



## Poll v Bartholomew (2006)





## Legal Case Study: Poll v Bartholomew (2006)

The Claimant, Mr Gary Poll, was riding his motorcycle along the Old Wells Road, near Mells, in Somerset, on 11 July 2001, when he collided with a fallen ash tree. It is not known if the tree fell and hit him or whether it had fallen and he ran into it. The tree was growing on land owned by the Defendants, the Viscount and Viscountess Asquith of Morley, who were responsible for its maintenance. The tree was informally inspected by an independent forestry contractor on a regular basis during the course of him driving past and looking for dead or dying trees.

The tree was a maturing hedgerow ash (*Fraxinus excelsior*) with four stems originating from a coppice stool in the hedgerow. The base of the tree was set well back off the road and not easily visible because of thick vegetation, but it could be easily inspected from an adjacent field with obvious access. The stem that failed had an included bark union at the base that was not easily visible from the road, but was obvious upon closer inspection. Additionally, there was a significant fungal bracket beneath the overhang of the coppice stump where it extended out slightly over an adjacent ditch. The judge found that if a proper inspection had been carried out, then the included bark defect and the fungal bracket would have been discovered.

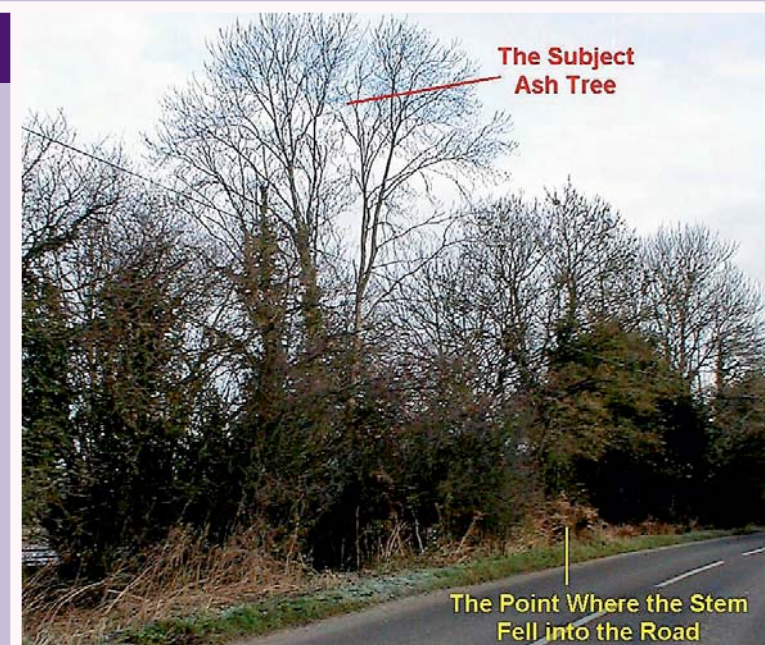
### Points of arboricultural interest:

**1. Structural and health indicators of instability:** This case highlighted that although health problems such as dying branches or unhealthy foliage are obvious indicators of potential problems, equally as important are structural conditions that may require a closer check to discover.

The ash that failed was in a hedgerow that had been regularly cut close to the ground and the judge held that a competent inspector should have been alert to that and looked for structural conditions that this management was known to produce, namely multiple stems that could have included bark, making them more vulnerable to failure.

**2. Level of inspector competence:** The experts agreed, and the judge accepted that “A ‘Competent Person’ as recommended in Circular 52/75 will have sufficient training, expertise and/or qualifications to identify tree hazards, assess the levels of risk and make appropriate management recommendations.”

This debunks the common myth that formal qualifications are the principal means of assessing competence; practical experience is equally as important, and should not be dismissed out of hand.



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