522/94, Dec. 6.4.95, D.R. 81-A, p. 146, concerning a general ban on demonstrations concerning Northern Ireland in Trafalgar Square, in London). In the present case, as in the above-mentioned case of *Chappell v. the United Kingdom*, the Commission notes that there had been considerable disorder at Stonehenge in previous years and more recently (indeed, the facts of *DPP v. Jones and Lloyd* relate to a non-religious assembly in May 1995), and it cannot be considered to be an unreasonable response to prohibit assemblies at Stonehenge for a given period. Whilst accepting that the limitations to the order (four days' restrictions for four miles around Stonehenge) do not benefit the applicant, the Commission must have regard to them in assessing the overall proportionality of the restriction on the applicant's Article 11 rights. In this respect, the Commission notes that the ban did not affect groups of less than 20 persons and that it was open to the applicant to practise his religion or belief in a smaller group, even within the four mile exclusion zone.

Bearing all these factors in mind, the Commission considers that the interference with the applicant's right to freedom of assembly can reasonably be regarded as "necessary in a democratic society ... for the prevention of disorder" within the meaning of Article 11 para. 2 of the Convention.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

2. The applicant also complains that the prohibition on celebrating the summer solstice in the immediate vicinity of Stonehenge is disproportionately affected Druids, for whom the summer solstice had particular significance and that this constituted discrimination in contravention of Article 14 of the Convention.

Article 14 of the Convention provides as follows:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

The Commission notes that there is no evidence that Druids were treated in any way differently from any other groups of people wishing or attempting to observe the summer solstice in the vicinity of Stonehenge. Whilst the Commission recognises that Druids may hold particular beliefs associated with the summer solstice, the Commission finds that the ban on observing the summer solstice in the vicinity of Stonehenge cannot be said to have had a disproportionate effect on Druids as opposed to other groups who wanted to observe the summer solstice due to different beliefs or purely secular reasons. Nor does the Commission find any evidence of any discriminatory treatment of the applicant in connection with his arrest and detention. Finally, the Commission recalls its decision in No. 12587/86 (cited above) where individuals and organisations interested in Stonehenge consulted with the

authorities to try to find alternative solutions to the ban. In the present case, the Commission notes the applicant has not suggested any alternative solution to the ban which could accommodate his religious needs without attracting massive groups of visitors likely to endanger Stonehenge. In these circumstances, the Commission finds that there is no evidence of discrimination against the applicant in the enjoyment of his Convention rights.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

3. The applicant further complains that there was no possibility of effectively challenging the order made under the Act and this constituted a violation of Article 13 of the Convention.

Article 13 of the Convention provides as follows:

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

The Commission recalls that the guarantees of Article 13 apply only to a grievance which can be regarded as "arguable" (cf. Eur. Court HR, Powell and Rayner v. the United Kingdom judgment of 21 February 1990, Series A no. 172, p.14, para. 31). In the present case, the Commission has rejected the substantive claims as disclosing no appearance of a violation of the Convention. For similar reasons, they cannot be regarded as "arguable".

It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 of the Convention.

For these reasons, the Commission, by a majority,

DECLARES THE APPLICATION INADMISSIBLE.

M. deSALVIA

S. TRECHSEL

Secretary

President

to the Commission

of the Commission

Note, (c) King Arthur Pendragon 2014. After which the so called 'exclusion zone' was never applied for again. In 1999 'They' tried an all ticket event (which failed miserably) and in 2000 they agreed to what is now called Managed Open Access.

## DOCUMENT (1)

Witness Statement from Professor Ronald Hutton Professor of History at Bristol University

This witness statement was prepared for the trial of Arthur Pendragon at Southwark Crown Court, November 1997, regarding Arthur's right to carry the sword Excalibur.

Virtually everybody in the Western world has heard of the Druids, they are part of the common cultural inheritance of our civilization. This familiarity is increased, rather than diminished, by the fact that the 'original' Druids, of the Celtic Iron Age, remain such shadowy figures.

We can say with confidence that they were the public magicians, soothsayers, religious experts and political and judicial arbitrators of the tribes of north-western Europe at the time when history begins in this region; about two thousand years ago.

It is also fairly certain that Britain was recognized as their their original homeland, in which the system of thought and action which they represented was first developed. Beyond these facts, however we run up against the problem that since their own teachings were never committed to writing, we possess no sources produced by Druids themselves.

Instead, we depend on views of them developed by outsiders, either contemporary Greek or Roman writers, or those later Christian Middle Ages; and these varied wildly according to the prejudices and propaganda needs of the authors concerned.

There is thus no 'authentic' original Druidry against which later Druids can be judged; rather, Druids are powerful symbolic figures, which have been appropriated and re-imagined in different ways by successive generations ever since ancient times, That is their true power to move the imagination.

