

**The Linguistic and Literary Impact of the
Norman Invasion of England:
Royal Legal and Juridical Writings
from 1066 to 1189**

By

AIMERIC VACHER

**A dissertation submitted to the Graduate Faculty in English
in partial fulfillment of the requirements for the degree of Doctor of
Philosophy, The City University of New York**

2006

UMI Number: 3204969



UMI Microform 3204969

Copyright 2006 by ProQuest Information and Learning Company.
All rights reserved. This microform edition is protected against
unauthorized copying under Title 17, United States Code.

ProQuest Information and Learning Company
300 North Zeeb Road
P.O. Box 1346
Ann Arbor, MI 48106-1346

This manuscript had been read and accepted for the Graduate Center Faculty English in satisfaction of the dissertation requirement for the degree of Doctor in Philosophy

Date

Chair of Examining Committee – Pr Scott Westem

Date

Executive Officer – Pr Steven Kruger

Pr Scott Westem

Pr Steven Kruger

Pr Catherine McKenna

Supervisory Committee

ABSTRACT

The Linguistic and Literary Impact of the Norman Invasion of England: Royal Legal and Juridical Writings from 1066 to 1189

by

Aimeric Vacher

Adviser: Professor Scott Westrem

This dissertation is a linguistic description and study of England from William I to Henry II (1066-1189). After the battle of Hastings, the Norman invasion of the English realm ruled by King Harold led to the establishment of a bicultural society. More than the domination of the Norman minority over the Anglo-Saxon commoners, the symbol of this cultural duality is the linguistic frontier drawn between the indigenous people and its new aristocracy. Actually, this cultural line was not clearly defined and the linguistic question of the Anglo-Norman period was more complex than this general statement seems to indicate.

Under Anglo-Norman rule, three languages coexisted in England: Old English was spoken by the native population, Norman French by the conquering aristocracy, and Latin was written by the administration and the scholars. Relying mainly on royal legal and juridical writings issued by Anglo-Norman kings, this

study aims at revealing why these three languages completed each other. Moreover, it explains how the policy of William and his heirs, as well as some political events - such as the different reorganizations of the *witenagemot*, the traditional English royal council - and some aspects of the Norman rule - such as the need to protect the new ruling community - led to such coexistence.

The Anglo-Saxon administrative background has also its share of responsibility in the establishment of a trilingual culture in England during the eleventh and the twelfth centuries; the juridical and judicial basis of the native society could not be ignore by the foreign aristocracy. However, the influence of Anglo-Saxon culture upon the settlers is not as much linguistic as it is literary. While Anglo-Normans brought to England a French dialect – and its pronunciation - and a specific vocabulary still present today, they adopted Anglo-Saxon law written practices and the usage of the most important native legal document: the *writ*.

CONTENTS

ABSTRACT.....	iii
CONTENTS.....	v
ACKNOWLEDGMENTS	x
LIST OF TABLES	xii
LIST OF APPENDICES	xiii
INTRODUCTION.....	1
CHAPTER I THE LINGUISTIC EVOLUTION OF THE ANGLO-NORMAN ADMINISTRATION	10
I. The decline of Old English.....	10
A. The years 1066 – 1070: The survival of Old English as an official language	10
1. The dominant language.....	11
a. The perpetuation of the Anglo-Saxon language.....	11
b. Working with the Anglo-Saxon lords.....	14
2. The exceptional use of Old English as an official language.....	17
B. The years 1070 – 1189: The language of the commoners.....	21
1. The Northumbrian Revolt.....	22
a. The events	22
b. The consequences	24
2. The Revolt of the three earls.....	27
a. The events.	27

b.	The Normanization and the end of royal benevolence	28
C.	The survival of English under Anglo-Norman rule (1072-1189)	31
1.	The Old English legal corpus of William I's reign.....	32
2.	The Old English legal vocabulary of the <i>Leges Henrici Primi</i>	37
3.	Explanation of the evolution of the Old English vocabulary under the Norman kings of England	48
a.	William I's legislation.....	48
b.	The development of Old English terminology at the time of the <i>Leges Henrici Primi</i>	51
II.	The introduction of French	52
A.	What is French ?	53
1.	The roots of <i>Law French</i>	53
2.	“Anglo-French”.....	56
B.	The oral assets of French.....	57
1.	The royal administration	57
2.	The Normanization of the royal entourage	59
a.	A new jargon	61
b.	England: a Franco-Norman realm (1066-1189).....	63
2.	Local administration: a bilingual field.....	66
III.	The rise of Latin	68
A.	The language of the scholars.....	69
B.	The language of the Anglo-Norman administration	69

CHAPTER II CHANGES IN THE ADMINISTRATIVE DOCUMENTS UNDER THE ANGLO-NORMAN DYNASTY	71
I. Changes in the codes of law	71
A. Towards Anglo-Norman “Common Law”	71
1. A written standardization of the procedures.	71
a. Writing the law	71
b. Choosing a law	73
2. The survival of local law.....	74
B. The evolution of English lawcodes under Norman rule	77
1. The prologue	77
a. The Anglo-Saxon literary justification of the prologue	77
b. The <i>witenagemot</i> makes the lawcode official.....	79
c. A formatted prologue	80
d. The final form of the Anglo-Saxon prologue	83
e. The Anglo-Norman prologue.....	85
2. “All men should keep and observe the law of King Edward”: The Anglo- Norman continuation of Anglo-Saxon lawcodes.....	86
C. A comparative textual study	88
1. Copying Anglo-Saxon codes	89
2. The reasons for the survival of Anglo-Saxon laws.....	94
II. The writ.....	97
A. The formal evolution of the writ	98
1. The Anglo-Saxon characteristics of the writ	98

a. The difference between the writ and the charter	98
b. The configuration of the writ	99
B. Anglo-Norman influence on the writ	101
1. The decline of the charter	101
2. The evolution of the writ under Norman rule	102
3. The Anglo-Norman wording of the writ	105
a. A means of sharing legal information	106
b. The Anglo-Norman specialization of the writ	109
c. The feudal writs	110
d. The procedural writs	114
e. Miscellaneous writs	117
4. Increased Norman use of the writ	119
III. The coronation documents	122
A. The Anglo-Saxon oath	122
B. Homage to William I	125
C. The charter of liberties	129
CONCLUSION	131
APPENDICES	135
GLOSSARY	160
BIBLIOGRAPHY	168
I. Primary Sources	168
A. Codes of law and other juridical documents	168
B. Annals and chronicles	170

C. The <i>Domesday Book</i>	170
1. The <i>Great Domesday</i>	171
2. The <i>Little Domesday</i>	173
II. Secondary Sources	173
A. English law	173
B. English history	177
C. Biographies	180
III. Miscellaneous books and reference books	181
IV. Internet websites	182
A. Anglo-Norman Kings	182
B. Miscellaneous biographies	183
C. Historical facts	183
D. Medieval law	183
E. Miscellaneous websites	184
INDEX OF PROPER NOUNS	185
INDEX OF COMMON NOUNS	188

ACKNOWLEDGMENTS

This dissertation may be my last one. After thirteen years wandering from one university to another, from France to the United States of America, it may be time to stop studying, at least for a few months.

Before expressing my gratitude to any institution or scholar, I must thank my relatives. First, I am infinitely grateful to my parents who gave me the support, financial and moral, to study so many years while they could have expected me, after my Master's degree at least, to live on my own. I do not think many parents would have made the same sacrifice. As important was the support of Amène who has been sharing my life these past eleven years. While she was dreaming of starting a family, she has, nonetheless, waited patiently for me to be ready – which means, in this case, putting an end to my studies (I should apologize not to have done so when I successfully completed my Ph.D. at the Sorbonne almost two years ago).

While I was working on my Master's dissertation, Pr F. Bertrand, my director told me that I should not thank him because he was only doing what he was paid for. Nevertheless, I would like to express my gratitude to Pr Scott Westrem. He was not only my dissertation supervisor but he is also an important person in my life. While he had known me for just a few months, back in 2000, he gave me the opportunity to study at the Graduate Center of New York - where I was proud to receive a "University Fellowship" - and to work as an adjunct instructor at Lehman College. Not only did he welcome me in

this major institution that is the City University of New York but he also made me feel at home there. Alone in the United States I knew I could count on his help and his support.

I would like to thank the faculty of the Graduate Center and especially Dr. William P. Kelly, Pr Catherine McKenna, Pr Gordon Whatley, and Pr Sargent Michael, to name just a few. They welcomed me at CUNY and made me discover so many fields of interest I did not know and that I have to explore – my nights are now shorter than ever.

My final thanks go to the various institutions which where as many homes during my American life: Lehman College and the New York Public Library, where I spent most of my days, and the International House of New York, where I spent most of my nights and where I have met some of my best friends and so many brilliant people.

LIST OF TABLES

I. The Anglo-Norman lawcodes (1066-1189).....	4
I.1 Documents relating to the reign of William I.....	4
I.2 Documents concerning the reign of Henry I.....	5
II. Anglo-Saxon terms found in the legislative texts attributed to William I.33	33
II.1 <i>De Libertatibus Restitutis Ecclesiis et Ecclesiasticis Personis</i>	33
II.2 <i>The Ten Articles</i>	33
II.3 <i>The Willelmi Articuli Retractati</i>	34
II.4 <i>The Leis e Custumes</i>	34
III. Old English vocabulary in the juridical texts issued under Henry I.....38	38
III.1 The Decree concerning the county and hundred courts.....	38
III.2 The Charter of London.....	38
IV. Old English vocabulary in the <i>Leges Henrici Primi</i>.....39	39
V. Number of writs issued by the Anglo-Norman kings.....120	120

LIST OF APPENDICES

Appendix A. English witnesses and addressees of Anglo-Norman charters and writs	135
Appendix B. <i>Leis e Custumes</i> of William I	137
Appendix C. Decree of Henry I concerning the county and hundred courts	151
Appendix D. Writ of Stephen (1139-1153)	153
Appendix E. <i>The Assize of Northampton</i> (1176).....	154
Appendix F. Genealogical table of the Norman dynasty	159

INTRODUCTION

“Unless a man knows French,
nobody thinks much of him”

Robert of Gloucester, *Chronicle*, 13th century

“Anno ab incarnatione Domini mlxvi, indictione iv mense aprili fere xv diebus a parte Circii apparuit stella quae cometes dicitur, qua ut perspicaces astrologi qui secreta physicae subtiliter rimati sunt asseuerant mutatio regni designator” (“In the year of Our Lord 1066, the fourth Indiction, during the month of April, a star known as a comet appeared for almost fifteen days in the north-west sky. Learned astrologers who investigate the secrets of natural science declared that this portended the transfer of the realm”).¹ It does not matter if this anecdote related by Orderic Vitalis in his *Ecclesiastical History* was factual or if the event – the appearance of what we call today Halley’s comet – was only later, after the events of 1066, linked to the Norman invasion of England. The fact is that the conquest of England by William I, Duke of Normandy, has long received great attention in Europe, and for good reasons. First, the Normans, in seizing

¹ Orderic Vitalis, *The Ecclesiastical History*, vol. II, book 2. 134-135.

power in England in 1066, changed the balance of forces in Europe and contributed to the development of the island of Britain into a major power in what was then thought to be the extreme northwest frontier of the inhabited world. Second, despite the relatively short time during which they ruled the island - only around a century, from 1066 to 1189 - they left a lasting impression on English culture and, in a way, contributed to its revitalization.

The invasion of the kingdom of England by the duke of Normandy led to the establishment of a bicultural society. More than the domination of the Norman minority over the Anglo-Saxon commoners, the symbol of this cultural duality is the linguistic frontier drawn between the indigenous people and the new aristocracy. Actually, this cultural line was not clearly defined and the linguistic question of the Anglo-Norman period was more complex than this general statement seems to indicate. In order to analyze and understand this matter, I will, in the present work of research, examine the problem through the royal administrative documents issued in England between 1066 and 1154.

The Anglo-Norman corpus of administrative texts that we possess today is substantial despite the loss engendered by wars, fire or (particularly in the case of writs) the negligence of their holders. These texts - very diverse (codes, charters, ordinances, writs, chronicles, and literary works) - may be divided into three

categories: the legislative texts, the juridical documents and miscellaneous unofficial texts.

Firstly, the focus of my research will be legislative texts, strictly speaking. Tables I.1 and I.2 display the main texts of this category composed of the codes, decrees and ordinances issued by the Norman kings of England².

² See appendix F. “Genealogical table of the Norman dynasty”, p 159

I. The Anglo-Normans lawcodes (1066-1184)

I.1 Documents relating to the reign of William I (1066-1087)³

Texts	Dates of the earliest texts	Documents containing the texts (manuscripts)	Languages
<i>The regulations regarding exculpation</i>	1068-1077	<i>Textus Roffensis</i> (Rochester Cathedral Library MS A. 3. 5.)	Old English
		<i>Quadripartitus</i> (Manchester, John Rylands Library 155; London, British Library Cotton Claudius D II; Cambridge, Corpus Christi College MS 70; Oxford, Oriel College MS 46) ⁴	Latin (translation of the old English text)
<i>De libertatibus restitutis ecclesiis et ecclesiasticis personis</i> ⁵	1070-1076	Liber A (also known as <i>Liber Pilosus</i>) (London, St. Paul Cathedral WD1)	Latin
<i>The Ten Articles</i> (also known as <i>Willelmi articuli Retractati</i> in its latest form)	1110-1135	<i>Textus Roffensis</i> <i>Quadripartitus</i>	Latin
		<i>Tripartita</i> (Cambridge, University Library MS Ee 1,1f.3)	Norman French

³ Agnes Jane Robertson, *The Laws of the Kings of England: from Edmund to Henry I*, 223-227.

⁴ These four manuscripts comprise what is known as the “London” group and represent the earliest form of the *Quadripartitus*.

⁵ The extant texts are written in Latin but it is certain that some versions existed in Old English. This text is also known under the title *Episcopal Laws*.

<i>Leis e Custumes</i> (also known as the <i>Leis Willelme</i>)	1090-1135	London, British Library, Harley MS 746	Latin
		MS Holham 228 (the manuscript is the property of the Earl of Leicester)	Norman French

I.2 Documents concerning the reign of Henry I⁶ (1100-1135)

Texts	Dates of the earliest texts	Documents containing the texts (manuscripts)	Languages
<i>The decree concerning the coinage</i>	1100	London, Public Record Office, MS <i>Scaccarii Liber Rubeus</i> f.163 v.	Latin
<i>The decree concerning the county and hundred courts</i> ⁷	1109-1111	London, Public Record Office, MS <i>Scaccarii Liber Rubeus</i> f.164	Latin

These texts, as shown by their very short descriptions, do not survive in their original format. Often they belong to thematic compendia, although many of these were gathered during the period that is the focus of this study; as a result we retain a record of texts that do not survive in their autograph copies. Dating mainly from the twelfth century and essential for this analysis, these judicial compilations

⁶ Robertson 228-229.

⁷ Robertson 228.

are numerous. The oldest of these compilations is the *Quadripartitus*, a work in four parts, that dates from around 1114 and contains the most important collection of Anglo-Saxon juridical texts in Latin translations. Of these four parts – which we know are entitled *Leges Anglicae in Latinum translatae*, *Scriptae necessariae temporis nostri*, *De Statuto et agendis causarum* and *De Furto et partibus ejus* - only the two first, concerning Anglo-Saxon laws and written Anglo-Norman law respectively, are extant. The *Leges Henrici Primi*, written a few years later, around 1118⁸, gathered the crowning charter of Henry I, as well as the Anglo-Saxon laws and customs completed by the amendments of William I and Henry I with additions that refer to Roman, Frankish and Salic laws. One can add to these works the *Consiliatio Cnuti*⁹ (1103-1120) and the *Instituta Cnuti* (1110-1130), as well as the *Leges Edwardi Confessoris*, elaborated around 1130-1135. This last compilation contains the laws of England current to the reign of King Edward the Confessor in a Latin translation of an Old English original.¹⁰ This corpus is completed by a major work: the *Textus Roffensis*. Written around 1122-1124, it contains texts in Old English and some acts of Henry I in Latin. Two legal treaties end this list: the *Dialogus de Scaccario* written by Richard fitz Nigel, bishop of London, between 1177 and 1179, and the *Tractatus et consuetudinibus Regni*

⁸ The compiler of this work could be the same as the one of the *Quadripartitus*.

⁹ This work is cited in the *Textus Roffensis*; see below.

¹⁰ Leslie Basil Curzon, *English Legal History*, 65.

Angliae tempore Regis Henricus Secundus - also known as *Glanville* - written by Ranulf Glanville, justiciar, sheriff, and diplomat of Henry II, between 1187 and 1189.

Second, this dissertation will be based on writings used in any juridical matter, such as writs, reports of trials, charters, and assizes; these survive in too great a number for all to be listed here. Most significant among them are the charters granted to the city of London by William I (manuscripts written between 1066 and 1075) and Henry I (the original of 1115-1133 has been lost); the coronation charters of Henry I (dating from August 5, 1100¹¹) and Stephen (around 1135¹²); the *Constitutions of Clarendon* (1164); *Assizes of Clarendon* (1166); and the *Assizes of Northampton* (1176).

Third and last, there are the miscellaneous unofficial texts that are interesting especially for their literary or linguistic information. Among those manuscripts are chronicles, such as the invaluable *Anglo-Saxon Chronicle* (its different manuscripts cover a period ranging from c.890, under Alfred the Great's reign, to 1154¹³), the *Domesday Book*¹⁴ (dating from 1086), and biographies

¹¹ David C. Douglas and Georges W. Greenaway, *English Historical Documents*, vol. 2, p 400.

¹² Douglas and Greenaway 402.

¹³ <http://sunsite.berkeley.edu/OMACL/Anglo/introduction.html>
The annals of the different copies of the *Anglo-Saxon Chronicle* cover a period ranging from 890, under Alfred the Great's reign, to 1154.

¹⁴ Austin Lane Poole, *From Domesday Book to Magna Carta*, p 1. This document was called *Descriptio* in the Middle Ages.

(including *Gesta Stephani* and *Gesta Willelmi Ducis Normannorum et Regis Anglorum* of William de Poitiers).

It is important to indicate here what precisely will be studied with these documents, and thus what path the present work will follow. Obviously, the linguistic question superficially raised earlier in this introduction will require close examination. Language is a characteristic of a people, a society, and a civilization. What happens, however, when two cultures evolve side by side? And to what extent is the answer to this question complicated by the presence of a third language, one not necessarily mastered by most of the population yet fundamental to both worlds? However interesting these issues may be, the study of cultural “cohabitation” should not be restricted solely to the nature and evolution of one or more languages. Existing texts - the physical manifestations of the language - must be examined on the theory that changes in a tongue will also manifest in its forms. Thus, the literary situation in England during the eleventh and twelfth centuries is a second center of interest.

A study of this breadth could take a lifetime to complete. Thus, this dissertation focuses on legislation but also on jurisprudence since this field testifies to some of the most important priorities for a people. It is all the more significant when the lawcode and legal procedure of one group of people is

applied to another as, for example, when Norman “invaders” attempt to live under one body of law with “subdued” English subjects.

CHAPTER I

THE LINGUISTIC EVOLUTION

OF THE ANGLO-NORMAN ADMINISTRATION

(1066-1189)

“Lawyers and Law French¹⁵ are coincident;
one will not stand without the other”

Roger North (1653-1734)¹⁶

I. The decline of Old English

A. The years 1066 – 1070: The survival of Old English as an official language

¹⁵ Law French is the language used in the law courts of Great Britain from the Norman Conquest and on. Many of its terms have been converted into modern English in the 20th century.

¹⁶ Lawyer cited in John Hamilton Baker, *Manual of Law French*, ix.

1. The dominant language

a. The perpetuation of the Anglo-Saxon language

It would have been easy for William, new sovereign of the English, or at least for his secretaries and scribes, to retain the Anglo-Saxon legal customs without using the natives' language, with which the Norman newcomers were not familiar. Nonetheless, the duke-become-king kept, for a time, the use of Old English.

In his *Ecclesiastical History*, the chronicler and historian Orderic Vitalis (1075-c. 1142), speaking about William I, wrote:

Regnans in rege diligentia boni uigilabat et quoscumque poterat, feruenter ad bona excitabat. Anglicam locutionem plerumque satagit ediscere, ut sine interprete querelam subiectae gentis posset intelligere et scita rectitudinis unicuique prout ratio dictaret affectuose depromere. Est a perceptione huiusmodi lectionis durior aetas illum compescebat et tumultus multimodarum occupationum ad alia necessario attrahebat.¹⁷

("The king's passion for justice dominated his kingdom, encouraging others to follow his example. He struggled to learn some of the English language,

¹⁷ Orderic Vitalis 256.

so that he could understand the pleas of the conquered people without an interpreter, and benevolently pronounce fair judgments for each one as justice required. But advancing age prevented him from acquiring such learning, and the distraction of his many duties forced him to give his attention to other things.”).

The difficulty that William’s experienced while trying to learn the language of his newly conquered people did not prevent him, at the beginning of his reign, from maintaining Old English as the kingdom’s official legal language. Despite the success of the Norman invaders, William I - as well as Herfast, his chaplain and the first Anglo-Norman chancellor of England who is mentioned in a charter in favor of Exeter dating from 1069 - encouraged the use of English in official documents and respect for Anglo-Saxon writs. The early writs, formal communications of the royal will, such as the one sent to Bishop Hereman (1067) or the one William ordered in favor of the abbot Wulfwold (1067)¹⁸ were written in English as were other important documents. So, for example, the charter that the king gave to the citizens of London is entirely recorded in this tongue:

Willelm kyng gret Willelm bisceop 7 Gosfregð portiferan 7 ealle þa burhwaru Londone, Frencisce 7 Englisce, freondlice.

¹⁸ English Historical Documents, vol. 2, 430.

7 ic kyðe eow þæt ic wylle þæt get beon eallra þæra laga weorðe þe gyt
wæran on Eadwudres dæge kynges.

7 ic wylle þæt ælc cyld beo his fæder yrfrnume æfter his fæder dæge.

7 ic nelle geþolian þæt ænig man eow ænig wrang beode.

God eow gehealde.¹⁹

(“King William sends friendly greetings to Bishop William and Geoffrey the
mayor, and to all the burgesses within London, both French and English.

And I declare to you that it is my will that both of you shall be entitled to all
the rights which you had in the time of King Edward.

And it is my will that every child shall be his father’s heir after his father’s
death.

And I will not tolerate any man to do you any wrong.

God keep you.”)

No practice of the English royal chancellery was changed and, in the
scriptoria, scholars continued to work as they did under previous kings.²⁰ Several
factors probably encouraged this continuation of Anglo-Saxon administrative
practices. In the first years of William’s reign, for example, the indigenous
aristocracy was not yet able to learn French spoken by the Normans.

¹⁹ Robertson 230.

²⁰ David C. Douglas, *William the Conqueror: the Norman Impact upon England*, 293.

This use of the vernacular tongue was not exclusive. At the conclusion of William's episcopal laws is a brief note, the only one of its kind. Although very brief, it offers an intriguing, if only suggestive, perspective on the status of Old English language at the end of the eleventh century:

In hac eadem carta ponuntur eadem verba Anglico sermone verbo ad verbum.²¹

("In this same document the same words are put in the English tongue, word for word").

This observation is remarkable for two reasons. It indicates that Latin, at least during the first years of the Norman settlement, did not compete with Old English. Both languages coexisted and complemented each other. It also draws our attention to the fact that the existence of an official document in Latin did not preclude the existence of the same text in English, the insular vernacular.

b. Working with the Anglo-Saxon lords

In 1066, William became the head of a state about which he knew little. In order to fill in this lack of knowledge, the newly crowned king invited

²¹ Robertson 236-237.

councillors of the previous royal court, that of Edward the Confessor, to assist him in ruling the kingdom. Contrary to the Viking Cnut who, confronted with a similar problem in 1016 when he assumed control of the English, had pursued a politics of exclusion against the indigenous English (he pronounced exiles, death sentences and, sometimes, massacres against them), when the time came to appoint members of his royal court - the *curia regis* - William I included both Anglo-Saxons and Normans.²² An examination of the list of witnesses in the acts of the year 1068 reveals that the Normans William fitz Osbern, Roger Montgomery, Odon, Robert de Mortain and Geoffroy de Coutances served alongside the English²³ Stigand, Edwin, Morcar and Waltheof.²⁴ Similarly bishops Giso and Wulfstan of Worcester, along with native sheriffs who kept their positions (such as Mærleswein in Lincoln and Aiulf in the Dorset and the Wiltshire²⁵), assisted William in the administration of the country.²⁶ Both bishops enacted royal writs and Wulfstan of Worcester was even the leader of an Anglo-Saxon faction that

²² Robin Fleming, *Kings and Lords in Conquest England*, 175. In appendix A. "English witnesses and addressees of Anglo-Norman charters and writs" she gives a list of the Anglo-Saxons who have testified in the administrative Anglo-Norman documents. See p 135.

²³ In England, the Normans made no distinction between Anglo-Saxons and Anglo-Danes. Any person living in the kingdom before 1066 was considered as being an Englishman. The French were not considered otherwise. The article 4 of the *Ten Articles* even details. "Et omnis Francigena qui, tempore regis Eadwardi propinqui mei, fuit Anglia [...] persolvatur secundum legem Anglorum." (But every Frenchman who, in the time of King Edward, my kinsman, was admitted to the status of an Englishman [...] shall be paid for according to English law"). Robertson 238-239.