In the eighteenth century Age of Reason they were most commonly seen as rational, pacific and patriotic thinkers who combined rigorous training and close observation of nature to produce a reasonable and benevolent religion which reconciled God, humanity and the other parts of creation in a harmonious system.

From this time sprang a succession of modern Druid orders, some of which survive to the present day, dedicated to the task of putting together the wisdom of all the worlds' great religions, within a single framework with a distinctively British character.



Since the mid-1980's a set of new Druid groups have appeared, which are devoted to the work of developing a new spirituality based upon the traditions, monuments and landscapes of the British Isles.

I have been studying these intensively since 1991 as part of a research project into such new 'native' religious movements. Arthur Pendragon is one of the most prominent and most significant figures within them.

The groups concerned number just over 6,000 (Ed: over 15,000 with recent affiliations) individuals between them and are growing fast; furthermore, the ideas and images they represent are rapidly spreading among British youth and among specific sub-cultures such as New Age Travelers. They all have in common a powerful reverence for the land of Britain as something sacred in itself, with this sanctity especially concentrated in certain places such as Stonehenge.

All are also dedicated to improving the spiritual quality of life of the British, by assisting people to greater self knowledge, to a still more positive set of relationships with each other and with the natural environment and to a greater personal freedom, within a framework of social responsibility.

All, therefore, feel compelled by their beliefs to oppose specific projects which damage places of natural beauty and historic significance, such as particular road-building schemes and quarries, and to safeguard or extend civil liberties. All are committed to a pacifist ethic which condemns violence and prefers to campaign by employing moral pressure and drawing public attention to the issues at stake.

From that point onward, however, practice between both groups and individuals diverge considerably. Some adopt a quietest stance, preferring to advance their ideals through meditation and personal example. Others prefer to take part in direct and public political action, including demonstrations and protest camps built on the route of controversial developments. Arthur Pendragon is one of the most important of the latter.

Before concentrating on him, it may be helpful to emphasize that Druids of his kind are contributing to debates which involve a much larger cross-section of the national community and are commonly recognized to possess a great deal of validity.

Their religious ideals represent only one part of a constellation of movements, some within established

traditions such as Christianity and some outside them, which are striving to develop a spirituality which is more feminist, more sensitive to environmental issues and more dedicated to individual freedom and personal growth, than those which have prevailed in recent centuries.

The specific issue of access to Stonehenge has divided the community of professional archaeologists in the past few years, with some of the most respected figures joining the Druids in arguing for reopening the monument at the key solar festivals with which it is associated.

The controversy over national transport policy and the road building schemes which are the main feature of the current one, has involved a very large number of people and range of ideologies and interests. The question of who owns the land and who may have access to it or should be concerned in its preservation, had generated another major debate in the past two decades.

The new Druids and especially those involved in direct action such as Arthur, are therefore not fringe figures with ideals and preoccupations detached from those of a wider national community, but some of the more colourful contributors to a set of arguments and activities which involves a large part of that community. Now to Arthur Pendragon himself. I first saw him in person in May 1993 adopt a quietest stance, preferring to and have been observing him at regular and frequent intervals ever since. It would be impossible for me to conduct my present study without doing so, because he is such a major and respected figure among the new Druid groups.

Indeed, he holds formal office in no less than three, being the Pendragon of the Glastonbury Order of Druids and the Swordbearer of the Secular Order of Druids, as well as leading his own order, the Loyal Arthurian Warband, as chief. These represent between them, the three groups most heavily involved in direct political campaigning.

Although a strong mutual respect has developed between us, it would be stretching this too far to term us as friends. My opinion of him therefore reflects my own viewpoint as an onlooker and an academic scholar.

He is clearly a sincere natural mystic, whose very strong libertarian political convictions are bound up with a sense of guidance by supernatural forces. His belief in reincarnation was stimulated by the experience of vivid dreams and reveries, known since childhood, which seemed to him to be memories of previous lifetimes.

His assumption of the identity of King Arthur, in 1987, was precipitated by a series of apparent signs and

omens. His love of the land is charged by his belief (shared by hundreds of thousands of modern Pagans in Europe and North America) that it is sacred in itself and represents a living entity, most often called Gaia, Mother Earth, or, (to Arthur as for many others) The Goddess.

In taking up this identity, he has identified with a well known legend that Arthur and his knights are not dead but sleeping in a cavern, from which they awake when the land is in danger. Hitherto, that has usually been interpreted as signifying an external danger (from foreign invaders), needing a military response.

To Arthur and his comrades, it is an internal danger, from pollution, destruction by needless building or digging programmes and the erosion of civil rights and demands of a non-violent response of demonstration and the building of public opinion. It is to that they have dedicated themselves.

The Loyal Arthurian Warband, over which he presides, is now one of the largest modern Druid orders and is divided into three levels or circles according to the degree of commitment desired of its members.