²⁴ Douglas and Greenaway 51.

²⁵ Golding Brian, *Conquest and Colonization, The Normans in Britain: 1066-1100*, 105.

²⁶ Douglas 215.

supported William I together with archbishop Ealdred of York.²⁷ Even the chancellor, Regenbald, who served King Edward and Harold, kept his office by order of William I.²⁸ Other Englishmen kept working for the royal administration, such as Eadnoth the staller, a magnate from the West country, and the thanes of the Midlands Bondi the Staller and Ilf, son of Tope.²⁹

William's confidence in the Anglo-Saxon nobility is also indicated by the writs he gave its representatives. Azur, steward of King Edward, obtained a writ enacted at Windsor that confirmed his rights over some lands in Berkshire. In this same territory, the widow of the sheriff Godric produced a document which certified that she owned the estate of Hendred. In Bedfordshire, a royal writ confirmed that one Augi could keep his lands; it also recommended him to the Norman Ralph Taillebois, who became his guardian. Finally, the burghers of Bedford maintained the lands held previously by their fathers, thanks to this official document. William's policy, which concerned mainly Wessex and East Anglia - that is the region of England most solidly under Norman control in 1067 - was certainly not altruistic and, as the *Anglo-Saxon Chronicle* testifies³⁰, the English had to buy back their rights and possessions. In Hertfordshire, an

²⁷ Gaines Post, *Studies in Medieval Legal Thought*, p 220.

²⁸ Walker Ian W., *Harold the Last Anglo-Saxon King*, p 142.

²⁹ Williams 11.

³⁰ <http://sunsite.berkeley.edu/OMACL/Anglo/part6.html>. See the year 1087 in the *Anglo-Saxon Chronicles*.

anonymous sokeman had to pay nine ounces of gold (i.e., six pounds and fifteen shillings), for his lands of Tiscott.³¹

Surrounded by representatives of the former regime of the Anglo-Saxon aristocracy, William I found it difficult not to take into account Anglo-Saxon traditions in his land when governing his kingdom. The local power of the latter and their knowledge of the country and of its habits, made them invaluable and, consequently, extremely influential advisers.

The survival of a significant portion of Anglo-Saxon legislation, particularly in cases that were unfavorable to Norman interests, must be the doing of these men and their will to keep their customs alive.

2. The exceptional use of Old English as an official language

If these details demonstrate that Old English survived in the early legal documents, retaining the status of an official language, this was only a temporary situation. The situation did not last more than four years: the year 1070 marks the renunciation of Old English by the king, the administration and the nobility³².

³¹ Williams 8-9.

³² Douglas and Greenaway 30. See the consequences of the Northumbrian revolt, described below, p33-36.

From then on, no Anglo-Norman king, despite all the honours given to individual Anglo-Saxon legal practices, reversed this decision.

Why did Old English not lose its official rank from the very beginning of the invasion? Yet, it is undeniable that William's lawcodes were composed in French and Latin, as were all his legal texts and those of his descendants. Concerning laws, the use of these languages, *a fortiori* when speaking about French, was not constant before 1066. If some legal writings, before the conquest, were composed in Latin (III Athelstan, IV Athelstan, III Edmund, IV Æthelred, VII Æthelred,³³ and the proclamation of Cnut of 1027), this was rare. It seems from this summary that William was willing to assert the superiority of his culture over the indigenous one, notably in the area of writing. This view of the situation is inadequate since it does not take into account diverse and important texts issued in Old English.

Because he kept Edward's laws, with which all the Anglo-Saxon social classes were familiar, William had little reason to order transcriptions of them into Old English; this also enabled him to avoid enormous labor during a period when time was precious. The king already had responsibilities enough in his new political role. Latin and French versions of the laws were everything the aristocracy was asking for.

³³ The code *VII Æthelred* exists also in Old English.

Thus, it was the necessity of the moment - rather than an expression of chauvinism- that forced William to use French, a language foreign to England, at the upper level of the society and to give more weight to Latin. However, at the lower levels of the society, William was able to apply the true political agenda that he wanted for his kingdom - the use of Old English - at least, in the first years of the Conquest. The writ that he sent in 1067 to Bishop Giso, Eadnoth the Staller, the sheriff Tofi and all his thanes of Somerset is in Old English as is the one he delivered, the same year, to the bishops Hereman and Wulfstan, the earl Eustace, Eadrich and Bristrich and all his thanes of Wiltshire and Gloucester.³⁴

William's episcopal laws have here a peculiar place in view of their exceptional nature. Old English continued to be considered an official language of England until 1070; after this it disappeared as a language of administrative documents and was relegated to the level of a minor language, after Norman French and Latin. However, the episcopal laws indicate a slightly different version of the facts. According to A.J. Robertson's analysis, this document was issued between 1070 and 1076; Liebermann is even more precise, giving, as a likely date, April 1072. Thus, Old English was still used officially, at least in a few cases, after its supposed disappearance as an official written language after 1070. This fact is corroborated by the presence of an Old English phrase in *Leges Henrici Primi*. According to law 90.11a:

³⁴ Douglas and Greenaway 430.

Legis enim est: qui inscieniter peccat, scieniter emendet et qui *brecht un[g]eþealdes, betan geþealdes*.³⁵

(“For it is the rule of law that a person who unwittingly commits a wrong shall wittingly make amends; and he who breaks [something] out of impatience, must repair it with patience.”³⁶)

The use of Old English after 1070, shown by these two examples, was extremely rare. Nonetheless, the language continued to be used in certain circumstances. The first examples of 1076 may illustrate the need for the Normans to be understood by an English public ignorant of Norman French and Latin.³⁷ The quotation of the episcopal laws could reflect its status as a proverb or an expression commonly used in society and, in particular, the legal field.³⁸ Let us not forget, finally, that some Old English words were preserved intact in the Anglo-Norman texts because the scribes were not able to understand their precise meaning. This assumption is underscored, in a way, by the corruption of the term

³⁵ L.J. Downer, *Leges Henrici Primi*, p 282-283.

³⁶ The proverbial nature of this sentence may be deduced from its alliteration.

³⁷ Robertson 234. The document *De libertatibus restitutis ecclesiis et ecclesiasticis personis* concerns the disposition established for ecclesiastics; since they knew Latin perfectly it seems useless for them to have a copy in vernacular. However, these laws are also addressed, among other persons, to “[...] ceterisque meis fidelibus de Essex et de Hertfordshire et de Middelsexe [...]” (“[...] mes autres loyaux sujet d’Essex, Hertforshire et Middlesex [...]”); thi may explain the need to finally translate these rules in Old English.

³⁸ It is also possible that the scribe of the *Leges Henrici Primi* was unable to translate the paragraph and wrote it down thus.

healsfang - a part of the wergild which went to the nearest kin - transcribed *halt sanc* in the ninth law of the *Leis e Custumes*.³⁹

B. The years 1070 – 1189: The language of the commoners

The situation changed radically after 1070 under the administration of Osmund, who succeeded William's chaplain Herfast when he became bishop in East Anglia.⁴⁰ English was banished from official texts and replaced by Latin. As noted before, adopting such a policy any earlier would have been impossible because the new king needed the services of the clerks who had held office under Edward. After a few years ruling the country, however, the Anglo-Norman administration had become accustomed to the English legal system and knew its operation perfectly. It had become possible to make some adjustments not by need but by preoccupation with comfort. Moreover, the revolt of 1068-1071 provided a pretext for William to alter significantly the governemental operations and structure. Abandoning the usage of the vernacular in official literature, except for the *Leis e Custumes*, was part of this movement. Political events led to the disappearance of Old English as an official language of the Anglo-Norman kingdom. The reasons that motivated William's decision are treated below.

³⁹ Robertson 256 and 367.

⁴⁰ Timothy Baker, *The Normans*, 180.

1. The Northumbrian Revolt

a. The events

The city of Exeter revolted in the spring of 1068 against William's policy (mainly because of a heavy geld and because parcels of lands were confiscated by the king). After eighteen days of Norman siege, William's army seized the city. Maybe on Matilda's intervention, he was clement towards the citizens of Exeter.

In May, encouraged by such an Anglo-Saxon "victory", the two brothers Edwin of Mercia and Morcar of Northumbria, powerful English magnates, revolted against William. This time, the king did not want to leave the revolt unpunished. He sent his army against the rebels and built numerous castles (Warwick, Nottingham, Lincoln, York, Huntingdon, and Cambridge) to control the region more efficiently. The two brothers surrendered quickly as did their allies.

In the fall of 1068, William, victorious, dismissed a part of his army and granted the earldom of Bamburgh to the Norman Robert de Commines. In December, the earl let his men plunder the region. In January 1069, the Northumbrians attacked Durham and killed the Norman community, among which was Robert de Commines. The revolt grew bigger and, among its leaders were the

ætheling Edgar; Gospatric, earl of Northumberland; and Mærle-Sceinn, a thane. In the summer 1069, Waltheof, earl of Northampton, and Siward Barn, a rich thane, joined the rebels. Moreover, the Danish army, led by Asbjorn, brother of Estrithson (cousin and successor of Hartacnut), and his sons Harold and Cnut, destroyed an important part of the Anglo-Norman *shipfyrd*. This Danish attack encouraged more Anglo-Saxons to rebel against the Normans.

William organized a counter-attack. First, Robert de Mortain and the count of Eu dislodged the Danes from their post on the island of Axholme while the king and his army defeated the Mercians. William led his army through the shires that had revolted and decided to impose a violent policy against the rebels known as the “Harrying of the North”. In the winter of 1069-1070, the royal army burned whole villages and slaughtered the inhabitants. Foodstores and livestock were destroyed so that anyone surviving the initial massacre would soon succumb to starvation over the winter. This strategy, condemned by almost all contemporary scholars⁴¹, gave the victory to William I while the death toll is believed to have been 150,000. Waltheof and Gospatric surrendered.

In 1070, William was, however, incapable of capturing the remaining leaders who had fled, for the most part, to Ely. Moreover, the Danish army came back, led by the king Swein Estrithson. In June 1070, a treaty was signed by William and

⁴¹ Orderic Vitalis 232. Orderic Vitalis wrote: “Praetera indubitanter assero quod impune non remittetur tam feralis occisio.” (“Moreover, I declare that assuredly such a brutal slaughter can not remain unpunished”.)

the Danish king. The Vikings were no longer a threat. In the spring of 1071, the royal army attacked Ely, and ultimately, the Normans were finally victorious.

b. The consequences

The political consequences of this uprising were more important than the material devastations and the human losses. Before the revolt, William I had dreamt of founding a true Anglo-Norman kingdom just as Cnut had built an Anglo-Danish one. The revolt of the Northumbrians made him rethink his policy with the result that his attitude was less benevolent towards the conquered English than it had been previously. From this time onwards, the Conqueror began to seize every opportunity to replace the English magnates, lay and ecclesiastical, with men who came from the continent.⁴² However, he continued to vest his confidence in certain Anglo-Saxon leaders. William's policy of Normanization was only beginning and the Saxon leaders still preserved a share of the political power.

Mærle-Sveinn, who was a sheriff of Lincolnshire from the time of King Harold, was exiled to Scotland with Alwine, son of Northmann, sheriff of Suffolk, and Siward Barn lost his lands. Arnkell chose also the road of exile but his son, Gospatric, taken hostage by the Normans in 1068, kept a great part of his properties and added to it, in 1086, the lands of his father. This inheritance was

⁴² Williams 44.

nevertheless conditional, dependent on his officially becoming a vassal of the king and count Alan of Brittany. Meanwhile, Eadric the Wild and the sons of Karli lost only few of their properties. Some rebels, profiting from an exceptional indulgence by the king, were delighted to have few worries about their culpability. Waltheof, married to the niece of William I, and Gospatric continued to rule over their earldoms,⁴³ and the ætheling Edgar, who surrendered only in 1074, was accepted at the court of William and received unspecified honours.⁴⁴

During the year 1070, the death-knell of the Anglo-Saxon church rang clearly. During the spring, three legates sent by Pope Alexander II came to reform the episcopal body. Their order was to depose Stigand, the archbishop of Canterbury, and all the bishops whom he had consecrated. Since a Norman monk, Remigius, had been consecrated bishop of Dorchester by Stigand and many English bishops had satisfactorily served the Church, the Roman delegation was indulgent. During the synods of Winchester, on Easter (April 4), and of Windsor, on Pentecost (May 23), the powerful and influential Stigand; his brother Æthelmær of Helmham, bishop of East Anglia; Æthelric II of Selsey; Leofwine of Litchfield; and Æthelwine of Durham were deposed. Several abbots accompanied them in disgrace. The vacant positions were all offered to foreigners, most of them Normans. The two English archbishoprics, Canterbury and York, and the five

⁴³ Gospatric lost his earldom of Bamburgh to Waltheof in 1072, following the treaty of Abernethy with Scotland, because he participated to the slaughter of Normans at York.

⁴⁴ Williams 40.

bishoprics were entrusted by William to four clerks of the royal vault, a Norman clerk, a Lotharingian clerk and Lanfranc, abbot of Caen.⁴⁵ Walkeline, from Rouen, received the diocese of Winchester, and Herfast, the king's chancellor, was established in East Anglia. Stigand, homonym of the archbishop of Canterbury, became bishop of Selsey and Thomas, from Bayeux, was given the archiepiscopal see of York, which had been vacant since the death of Ealred, in 1069. Only Canterbury remained vacant.⁴⁶ After 1070, only three Anglo-Saxon bishops maintained their position - Leofric of Exeter, a clerk who was educated abroad; Wulfstan of Worcester; and Siward of Rochester, an old man who died in 1075. It should be added that if the monasteries were largely spared, the abbots were replaced one at a time with Norman monks, as each one died in succession. At the end of the eleventh century, only the abbeys of little importance were headed by Anglo-Saxons.⁴⁷

The "continentalization" of episcopal sees was not an innovation but the French monopoly instituted by William was a first. These depositions of the Anglo-Saxon clerics were sometimes justified by canon law (Æthelmær was married), but in truth they were political (Herafast also was married, but this did not prevent him from obtaining a bishopric). The king placed at the head of the

⁴⁵ Franck Barlow, *The Feudal Kingdom of England*, 93.

⁴⁶ Williams 45-46.

⁴⁷ Barlow 93.

English Church men who were loyal to him because of their shared language and geographical origins and whose cultural roots were more familiar to him.

2. The Revolt of the three earls

The “Revolt of the Three Earls” had even worse consequences for the preservation of Anglo-Saxon culture.

a. The events.

In 1075, during the wedding feast of Emma, sister of Roger of Breteuil, the Norman earl of Hereford, and Ralf Guader, the Anglo-Breton earl of East Anglia, a conspiracy, the goals of which remain unclear to this day, was mounted by Roger and Ralf; together with Waltheof, the powerful earl of Northumbria and the husband of Judith, King William’s niece. Knowing that they would not be able to defeat William with their forces alone, the three earls formed alliances with Eadric the Wild and the Vikings from abroad.

The rebellion was rapidly crushed. Lanfranc led an army against Ralf Guader. Ralf was then besieged in his own castle at Fawdon by Geoffrey of Mowbray, bishop of Coutances; William of Warenne; and Robert Malet, who ultimately defeated him. Vanquished, Ralf fled to his fiefs in Brittany. Roger and

Waltheof, unable to resist any longer, surrendered to William and were captured. The Danish army, with two hundred boats led by Cnut the Saint, came too late to help the rebels, and the men contented themselves with plundering York.

b. The Normanization and the end of royal benevolence

The insurrection of 1075 did not match the large military scale of the Northumbrian revolt. It was not accompanied by any resulting uprising and the royal campaign directed against it led to the defeat of all the conspirators in less than a year. Its consequences were disastrous for the Anglo-Saxon civilization, however, because they included the end of Norman tolerance and of William's dream to preserve a Saxon cultural legacy under Norman rule.

Roger de Breteuil and Waltheof, leaders of the revolt, were condemned each according to the law of his specific "nation". The Norman lord, in accordance with continental law, was sentenced to life imprisonment; he was released twelve years later, in 1087, by William I, who was on his deathbed.⁴⁸ Waltheof, an Anglo-Saxon, was sentenced to death for the crime of treason and executed. He was the last of his lineage to rule Northumbria, and none of his heirs was appointed to succeed him.⁴⁹

⁴⁸ John of Worcester, *Chronicle*, 47. William I decided on his deathbed to free Odo of Bayeux, the earl Morcar, Siward Barn and Wulfnoth, brother of Harold who were jailed at various times for various reasons.

⁴⁹ Williams 65.

The earldoms of Hereford and East Anglia were suppressed for a period of about sixty years and the earldom of the Midlands (encompassing Huntingdon, Northampton, Bedford and Cambridge) ceased to exist. The earldom of Northumbria could not be abolished because of its strategic position on the Scottish frontier. William decided to invest the earldom and the bishopric of Northumbria in one and the same person. Then, the bishop of Durham assumed control over ecclesiastical, civil, and military powers. Helped by a thane, he managed his territory according to traditional Anglo-Saxon practices. This exceptional situation lasted for four years.

In 1080, Ligulf, the principal councillor of bishop Walcher of Durham, was assassinated by Gilbert, sheriff of Durham, perhaps under the order of the chaplain Leobwin, with whom Ligulf was quarrelling.⁵⁰ Walcher was accused of the crime, and, in order to avoid a feud that Anglo-Saxon law authorized, he was forced to defend himself before a court of justice. It is true that specific royal legislation existed in order to prevent feuds, which were harmful to the efficient management of the kingdom. One of the main acts issued for this purpose was a decision of King Edmund. This article, *II Edmund 7*, stipulated:

Witan scylon fæhðe sectan : ærest æfter folcrihte slaga sceal his forspecan
on hand syllan 7 se forspecan magum, þæt se slaga wille betan wið mægðe.

⁵⁰ Williams 68.

Ðonne syððan gebyreð þæt man sylle ðæs slagan forspecan on hand, þæt se slaga mote mid griðe nyr 7 sylf wæres weddian.

Ðonne he ðæs beweddad hæbbe, ðone finde he ðærto wæreborh.

Ðonne þæt gedon sy, ðonne rære man cyninges munde; of ðam dæge on XXI nihton man healsfang; ðæs on XXI nihton manbote; ðæs on XXI nihton ðæs weres ðæt grumgyld.⁵¹

(“The authorities must put a stop to private vendettas. First, according to public law, the slayer shall give security to his advocate, and the advocate give security to the kinsmen [of the slain man], that [the slayer] will make reparation to the kindred.

After that it is incumbent upon the kin of the slain man to give security to the slayer’s advocate, so that he [the slayer] might approach [them] under safe-conduct and pledge to pay the wergeld.

When he has sworn an oath to do this, he shall find a surety for the payment of the wergeld.

When that is done, the king’s protection shall be established. In twenty-one days from that time the part of the wergild which goes to the nearest kin shall be paid; in twenty-one days after that payment to the king; and twenty-one days after that the first installment of the wergeld.”)

⁵¹ Robertson 11.

Consequently, a general assembly was organized at Gateshead in order to render judgment. It was disturbed by a riot that led to the slaughter of the bishop's party and to an attack launched against the castle of Durham. The revolt was unsuccessful and the crowd was scattered. Odo of Bayeux, following the example of his half-brother William I, led a devastating ride to punish this affront. Northumbria was then handed to Aubrey of Coucy.⁵² Anglo-Saxon law officially ruled an English territory for the last time.

C. The survival of English under Anglo-Norman rule (1072-1189)

English was no longer a language of the court, although it remained part of the judicial system through the local courts, where the common people used it (it was, after all, their native tongue). If the influence of English throughout the realm waned, however, it would be wrong to consider that it lost all importance.

If we look closely at Anglo-Norman lawcodes, we find many Old English words scattered in the French and Latin texts. The valuable legal texts attributed to William I and the significant compilation of laws known as the *Leges Henrici Primi*, all composed during the prosperous period of legislation of the first quarter of the twelfth century, are excellent examples to observe and understand this development.

⁵² John of Worcester 32-37.

1. The Old English legal corpus of William I's reign

Careful study of the corpus of legal texts produced in England between 1066 and 1087 is essential to any understanding of the fate of Old English under Norman rule. As the first Norman king of England, William I set out a legal procedure, though perhaps not consciously, for decades to come. If few Old English terms are found in the legislative acts, then we may conclude that there was a decided rupture between English pre-Norman culture and insular culture after 1066. On the other hand, if the Old English vocabulary may be shown to be frequent - even if not preponderant - in lawcodes, this would imply that the transition from one culture to another was relatively smooth.

In order to test these two hypotheses, four influential texts attributed to King William I require study: the *Ten Articles* and the *Leis e Custumes*, three codes that were said to have been drawn up by the king to handle matters of legislation, and *De Libertatibus Restitutis Ecclesiis et Ecclesiasticis Personis*, a text that defines the separation of the lay and ecclesiastical jurisdictions.

II. Anglo-Saxon terms found in the legislative texts attributed to William I

II.1 De Libertatibus Restitutis Ecclesiis et Ecclesiasticis Personis

Old English term	Modern English translation⁵³	Articles in which the word appear
Hundret	Hundred	2

II.2 The Ten Articles

Old English terms	Modern English translations	Articles in which the word appears
Ceapgeld	Sale price	8a.3
Hundred	Hundred	2; 8a.1
On hlóte et an scóte	Municipal tax assessed proportionately upon the members of a community	4
Rán	Open robbery	6

⁵³ On some occasions, when there is no possible translation or when this translation would be too cumbersome, the Old English words are kept. For a definition of the most important and common words, refer to the glossary.

II.3 The *Willelmi Articuli Retractati*

Old English terms	Modern English translations	Articles in which the word appears
Ealderman	Nobleman	6
Hundred	Hundred	6
Wapentagia	Subdivision of a shire corresponding to a hundred	6

II.4 The *Leis e Custumes*

Old English terms	Modern English translations	Articles in which the word appears
Denelagu	Danelaw ⁵⁴	2.2; 2.3; 2.4; 17b.1 21.4; 39.2; 42.2; 21.2
Forfang	Fine for taking provisions from a market before the royal purveyors were served	5
Guardireve	Commander of the Watch	28.1
Halsfang	Halsfang ⁵⁵	9

⁵⁴ Literally, “where the Dane law applies”

⁵⁵ The meaning of this word has been lost but referring to some kind of punishment.

Heimleborch ⁵⁶	Warrantor	21.1; 21.1a [twice]
Hemfare	Attack on a person's house	2
Hengwite	Fine exacted for failing to keep a criminal in custody ⁵⁸	4
Hundred	Smallest administrative division of the kingdom of England	22; 28; 42.1; 43; 47.1; 51; 52
Infangentheof	Right of hanging a thief caught in the act	2.3
Leche[feo]	Cost of medical treatment	10
Lealted	Benefit of the law	14
Manbote	Sum of money paid to a lord whose man was murdered	7
Merchenelagu	The law of Mercia ⁵⁹	2; 2.2a; 3; 8.1; 16; 21.2
Sache e soche	Privilege of holding court and to collect fines	2.3

⁵⁶ From the Old Norse *hjemleborh*; literally meaning “the castle of the home.”

⁵⁸ In the twelfth and thirteenth centuries, it was interpreted as a fine incurred for having hanged a thief without trial.

⁵⁹ Literally, “where Mercian law applies.”

Sa[r]bote	Compensation paid for inflicting a wound upon anyone	10.1
Socheman	Sokeman	16
Stretwarde	Guarding of roads	28
Thein	Thane	8
Toll e tem	Right to hold a court to judge litigations on possession of cattle and to collect a payment on sale of cattle and property	2.3
Utlage	Outlaw	52.2
Lahslite	Fine for promotion of injustice or unjust judgment	39.2; 42.2
Wart	Care	41.1
Were	Wergeld	8; 8.1; 11; 12; 13; 21.2; 52.1
Westsexenelagu	The law of Wessex ⁶⁰	2.2a; 3.2; 8 21.3 8.1

⁶⁰ Literally, “where the Wessex law applies.”

2. The Old English legal vocabulary of the *Leges Henrici Primi*

Henry I reigned from 1100 to 1135, roughly during the second quarter of the Anglo-Norman period. The lawcode attributed to him - *Leges Henrici Primi* – contains a number of words in Old English whose preservation in this Latin document indicates that the practice of law in twelfth century England was not so much making a transition from Old English to another language as evolving across languages. Two theories depend on this number of surviving Old English words in this lawcode. If there is a large proportion of Old English words in this text in spite of fifty years or so of Norman influence it would mean that Anglo-Saxon law survived significantly. On the contrary, a small proportion of Old English words would suppose a decline of Anglo-Saxon culture and an almost total hold of Norman law on English justice.

In order to find out which is the best theory and to explain it, I have chosen to look closely at the *Leges Henrici Primi*, the *Decree concerning the coinage*, the *Decree concerning the county and hundred courts* and the *Charter of London*.