Its members define themselves by swearing to three things. To tell the truth, to uphold honour and to fight for justice. The first is fundamental, as it is believed that insincerity and dishonesty corrode the bonds of the Warband and destroy any hopes it has of winning and retaining the public esteem.

It also carries the connotation that only displaying the highest personal probity (as 'knights') can the Warband's people prove themselves worthy of the causes for which they campaign. Honour and justice are combined in those causes, by the perceived need to defend the land against damage or destruction and civil liberties and human rights -a category extended upon occasion to include workers' rights against encroachment.

The language is chivalric and military, but the ethics of the Warband remain pacifist and its members are expected only non-violent direct action. In its passive form, this consists of putting their bodies in the way of developers until dragged aside. In its active one, it takes the form of digging tunnels or building tree-walks in the path of proposed development and trying to evade capture and joining protest meetings and marches. These activities are, of course, common to many other groups concerned with the same causes.

The central emblem of the Loyal Arthurian Warband is the ceremonial sword, which Arthur himself has carried from 1987 until its confiscation by the Police upon April 12 1997. He identifies it with the original Excalibur of the Arthurian legends. It has been used to dub knights of the Band, which is the formal rite of admission to the group, and oaths are taken upon it in other ritual contexts.

The latter include marriage ceremonies of members of the group and of their friends, solemn undertakings to carry out particular tasks and, (on one occasion) the formal affirmation to tell the truth in a Crown Court. I have myself witnessed examples of all these different kinds of proceeding.

The use of swords in such contexts is, of course, itself a mediaeval tradition, but the symbolism has been reinforced in modern times by the related tradition of high ceremonial magic, as developed in the nineteenth century by the French occultist Eliphas Levi and the British Order of the Golden Dawn.

Within this, a sword represents the human will, which is expected for solemn purposes to be as strong and straight as the blade and pure as the steel of which it is made. A related aspect of this tradition is that a sword used in a sacred and ritual context is polluted by being used for violence and indeed, upon none of the scores of occasions upon which I have closely watched or interviewed Arthur Pendragon have I notified any suggestion that he does not hold to this rule.

The legendary Excalibur was a fighting weapon, employed in battle; this one functions in virtually the opposite role, as a purely symbolic object, comparable to the four swords carried in the coronation ceremony of British monarchs, or to the maces of town councils, universities and of the House of Commons.

Precisely the same considerations apply to the ceremonial dagger carried by Arthur Pendragon until its confiscation by the Police upon the same date.

In the Western tradition of ritual magic, described above, the dagger functions as a miniature equivalent to the sword and likewise represents the human will. It is often deployed in a magical context for which a sword would be unwieldy, such as drawing sacred signs upon the air, but it also functions in a more practical role, of cutting herbs, plants and flowers used for medicines or as ritual decorations and symbols.

The most celebrated example of this in Druid tradition is the ritual gathering of mistletoe. I have seen

Arthur employ his own ceremonial dagger in this latter capacity and for no other purpose.

It may be helpful in the context to note that a black handled ritual knife, known as an Athame, has become the prime symbol and ceremonial object of the modern Pagan religion of Wicca, drawing upon the same body of tradition, no Wiccan can practice his or her religion without the possession of one.

A curious and paradoxical aspect of Arthur Pendragon's role is that he has adopted the trappings and persona of mediaeval monarch and his companions the identity of mediaeval knights, as part of a cultural movement which in general dislikes authority figures and hierarchies and prefers an ethic of communal work and comradeship.

The paradox is resolved by Arthur's consistent refusal to be treated as a guru or cult leader by the Warband and its allies. I have repeatedly seen him use his considerable sense of humour to divert or deflate attempts to give him this sort of stature and this behaviour is the best illustration of an important feature of the Loyal Arthurian Warband which has contributed considerably to the success with which it has functioned.

On the other hand, as indicated above, Arthur and its other members are genuine mystics and visionaries, who take the causes to which they have dedicated themselves very seriously indeed. On the other, they go to some lengths to avoid taking themselves too seriously and so acquiring the disposition of fanatics; there is a great element of playfulness and parody in their self-image.

Their identity as Arthurian knights lends to their activities something of the atmosphere of carnival and street theatre and it has the undoubted practical advantage of attracting and holding the attention of the mass media and therefore of the public, in a which more conventional and less colourful protesters do not have.

In this respect they stand firmly in another tradition of British popular political movements associated with a fancy dress which gives drama and adds meaning to protest, examples between 1600 and 1900 include Captain Pouch, Lady Skimmington, the Waltham Blacks, the Scotch Cattle, and the Hosts of Rebecca. This is a distinguished company and the Loyal Arthurian Warband very clearly represents a modern continuation of it.

A contemporary historian has therefore, to take Arthur Pendragon seriously. Upon the one hand he is a major figure in modern Druidry, leading one of the largest orders and representing a distinctive form of spirituality.

On the other, he has an equally important place in the history of groups concerned with environmental issues and civil rights. It is an impressive dual achievement.