III. Old English vocabulary in the juridical texts issued under Henry I

III.1 *The Decree concerning the county and hundred courts*

Old English Term	Modern English Translation	Articles in which the word appear
Hundred	Hundred	1; 4

III.2 *The Charter of London*

Old English Terms	Modern English Translations	Articles in which the word appear
Danegeld	An annual tax laid on the English nation to buy off the Danish invaders, or to maintain forces to oppose them. It afterward became a permanent tax, raised by an assessment upon every hide of land throughout the realm	2.1
Eschot [and Loth]	Municipal tax assessed proportionately upon the members of a community	2.1
Hustinge	A court of the citizens of London	8; 79
Folkesimote	Public meeting	8

Meskenninge	mistake in pleading that could lead to a fine or used by the opponent	8
Socnas	right to collect fines	6
Were	price set upon a person's life on the basis of rank and paid as compensation by the family of a slayer to the kindred of a slain person to free the culprit of further punishment and to prevent a blood feud	7

IV. Old English vocabulary in the *Leges Henrici Primi*

Old English Terms	Modern English Translations	Articles in which the word appear
Atheman	Slave	70.7a
Blodwite	A fine paid as a composition for the shedding of blood	23.1; 37.1; 39.1; 70.4; 81.3
Bocland	Land held by charter (book) under certain rents and free services	13.12; 70.21a
Borchbreche	Violation of the king's protection	10.1; 12.2; 35.2
Brigbot	Tax for crossing a bridge	10.1; 13.9; 66.6

Burgemot	Meeting of the borough	7.4; 57.8
Burgobot	Tax for the borough	10.1; 13.9; 66.6
Cenningan	To defend one's claim to title by vouching to warranty	64.6a
Cothsetla	Peasant farmer	29.1a; 81.3
Cwalstow	Place of execution	10.2
Cyrlisca	Churl	76.6; 82.9
Dedbanan	To cCarry out	85.3
Denageld	Danegeld	10.1; 15.1
Denelagu	Danelaw	34.1a; 66.6; 66.10
Ealderman	Nobleman	7.2; 8.1a; 91.1b
Ferdinga	Army	29.1a
Fightwite	Fine for fighting	23.1; 70.4; 76.5; 76.7c; 80.6; 80.6a
Firdfare	Desertion	10.1; 13.9; 66.6

Flemenfyrma	Running away	10.1 12.2
Fletgefoht	Fighting in a house	81.3
Folgere	Follower	8.1
Foresteall	Hindrance to justice	10.1; 35.2; 59.28; 80.2; 80.4; 80.4a
Forspeken	To renounce utterly	61.13b
Forspillen	To destroy utterly	61.13b
Frumgeld	First payment	76.7c
Furst and fandung	Period of time for adducing one's proof	46.2
Fyrðinga	Entering in the king's wood	10.1
Gilde	Guild	81.1
Gripbreche	Breach of the peace	12.2; 22; 22.1; 35.2; 59.28 79.4; 79.6
Hallimot	Manorial court	57.8

Hamfaru	Breaking into a house and doing violence to the inhabitant(s) there	80.11a
Halsfang	Fine prescribed in substitution for capital and other punishments	11.7; 11.10; 14.3; 76.1c; 76.4b; 76.5; 76.6a; 76.7b; 90.9
Hamsocn	Breaking into a house and doing violence to the inhabitant(s) there	10.1; 12.2; 22; 22.1; 35.2; 59.28; 61.17; 80.9b; 80.10; 80.11; 80.11a; 80.11b; 80.11c; 87.6a
Handhabbenda	Being caught in the act of a crime	59.20; 59.23a
Hengen	Prison	65.5
Hlafordspike	Treachery towards one's lord	12.1a
Hloþe	Attack by a band of marauders	87.4
Hloðbot	Fine paid by the members of a band of marauders for attacking someone	87.4
Hundred	Hundred	7.5; 7.6; 7.8; 8; 8.1; 8.1a; 8.2; 20.1a; 29.1b; 29.2; 29.2a; 31.1; 34.5; 34.6; 41.7; 48.2; 48.3; 51; 51.1; 51.2; 56.5; 57.1a; 57.6; 57.8; 64.9; 64.9a; 65.3; 65.3a; 67.1a; 75.6a; 78.1; 78.2; 91.1b; 91.2a; 91.3; 91.4; 92.1; 92.4; 92.8; 92.9; 92.11; 92.16; 92.17

Hurðefesterman	Freeman in the service of someone else	8.1
Husbryce	Burglary	12.1a; 47.1
Hyda	Hide (as area or measurement of a territory)	15.1
Infangentheof	Right of hanging a thief caught in the act	20.2
Infiht	Brawl in a house	80.12
Insocn	Brawl in a house	80.12
Lahslit	Fine for breach of the Danish law	11.11; 11.12; 34.1a; 34.1c; 66.5
Legergeld	Price set upon a person's life on the basis of rank and paid as compensation by the family of a slayer to the kindred of a slain person to free the culprit of further punishment and to prevent a blood feud	11.14
Legerwite	Fine for unlawful cohabitation	23.1; 81.3
Manbot	Sum of money paid to a lord whose man was murdered	3.6a; 69.1a; 69.2; 70.2; 70.4; 70.14b; 71.1c; 75.3a; 75.5a; 76.5; 76.7c; 77.3; 78.5; 79.1a; 79.5a; 80.6a; 82.5; 87.4a; 87.6a; 87.7; 88.20

Merchimot	Boundary court	57.8
Miskenninge	Mistake in pleading that could lead to a fine or used by the opponent	22.1
Morgangifa	Gift from a husband to his wife the morning after the wedding	11.13a; 11.12; 70.22
Morþ	Murder	12.1a
Mundbreche	Breach of a protection	37.1; 66.3
Open Þifþ	Open theft	12.1a
Pundbreche	Breaking open of an enclosure to take the cattle from within	40.1; 40.2
Redbanan	To counsel the slaying of an innocent person	85.3
Romefech	Peter's pence	11.3
Saca et socna	Privilege of holding court and to collect fines	20.2; 57.8; 59.17; 61.9a; 80.6
Scildþita	Fine for a crime of violence	38; 38.1
Scyregemot	Court of the shire	7.4; 11.3
Sipessocna	Division of a shire	6.1b

Sixhindeman	A man worth a wergeld of six hundred shillings	87.4 76.3a; 82.9
Socna	Right to collect fines	19.2; 20; 20.1; 20.1a; 20.3; 21.1; 24.1; 24.3; 24.4; 25.1; 25.2; 57.1a (?); 57.5; 59.18; 59.19; 80.2; 80.6a; 82.2
Stretbreche	Breach of the high road	10.1; 12.2; 35.2; 80.5; 80.5a
Thaini	Thane	14.2; 14.3; 14.4; 35.1a; 37.1; 38.1; 41.1b; 41.9; 64.2; 64.3; 65.4; 68.5; 68.3a; 69.2; 70.1; 76.1a; 76.4a; 80.9b; 88.11b
Tihle	Accusation	45.4
Toll	Toll	20.2
Team	right to hold a court to judge litigations on possession of cattle	20.2
Tungreuii	Village reeves	7.2
Twelfhindeman	A man worth a wergeld of twelve hundred shillings man	87.4 69.2; 70.1; 76.3a; 82.9
Twihindeman	A man worth a wergeld of two hundred shillings	87.4 69.2; 70.1; 76.3a; 76.4; 76.4a
Unfah	Feud	88.12b

Utlaga	Outlaw	10.1; 11.11b; 11.14a; 13.10; 41.10; 47.1; 53.1e; 66.1; 66.2b
Wapentac	Subdivision of a shire corresponding to a hundred	7.4
Weilref	Spoil from the slain	83.4; 83.4a
Wemminge	Injury	33.2; 67.2
Wera	Money value of a man's life	11.6; 11.12; 12.1; 12.3; 12.4; 27.1; 34.1c; 34.2; 34.8; 35.2; 41.8; 41.10; 53.1f; 65.1; 68.3a; 68.5; 68.5a; 68.5b; 69.1; 69.2; 70.1; 70.5a; 70.7a; 70.9; 70.14; 70.14a; 70.15; 71.1c; 74.1; 74.1c; 74.3a; 75.8a; 75.10; 10a; 76.1a; 76.1c; 76.2; 76.4; 76.4a; 76.5; 76.5a; 76.6; 76.7; 76.7b; 76.7c; 76.7d; 78.4; 78.5; 79.1a; 79.1b; 79.5a; 87.4; 87.4a; 87.6a; 87.7; 88.3a; 88.1b; 88.11c; 88.16; 88.18a; 88.20a; 90.7a; 90.9
Werelada	Price set upon a person's life on the basis of rank and paid as compensation by the family of a slayer to the kindred of a slain person to free the culprit of further punishment and to prevent a blood feud	12.3; 13.8; 64.2b; 64.4; 66.1 70.13; 75.2a; 75.8; 75.9; 75.11; 76.1a; 76.1c; 76.7g; 85.4b; 87.1; 87.1a; 88.9; 88.12a; 88.17; 89.2b; 92.14
Werra	War	43.9

Wite	Punishment, penalty, contribution to the king	8.2; 11.11; 11.11a; 11.12; 12.1; 12.3; 15.1; 22.1; 27.1; 34.1c; 35.2; 0.1; 51.1; 64.7; 66.5; 69.1a; 71.1c; 78.5; 79.1c; 79.5a; 79.6; 80.12; 82.3; 83.3; 87.6a; 87.7; 88.3; 88.3a; 88.10; 88.18a; 88.19
Withertihla	Cutting wood which has not been carried away	23.2
Wudehepet	Cutting of wood	37.1; 37.2
Ɗegenscypes	Rank of thane	34.1
Ɔingemann	Danish force	15.1
Ɔongtođ	Ɔongtođ ⁶¹	93.7
Ɔrotebolla	Larynx	93.10

⁶¹ The meaning of this word is uncertain

3. Explanation of the evolution of the Old English vocabulary under the Norman kings of England

a. William I's legislation

It emerges from the legal corpus attributed to William that Old English words and phrases were uncommon in the years following the establishment of Norman rule in England in, and after, 1066. Only thirty-three words are found within the corpus of laws; the most part being in the *Leis e Custumes*, actually written under Henry I's reign. Consequently, it seems that Old English juridical terminology had been almost completely replaced by Norman juridical vocabulary. A language is more than a means of communication; it also carries values and mental schema of all sorts. Replacing one form of jargon with another, which can be neither an exact translation nor an identical counterpart, leads to a blurring of the original concept and its reformulation with greater or lesser exactitude. Taking into account this premise and the survival rate of the Old English words, English law, separated from its Saxon roots by multiple translations and linguistic adjustments, was under risk of profound mutation. However, if Old English juridical terms are, in number, unrepresentative of the actual influence of English on the post-Conquest legal corpus, they are valuable from a qualitative perspective.

Each term kept by the scribes, far from being a grammatical or linguistic relic of the past, bore an important juridical meaning. Among those can we cite *hundred* and the right of *sache e soche*. These legislative concepts were as essential to the Anglo-Saxon judicial world as they were to the Anglo-Norman one since they represented the basis of English medieval jurisdiction. The term *hundred* was the designation of the lesser public court and the *sache e soche* allowed the lords, lay and ecclesiastic, to bring in a private verdict and to gain benefits from it. If one stays within the scope of a philological study, Anglo-Saxon law, even if not intact linguistically, nevertheless forms the foundation of English law during the last third of the eleventh century. It remains to consider how such a split between a limited usage of the Old English language and its considerable significance in the general area of medieval English jurisprudence can be explained.

The texts studied so far were issued after 1071. This year marks a turning point in the history of the English language. First, the events that occurred in the years 1069-1071 triggered a reversal of William's policy, which had been favorable to the native population. Osmund's appointment as head of the English Chancellery, replacing Herfast in this position⁶², coincided with the Norman takeover of the English administration. As was previously said, a relinquishment

⁶² See p 30.

of Old English was not possible earlier since William needed the service and the experience of Edward's clerks. After five years of government, however, the members of his chancellery and the king himself had a sufficient knowledge of English administrative machinery and how to apply it to rule in England. Thus, the assistance of an Anglo-Saxon bureaucracy was no longer necessary. Accustomed to laws and legislation in Latin and French, the new rulers of England had no desire to employ yet a third language with which they were not even familiar.⁶³

Among the observable consequences of such a change, is a decline of the administrative use of Old English. Beginning in the early 1070's, official documents, especially lawcodes and writs, were written exclusively in Latin. Despite the king's policy, however, some Old English words had to be retained for two main reasons. First, their presence in the manuscripts was essential since they referred to essential judicial practices. At the same time, the administrative and legal vocabulary of the Normans lacked equivalent words and phrases to convey adequately the meaning of Old English terminology. When the scribes translated Old English documents, they had to find Latin and French terms to express phenomena relating directly to the Anglo Saxon way of life. When no equivalent could be found, for an English word or phrase, it was then necessary to preserve Old English vocabulary in the Anglo-Norman documents.⁶⁴

⁶³ Baker 180.

- b. The development of Old English terminology at the time of the *Leges Henrici Primi*.

Tables II.1-4, III1.1-2, and IV⁶⁵, based on works dating from the reign of Henry I, show, based on written works of this period, that there were still many Old English words in usage in England two generations after the Norman settlement. Indeed, juridical and legislative records from Henry' reign contain a greater presence of Old English vocabulary than may be found in the legal records of his father William I. The Old English tongue was no longer sovereign in the juridical field but it nevertheless remained a source of indispensable technical terms for lawmen in the service of the king.

How can one explain this renaissance of such a vocabulary after the events of the 1070's? Certainly it must be linked to the Anglicization policies of the Normans. Invaders and indigenous English had been coexisting for a generation when Henry I became king: actually, he was himself born in England. A society, an Anglo-Norman culture, was emerging but not completely independent of its Anglo-Saxon predecessors. This new situation had two major repercussions. First, the animosity of William I had to some degree disappeared. After the death of the Conqueror, no major revolt occurred against the Norman authority. The condemnation *de facto* that weighed heavily on Old English was no more justified.

⁶⁴ Marjorie Chibnall, *Anglo-Norman England : 1066-1166*, 19.

⁶⁵ See pp 42-43 and 47-48.

Moreover, if English had lost its official status in governmental circles, it was still the language of the commoners. Normans were compelled to learn it for everyday life and, since they used it on a daily basis, it was doubtless a more convenient means of communication than Norman French in many contexts, which was little understood in Paris, much less in London or the English countryside. One observes, in fact, that the vast majority of Old English words listed above had no Norman French counterparts. After all, why should anyone attempt to invent new terms in a foreign tongue - even if it is the one spoken by the ruling clan or aristocracy - when all levels of the indigenous society understood words or phrases in their own native tongue?

II. The introduction of French

In 1066, William I and his followers introduced a new language in England where, beforehand, almost anyone was speaking Old English⁶⁶. Four centuries later, during the rule of the House of Lancaster, 25% of the words in the

⁶⁶ Some French, mainly during Edward's reign, was spoken in England before the Conquest. For instance, in 1051, Robert, bishop of London and former abbot of Jumièges, became archbishop of Canterbury, and Eustache aux Grenons, count of Boulogne, was married to Gode, sister of the king. The inclusion of native speakers of some form of French in the fabric of English society did not change the linguistic habits of the nation, however.

vernacular, which had by then evolved into what scholars today call Middle English, according to Serge Lusignan, had a French origin⁶⁷. Moreover, French was spoken “maternally” by the English kings until the overthrow of Richard II, last representative of the Plantagenet royal family, in 1397 and French was employed as an official judicial language, at least partially, until 1731⁶⁸. But what was the character of the “French” that was favored by the Anglo-Norman court?

A. What is French ?

1. The roots of *Law French*.

While the Anglo-Normans rulers of England commonly employed a dialect of French between 1066 and 1154, French itself was not officially used in France - Latin was the language of the administration - before the fourteenth century when, in the 1360's, it became the language of the chancellery; even though, it only became the official written language in France on August 10, 1539. By the

⁶⁷ Serge Lusignan, *La langue des rois au Moyen Age*, 6.

⁶⁸ Lusignan 209: “Whereas many and great mischiefs do frequently happen to the subjects of this kingdom from the proceedings in courts of justice being in an unknown language, those who are summoned and impleaded having no knowledge or understanding of what is alleged for or against them in the pleading of their lawyers and attorneys, [...] to remedy these great mischiefs [...] be it enacted [...] that [...] all writs [...] and all patents, charters, pardons, commissions, statutes [...] rolls [...] shall be in the English tongue and language only, and not in Latin or French.”

ordinance of Villers-Cotterêts and the articles 110 and 111, King François I ordered⁶⁹ :

Et afin qu'il n'y ait cause de doubter sur l'intelligence desdits arrestz, nous voulons et ordonnons qu'ils soient faictz et escriptz si clerement qu'il n'y ayt ne puisse avoir aucune ambiguïté ou incertitude, ne lieu a en demander interpretation.

Et pour ce que telles choses sont souventesfois advenues sur l'intelligence des motz latins contenuz esdits arrestz, nous voulons que doresnavant tous les arrestz, ensemble toute autres procedures, soient de noz courtz souveraines ou autres subalternes et inferieures, soient de registres, enquestes, contractz, commissions, sentences, testamens, et autres quelzconques actes et exploictz de justice ou qui en deppendent, soient prononcez, enregistrez et delivrez aux parties en langaige maternel françois et non autrement.

("And so that there may be no question regarding the meaning of the aforesaid decisions, we wish and command that they be made and written so clearly that there may be no possibility of any ambiguity or uncertainty, nor any cause to require an interpretation thereof.

⁶⁹ Lusignan 12 and 150.

And since such matters rely often on the knowledge of Latin terms contained in the said decisions, we wish that from now on all the decisions, together with all other procedures, either of our royal courts or of any other subordinate or inferior [court], or of registries, inquiries, contracts, commissions, sentences, testaments, and other deeds and certificates of justice or [any decision] that depend on them, shall be pronounced, written and delivered to the parties in the French mother tongue and no other [language].)

This statement does not imply that Latin alone was previously employed in the French lands. In Normandy, around 1225, a legislative book appeared in the vernacular, as well as in Latin. Indeed, this book is a combination of two different treatises, one written around 1199 and the other around 1220; they form the *Très Ancien Coutumier* (*An Ancient Customary*).⁷⁰ However, this vernacular tongue, the one spoken in the English kingdom, was not the French referred to by François I but rather the Norman dialect.

⁷⁰ http://www.mondes-normands.caen.fr/france/cultures/index_cultures.htm

2. “Anglo-French”

Under French domination, the Anglo-Saxon populace generally made no distinction between the different dialects of spoken French. The word “Franceis” was used in texts of various kinds equally to describe the language spoken in England by the conquerors and other romance languages spoken in France, such as Picard, Angevin, Tourangeau, or Champenois. The use of one single word, however, should not mislead us into believing that “French” was a univocal, fixed language during the Middle Ages. The precursor of modern French - the French of the king and the dialect of the region of Paris, known as “francien”⁷¹ - was not the same as the language of the Anglo-Normans.

A study of the spelling and the pronunciation of the words borrowed from the Francophone continental regions and employed by the Normans in England enables us to arrive at a more sophisticated understanding of the Normans’ tongue, which was not simply French. In western France, where people were speaking a *langue d’oïl*⁷², the modern sound *eu* was – and is still - pronounced *ou*. Thus, when the French word *honneur* was adopted in the English kingdom, it kept this

⁷¹ http://www.tlfq.ulaval.ca/axl/francophonie/HIST_FR_s3_Ancien-francais.htm. The term *francien* is a late creation of the nineteenth century philologist Gaston Pariso designate the dialect of Ile de France.

⁷² In the Middle Ages, three main versions of a romance tongue cover the French kingdom: the *langue d’oïl*, the *langue d’oc* and the *Franco-Provençal*. The first two owe their names to their local pronunciation for “yes” (modern French “oui”): *oïl* or *oc*.

regional pronunciation, obvious in its spelling, *honour*⁷³. Another example of this importance of pronunciation aspect in specifying the language of the Anglo-Normans is the sound *oi* which was pronounced *ei*; hence, the pronunciation *burgess* instead of *bourgeois* in modern English tongue.⁷⁴ This way of pronouncing these syllables is typical of a region covering Brittany, Normandy, Maine, Anjou, and Poitou. What English texts call French was in fact a dialect of French employed in north-western France, the region where William's duchy was located. The king brought his dialect to England. However, in order not to foster confusion and in order to reflect the point of view of the Anglo-Saxon subjects, I will employ the word "French" when referring to the language of the Normans.

B. The oral assets of French

1. The royal administration

William did not come alone to England, and the people who accompanied him to this island were not all members of his family. The kingdom could be conquered only with a powerful force led by trusted lords, who needed to assume two roles to ensure the success of this project. In the short term, first of all, they

⁷³ The spelling in British English of such words as *colour*, *precious* and *flour*, for instance, may be explained in the same manner.

⁷⁴ Catherine Bougy, "La langue anglaise: des milliers de morts français." *Historia*, 59 (May 1999): 98-102.

played a military role. Their task was mainly to gather troops in order to fight under the ducal standard and to lead them on the battlefield against Harold. Second, after the war, they were required to back up William in the administration of his new kingdom. William needed loyal men from his surroundings to manage the country.

The troops that fought at Hastings numbered in the thousands of men (the total, however, was certainly less than 12,000). After the war, many of the warriors went back to France while the rest stayed in England, where they continued to obey the lords who resided now (permanently or not) in England. These nobles – restricted to the principal aristocrats - numbered 357 men. A generation later, according to the *Great Domesday Book*, 180 Norman barons had replaced between four and five thousands Anglo-Saxon thanes. The reasons that led them to stay on the island are obvious. Following the coronation of William, the nobles who crossed the English Channel with him received lands (sometimes smaller than 1/8 of a knight's fief) and, by this means, were entitled to have their say, nationally or locally, in the English political field. These properties and this new power were often superior to any they held on the continent, and so they were not encouraged to return to their family estates. When the Norman nobles came into power in England, Norman culture increasingly influenced that of the Anglo-Saxons; especially after 1071.

2. The Normanization of the royal entourage

In his *Historia Anglorum*, Henry of Huntingdon (c. 1080-1160) expressed his profound shock at the situation of the Anglo-Saxon people:

In the twenty-first year of the reign of King William [...] there was now no prince of the ancient royal race living in England, and all the English were brought to a reluctant submission, so that it was a disgrace to be called an Englishman.⁷⁵

After 1087, all the members of the royal council were, in fact, Normans.⁷⁶ Concerning this matter, the list of witnesses of the charter that established the conditions of the treaty of Winchester provides eloquent testimony. Marking the end of the civil war between Stephen and Henry's daughter Matilda, in November 1153, this charter gives the names of many powerful men who, because they have signed so fundamental a treaty, can be considered as major councillors. The last paragraph of this text noted:

⁷⁵ Williams 71.

⁷⁶ Bryce Lyon, *A Constitutional and Legal History of Medieval England*, 143.

All these were witnesses: Theobald, archbishop of Canterbury; Henry, bishop of Winchester; Robert, bishop of Exeter; Robert, bishop of Bath; Jocelyn, bishop of Salisbury; Robert, bishop of Lincoln; Hilary, bishop of Chichester; William, bishop of Hereford; Walter, bishop of Chester; Walter, bishop of Rochester; Geoffrey, bishop of St Asaph's; Robert, prior of Bermondsey; Otun, knight of the Temple; William, earl of Gloucester; Reginald, earl of Cornwall; Baldwin, earl of Devon; Roger, earl of Hertford; Patrick [earl of] Salisbury; William of Aumale, the earl; Aubrey the earl; Roger, earl of Clare; Richard, earl of Pembroke; Richard of Lucé; William Martel; Richard of Le Hommet; Reginald of Warenne; Manasset Biset; John of Norwich; Richard of Canville; Henry of Essex.⁷⁷

Among these names, there is no trace of any representative of the former Anglo-Saxon aristocracy. The English *curia regis* is no longer a English-speaking institution.

⁷⁷ Douglas and Greenaway 406-407.

a. A new jargon

Spoken commonly by the Normans who controlled England and encouraged by their policy, French also influenced the English language. The words *action, agreement, appeal, arson, arrest, assault, attorney, baron, battery, bill, burgess, burglary, challenge, claim, clerk, citizen, condition, constable, contract, conviction, council, counsel, count, court, covenant, crime, crown, damage, debt, declaration, defendant, demand, descent, devise, easement, evidence, felony, fine, gaol, government, grant, guarantee, guardian, heir, honour, indictment, judge, judgment, juror, justice, larceny, lien, marriage, master, mayor, misdemeanour, money, nation, note, obligation, ordinance, payment, parliament, parties, partner, peer, people, plaintiff, pleading, pledge, possession, prison, property, purchase, riot, robbery, sentence, servant, slander, sovereign, state, statutes, suit, tort, treason, trespass, trial, verdict* and *voucher* are just a sampling of this linguistic heritage.⁷⁸

⁷⁸ This list has been made according to the following sources:
Baker 227.

<http://www.bartleby.com/61/35/T0343500.html>

John Matzke, *Lois de Guillaume le Conquérant*, p XII

Bougy 98

Pollock and Maitland, *The History of English Law before the time of Edward I*, vol. 1, p 59

The influence of French on English during the twelfth, thirteenth and fourteenth centuries was so profound that even after the end of the Norman dynasty, this vocabulary could not be abandoned or replaced and entire books are devoted to it. At the end of the thirteenth century, when Robert of Gloucester translated the *Constitutions of Clarendon* into English verse, he had no choice but to use terms derived from French, including *advowson, amendment, appeal, assize, bailiff, chattels, confirm, custom, debt, fee, felon, grant, homage, hold in chief, judgment, lay, owner, plea, pleading, purchase, service, short, traitor*.⁷⁹ Later, in 1701, the *Law-French Dictionary* was written followed, in 1779, by the *Dictionary of the Norman or Old French Language*. Roger North (1653-1734), who was appointed a royal councillor in 1682, declared: “A man may be a wrangler, but never a lawyer, without knowledge of the authentic books of law in their genuine language,” adding that “lawyers and law French are coincident; one will not stand without the other.”⁸⁰ In the legal field, French was impossible to circumvent. By Henry II’s reign (1154-1189) - only one century after the Conquest -, there were many residents of England who no longer understood such words as *wer, wite, sake* and *soke*⁸¹.

⁷⁹ Pollock and Maitland 63.

⁸⁰ John Hamilton Baker, *Manual of Law French*, p ix.

⁸¹ Pollock and Maitland 62.

b. England: a Franco-Norman realm (1066-1189)

The earliest days of Norman colonization of England did not presage such a resounding victory over Anglo-Saxon culture. At the beginning, Norman scholars did not write their texts in Norman French. The only example of French being used as a written language of legislation or jurisprudence is the *Leis e Custumes*⁸², which should be regarded as exceptional and difficult of explanation. Perhaps this lawcode functioned to make the laws in force at the time more easily accessible to the colonizing nobility. Whatever the explanation, it was not a continental practice to compile such documents in the vernacular language. French had to yield to Latin, the language of medieval scholars. Almost all the scholars were ecclesiastics who employed Latin as a form of universal communication. The well-read men who, under the king's commands, put their decisions in writing did so in Latin. This conferred to the document a certain official quality and made it possible for the manuscript to be read in any court, by any intellectual at any time. In 1164, when Nicolas of Mont St Jacques brought the *Constitutions of Clarendon* to Queen Matilda, she asked him to read them in Latin and to explain them in French.⁸³ Thus, French remained an oral language of prime importance.

⁸² See appendix B. "*Leis e Custumes* of William I" pp. 146-159 for the full original text of this lawcode.

⁸³ Marjorie Chibnall, *Anglo-Norman England*, 212.

The mother tongue of the Norman invaders, French quite logically assumed the status of an official language, at least in its oral form. William did not manage to learn Old English and none of his successors had greater success, even supposing that any of them tried to do so. Henry II, a century after the Conquest, did not speak English. If Henry I, the only Anglo-Norman sovereign who was born in England, knew the local language sufficiently to discuss *sake and soke* or *infangentheof*, he did so only in French.⁸⁴ The nobility was no more inclined to speak Old English. Since they were the winners in the Conquest and had the whole Anglo-Saxon population at their service, why should they have taken the care to learn the language of the vanquished? Only the Anglo-Saxons of the leading class needed to be bilingual; for them, French became a necessary social and professional asset.⁸⁵ Consequently, French became the spoken language of the court and, by extension, of the courts of justice⁸⁶ where Old English was authorized only for the men who spoke neither French nor Latin.⁸⁷

Another phenomenon also helps to explain the profound French influence in the general field of jurisprudence in English. This began in 1166 with the assizes of “*novel disseisin*” and the Assizes of Clarendon. The first legal

⁸⁴ Henry William Carless Davis, *England under the Normans and the Angevins: 1066-1272*, 183.

⁸⁵ Charlotte A. Newman, *The Anglo-Norman Nobility in the Reign of Henry I*, 22. Since they had Anglo-Saxon mothers or wives, some Anglo-Norman nobles must have had, as soon as the 12th century, some notion of English. Women were the living memory of this tongue.

⁸⁶ Timothy Baker 216.

⁸⁷ Davis 183.

innovation, accessible to all freemen, allowed plaintiffs to protest that they had been dispossessed of their property and to obtain justice before a royal court, either by a decision at the court of the Exchequer or by the verdict of an itinerant judge.⁸⁸ The second innovation was the Assizes of Clarendon, which organized regular circuits throughout the country followed by itinerant judges. These two measures brought the indigenous Anglo-Saxon population closer to a French speaking judicial administration. Both kinds of judges, itinerant or from the Exchequer, defined the context and elements of the lawsuit according to their own legal culture acquired in the court and thus in French. In so doing, they introduced into legal jargon terms which they considered to represent more precise definitions and concepts than the Old English terminology. Moreover, the Normans came to the island with their own politico-legal concepts and practices, such as feudal bonds; they also created some new or revised ones after they had established control over England, such as the concept of *murdrum* (accusation concerning the murder of a Frenchman). In this context, no term in English vocabulary could be used; it was thus simpler to continue using Norman French words.

Replaced in administrative manuscripts by Latin, Old English was also challenged successfully in royal and feudal courts by French. Only the legal system at the most local public level preserved the usage of Old English.

⁸⁸ Barlow 313.

2. Local administration: a bilingual field

The *Domesday Book* (1085-1086) gives precise information concerning the population of Colchester. Out of 276 names of burgesses listed here, only sixteen have a continental origin.⁸⁹ In other words, Franco-Normans were hardly in the majority. Records of lawsuits during the eleventh and twelfth centuries, when speakers of English and French came together as collaborators or opponents, reveal the same social situation. Under William's reign, Walter, bishop of Evesham, took Wulfstan, bishop of Worcester, to trial. Wulfstan produced Anglo-Saxon witnesses to affirm his rights to the manors of Bengeworth and Great Hampton and won the case.⁹⁰ In 1100, the lawmen of York were all native to England. In 1106, in litigation opposing the archbishop of York and Osbert, sheriff of this same city, Ansketil of Bulmer, bailiff of North Riding (who became sheriff of York after Osbert, around 1115) had to act as interpreter for the French-speaking audience since the members of the jury expressed themselves only in English. Without an interpreter, the Normans would have been unable to pursue this lawsuit. The case was not an isolated one. In 1122, in Dorset, the abbot of St. Etienne de Caen took to trial the *homines Regis* of Bridport; the two parties disputed a parcel of land located at Burton Bradstock. A court made up of seven

⁸⁹ Williams 204.

⁹⁰ Douglas 308.

hundreds was enjoined to settle the case, finally in favor the abbey. Only three out of the sixteen selected jurors had French names, suggesting that in this area, at least, the Anglo-Saxon population was by far dominant.⁹¹ This inferiority in local trials and the difficulty Normans had in speaking English caused some to abandon or avoid lawsuits entirely or brought considerable embarrassment to others.

Some legal practices and formulations may have been preserved orally by the Anglo-Saxons. Moreover, in assemblies in which a large number of Anglo-Saxons opposed a small group of Normans, it was most efficient to conduct the case in the language understood by the greater number of participants, in this case English (just as Norman French was employed at court, where the nobles mostly came from the Continent)

Practically, the daily application of justice came under Anglo-Saxon control. Norman legislation did not change this situation. William II forbade the men of Bury St Edmunds from attending the courts of the shires and of the hundreds unless they held lands of a value sufficient to have made them “digni” in the time of King Edward.⁹² This policy makes it clear that Norman landholders were largely excluded from these meetings, a conclusion further confirmed by analyzing the names in the legal documents. Between 1077 and 1082, a lawsuit concerning a parcel of land took place. Picot, sheriff of Cambridgeshire, was accused by Gundulf, bishop of Rochester, of having seized land belonging to the

⁹¹ Williams 161-162.

bishopric. The shire court pronounced unjustly in favour of the sheriff. The bishop asked Odo of Bayeux, half-brother of William I, to intervene. Odo ordered the shire to choose twelve of its freemen to confirm, under oath, the seizure exercised by Picot. Finally, the land was given back to Gundulf and the unlucky doomsmen were driven either to go through the ordeal of red-hot iron or to recant. The names of six of these men are known: Ordmaer of Badlingham, juror of the hundred of Staploe; Edward of Chippenham; Harold; Leofwine; Wulfwine of Landwade; and Eadric of Isleham. The important fact is that all the principal figures at the trial, except Odo, were native Englishmen. If Old English disappeared from the formal documents of administration, it nevertheless continued to be essential in the everyday working of local jurisprudence.

III. The rise of Latin

In spite of its qualities and its success among the nobility and the public courts, Anglo-Norman did not become the common official language of the kingdom of England; it was defeated by Latin as the official written tongue.

⁹² Ann Williams 159.

A. The language of the scholars

Despite the decline of the Roman Empire in the fourth and fifth centuries, Latin remained an official language in Western Europe, one that ultimately could be understood from Iberia to Scandinavia. Its universal nature was an asset since it permitted efficient communication throughout Europe among scholars whatever their mother tongue. Very few people spoke Latin in every day life, however, so a bilingual system developed on the Continent, especially as Christian faith spread to the north and east from Rome and Gaul. While commoners spoke the vernacular, Latin became the tongue of the scholars, ecclesiastics or laymen.

B. The language of the Anglo-Norman administration

At first glance, the lawcodes instituted by William I were exclusively written in Latin. All his legislative texts and those of its descendants were not transmitted in any other idiom. Latin was not commonly used in legal and administrative contexts in Anglo-Saxon society, however, except for official charters. The intrusion of Latin in the administration was due to a specific reason. The desire to deliberately put the vernacular aside has nothing to do with it. Anglo-Norman lawcodes were aimed at an elite which had Norman origin, from 1066 and especially after the events of the years 1070-72. This aristocracy, coming

from the continent, did not master, - usually did not even begin to know - Old English. It was out of the question, during the feudal period, for aristocrats, who were also often illiterate, to study a foreign language. The scribes and the scholars working for the nobility were writing their texts in Latin. Thus, the choice of Latin as a conveyor of “law” was intended only to allow the nobility (and their scribes) to understand the means by which they would be able to rule the country⁹³.

⁹³ See appendix C. “The decree of Henry I concerning the county and hundred courts”, p 151, for a full text of an Anglo-Norman decree written in Latin.

CHAPTER II

CHANGES IN THE ADMINISTRATIVE DOCUMENTS UNDER THE ANGLO-NORMAN DYNASTY

I. Changes in the codes of law

A. Towards Anglo-Norman “Common Law”

1. A written standardization of the procedures.

a. Writing the law

In 1179, the author of a work known as *Dialogus de Scaccario* questioned the trust worthiness of “customary” - that is, uncodified, orally transmitted - law. He writes, incorrectly since Anglo-Saxon kings certainly compiled written lawcodes, that “to prevent error from having free course in the future, [William I] decided to bring the conquered people under the rule of written law.” Moreover,

the goal of the *Tractatus de legibus et consuetudinibus regum Angliae tempore Regis Henrici Secundus*, written by Glanville⁹⁴ around 1187-1189, was to put into writing the laws of England. He notes in the prologue that it was “utterly impossible for the laws and legal rules of the realm to be wholly reduced to writing in our time, both because of the ignorance of scribes and because of the confused multiplicity of those same laws and rules.”⁹⁵ Finally, it is difficult, almost impossible, for us today as it was for Glanville and his contemporaries to give English law a structured framework. Indeed, each shire, each town, each community had its own customary laws.

As a matter of fact, the Normans, when they initiated their rule in England, codified both the law itself and determined its written form. This last task required great attention over a period of many years and tended to be as important - if not more so - as developing the law in the first place (for writing it down gave it permanency).

⁹⁴ Ranulf de Glanville was Justiciar of Henry II. He had been also judge, sheriff and diplomatist.

⁹⁵ M.T.Clanchy, *England and its Rulers*, 148.

b. Choosing a law

In the early days after the Conquest, it appeared that two legal systems would coexist. The trial of the earls Waltheof of Northumbria and Roger of Hereford by William I illustrates this situation.⁹⁶

With the passing of reigns and royal decisions, the concept of *jus sanguinis*, the right of blood - that is, a right based on an individual's ethnic or national origins - was slowly replaced by that of *jus solis*, the right of the soil.

To maintain both laws, which were not consonant, became increasingly difficult, in particular because of mixed marriages between Normans and Anglo-Saxons, which confused the concept of "nationality." English and Normans, although they had once been understood to possess distinct identities, came to be protected as well as punished by a single body of law. This was no longer determined by the plaintiff's and the defendant's "nationality of origin" but by the subjection of both men to the Crown of England.

This fact must not mislead us. The evolution towards an homogeneous and common legal system for all citizens of England did not start because of the difficulty of managing simultaneously two different bodies of law. On the contrary, William made English jurisprudence more complicated than it had been

⁹⁶ See p 28.

under the Anglo-Saxon kings.⁹⁷ He contributed especially to this situation by introducing new social, economic, and political concepts to Anglo-Saxon culture. If William and his successors wanted to continue to reign undisputed on the authority of Anglo-Saxon tradition, to which they considered themselves heirs, they had to accept and enforce Anglo-Saxon law,⁹⁸ while supplementing it with concepts drawn from Norman tradition and their own political agenda.

Thus, by the time of Henry I, the line between Anglo-Saxon and Norman law was already blurred. Although the two traditions came close to being reconciled, events - including the two revolts discussed in chapter 1 – dictated otherwise, and they were never conjoined, except under the rubric of what is known today as English “Common Law,” which remains uncodified.

2. The survival of local law

The “Common Law,” which ultimately was the fruit of the work of the Anglo-Norman sovereigns and their agents, contrasts with almost regional Anglo-Saxon law. However, under the Norman rule, local law still exists. Even in the twelfth century, article 76.7g of the *Leges Henrici Primi* stated:

⁹⁷ Barlow 54.

⁹⁸ Lyon 181.

Hoc secundum legem et nostram consuetudinem diximus; differentia tamen weregildi multa est in Cantia uillanorum et baronum.⁹⁹

(“We have declared this according to our own law and custom; however, in Kent there is a great difference from this in the amount of wergeld payable in respect of villeins and barons.”)

More important was the sixth chapter of this lawcode which distinguished three types of laws in England. Those are distributed geographically and correspond to the areas of Wessex, Mercia and the Danelaw¹⁰⁰:

Legis etiam Anglice trina est partitio ad superiorem modum, alia enim Westsexie, alia Mircena, alia Denelaga est.

(“English law is also divided into three parts in the same way as above; one is the law of Wessex, another law of Mercia, and the third the Danelaw.”)

In practice, however, the legal records do not uphold this tripartite division of legislation. They indicate by contrast a homogenization of practices.¹⁰¹ Yet the regionalization of laws is not absent from Norman legislation. The Anglo-Norman

⁹⁹ L.J. Downer 242-243.

¹⁰⁰ L.J. Downer 96-97.

¹⁰¹ John Hudson, *The Formation of the English Common Law: Law and Society in England*, p17.

kings, for political and economic reasons in particular, continued to confirm or grant to the cities exceptional powers and rights.

Henry I, who granted a charter to the citizens of London,¹⁰² also granted a charter to the town of Beverley :

Henry, king of England, to his archbishops, bishops, justiciars, sheriffs, and all his faithful men, greeting. Know that I have granted and given and by this charter has confirmed to the men of Beverley their free burgage according to the free laws and customs of the burgesses of York, also their gild merchants, together with their pleas and tolls and all other free customs and liberties in all things, as Archbishop Thurstan has granted and confirmed to them by his charter, inside the town of Beverley and outside it, as well as in field or in marsh and in other things. And it is my will that they, like the men of York, shall be quit of toll throughout the whole shire of York [...].¹⁰³

Not only did Anglo-Saxons use written law and the Normans oral law; the Conquest constituted nevertheless a pronounced rupture with the past. The Norman rule led to a decline of local law and the creation of a common law.

¹⁰² Robertson 288-293.

¹⁰³ Carl Stephenson et Frederick George Marcham, *Sources of English Constitutional History*, 63.

B. The evolution of English lawcodes under Norman rule

1. The prologue

Careful attention to lawcodes' prologues is essential. This paragraph, if it is not the heart of the official text, gives meaning to a document, defines its nature, and establishes its parameters. It is the official expression of a royal decision. Any apparent revision in Anglo-Saxon practices recorded after 1066 in these few lines would likely be meaningful.

a. The Anglo-Saxon literary justification of the prologue

It must be said that the prologue, in the royal Anglo-Saxon acts, is lucid and unambiguous. The text does not open with any kind of rethorical flourish. The laws of Ethelbert, king of Kent, enacted around 602-603, begins with the words: "These are the decrees [...]"¹⁰⁴ More than three hundreds years later, around 959-963, the code issued under the order of King Edgar, known as *I Edgar*, starts with the following formula: "Ðis is seo gerædnyss [...]" ("This is the ordinance [...]").¹⁰⁵

¹⁰⁴ Dorothy Whitelock, *English Historical Documents: c 500-1042*, vol. 1, p 357.

¹⁰⁵ Robertson 16-17.

The documents were written down, not by jurists or administrators as we might assume them today, but by scholars; we may assume that they carefully chose and/or copied the words and avoided unnecessary digression. For them the prologue was a clear, unambiguous statement of the document's contents. Presenting the laws he issued between the years 688 and 694, King Ine proclaims:

True law and true statutes might be established and strengthened throughout our people, so that none of the ealdormen or of our subjects might afterwards pervert these our decrees.¹⁰⁶

The prologue must also explain to the reader (or auditor) the validity of the policies and procedures contained in the text that follows.

In addition to leading directly to the subject, the prologue summarizes the aim - or purpose - of the text. Thus, the laws of King Ethelred, promulgated around 978-1008, at Wantage, were taken "to friðes bóte" ("for the improvement of public security").¹⁰⁷ Consequently, the Old English prologue, in the royal texts, ends with a declaration that authorizes the content that follows. The prologue informs the audience or the reader and makes official the content of the text.

¹⁰⁶ Whitelock 364.

¹⁰⁷ Whitelock 403.

b. The *witenagemot* makes the lawcode official

Everything in the prologue indicates that the lawcode is the result of an official decision. First of all, after the mention of the nature of the act, which opens the prologue, it is the sovereign himself who is quoted by name and by his title. A treaty with the Vikings signed by king Ethelred in 991 begins with these words:

Dis synd ða friðmal 7 ða forword ðe Æthelred cyng 7 ealle his witan wið ðone here gedon habbað [...] ¹⁰⁸

(“These are the peace terms and conditions which King Ethelred and all his councillors have made with the [Viking] military forces [...].”)

The royal text becomes a command that everyone must obey:

Dis syndan þa gerædnessa þe Engla rædgifan gecuran 7 gecwædan 7 geornlice lærdan þæt man scolde healdan. ¹⁰⁹

(“These are the ordinances which the councillors of England have decided and agreed upon, earnestly enjoining that they should be observed.”)

¹⁰⁸ Robertson 56-57.

¹⁰⁹ Robertson 90-91

Thus is the command of King Æthelred in the code that he supervises between 1008 and 1014. If the concept of absolute monarchy had not yet been developed in early medieval Europe, it is certain that the king has authority and power over his subjects, “eorls and ceorls.”

Above all, the swearing of an oath, a traditional Anglo-Saxon practice and the foundation of their judicial and legal system, validates the royal will. The treaty of Alfred and Guthrum, signed around 886-890, is presented in the prologue as being a peace treaty that “the councillors [...] have all agreed and confirmed with oath.”¹¹⁰ Thanks to the oath sworn by the *witenagemot*, the royal Anglo-Saxon council, the royal document is not only confirmed in its legal nature but is also accepted as such by the main lords and leaders of the kingdom.

c. A formatted prologue

The difference is significant between the prologue of Ethelbert’s laws, first of its kind and very laconic, “these are the decrees which King Ethelbert established on Augustine’s day”¹¹¹, and the one of Cnute’s laws written four centuries later around 1020-1023, at the end of the Anglo-Saxon period. This evolution follows three distinct chronological periods.

¹¹⁰ Whitelock 380.

¹¹¹ Frederick Levi Attenborough, trans., *The Laws of the Earliest English Kings*, New York : Russel & Russel, 1963, p 4: “Ðis syndon þa domas, þe Æðelbirht cyning asette on Augustinus dæge.”

During the seventh century, the prologue is concise. The prologue of Hlothhere and Eadric's laws, written around 673-685, is:

Hlothhere and Eadric, kings of the people of Kent, added to the law which their forefathers had made these decrees which are stated here after.¹¹²

The kings only gave the nature of the document, pretending themselves as the sole instigators of the decisions. At the very best, Ethelbert tells that his edict was enacted on the day of Saint Augustine.

During this period, the first official written acts appear. This practice, a recent one, is still no more than a simple sentence comparable to a verbal acknowledgement before a speech.

Under King Ine, during the last decade of the seventh century, the prologue expanded and became rich in details. Thus, around 688-694, Ine declares:

Ic Ine, mid Godes gife Wesseaxna kyning, mid geðeahte 7 mid lare
 Cenredes mines fæder 7 Heddes mines biscepes 7 Eorcenwoldes mines
 biscepes, mid eallum minum ealdormonnum 7 þæm ieldstan witum minre
 ðeode 7 eac micelre gesomnunge Godes ðeowa, wæs smeagende be ðære

¹¹² Attenborough 360.

hælo urra sawla 7 be ðam staþole ures rices, þætte ryht æw 7 ryhte cynedomas ðurh ure folc gefæstnode 7 getrymede wæron, þætte nænig ealdormonna ne us undergeðeodedra æfter þam wære awendende ðas ure domas.¹¹³

(“I, Ine, by the grace of God, King of the West Saxons, with the advice and with the instruction of my father Cenred, and my bishop Hædde, and my bishop Eorcenwold, along with all my ealdormen and the chief councillors of my people, and also a great assembly of the servants of God, have been inquiring about salvation of our souls and about the security of our kingdom, that true law and true statutes might be established and strengthened throughout our people, so that none of the ealdormen or of our subjects might afterwards pervert these our decrees.”)

In just a century, the kings had learned to use the prologue for other purposes than just an elementary salutation to its readers and the audience. This short paragraph became a text within the text. The prologue became as important as the text it was introducing. The formal evolution of the prologue is obvious.

¹¹³ <http://www.georgetown.edu/labyrinth/library/oe/texts/prose/laws.html>

Anglo-Saxon officers, leaders and writers, were aware however of the cumbersomeness of this type of prologue. They decided to stop working on its content and to pay more attention to its form. If the English kings kept this conception of the prologue, they later gave it a stricter and more refined form.

d. The final form of the Anglo-Saxon prologue

From the ninth century on, the prologue adopts a shape that becomes standard; it contained only personal changes, according to each Anglo-Saxon king, of no major consequence until the Norman influence. In Edgar's ordinance, written around 959-963, the prologue was:

Ðis is seo gerædnes þe Eadgar cyngc mid his witena geþeahte gerædde,
 Gode to lofe 7 him silfum to cynescype 7 [eallum his leodscype] to þearfe.¹¹⁴
 (“This is the ordinance which King Edgar determined with the advice of his
 councillors, for the praise of God and for his own royal dignity and for the
 benefit of all his people.”)

At the beginning of the eleventh century, the format of the prologue is unchanged and the ordinance of Cnut, elaborated around 1020-1023, started thus:

¹¹⁴ Robertson 20-21.

Ðis is seo gerednes, þe Cnut cyning, ealles Englalandes cyningc 7 Dena cyningc 7 Norþrigena cyningc, gerædde, 7 his witan, Gode to lofe 7 him sylfum to cynescipe 7 to þearfe [...].¹¹⁵

(“This is the ordinance which King Cnut, king of all England and king of the Danes and king of the Norwegians, and his councillors decreed, for the praise of God and for his own royal dignity and benefit [...].”)

From the beginning of the tenth century, Anglo-Saxon kings retained in general terms the three main basic elements of the prologue as they existed under Ine’s rule. First, the nature of the document (treaty, ordinance, law, edict, for instance) is announced. Then a short presentation of its authors follows; this list of names starts with the name of the king and continues to other members of his council identified hierarchically. Most of the time, these men are not all identified by name but instead collectively referred to as “councillors”. Finally, the prologue concludes with a specification of the reasons why the document has been issued.

After a few decades of development, the prologue, went from being a laconic paragraph to becoming a precise, carefully written introduction to a lawcode.

¹¹⁵ Whitelock 419.

e. The Anglo-Norman prologue

Decreta domini Regis Willelmi bastardi et emendaciones quas posuit in Anglia quae olim vocabatur Britannia.¹¹⁶

(The decree and legal reforms of our lord King William the Bastard, which he established in England, which was formerly called Britain”)

This example drawn from the *Willelmi Articuli Retractati* shows an enormous difference from the Anglo-Saxon prologues. It is true that the Norman kings did not rearrange the structure of the paragraph. In William’s writing, the nature of the document is clear: it is a record of decrees and reforms decided by the king; once more, the king is the first person to be cited. Actually, the literary upheaval, full of political importance, is found in the disappearance of two major components of the traditional English prologue.

The legal articles were established by the king alone, at least in the text. The councillors are not alluded to, not even by title. The sovereign is all powerful and is no longer the representative of the people. Besides - and this is the second missing element - the reasons for the elaboration of the lawcode, chiefly for the love of God and the good of the people, have disappeared. The king has neither an

¹¹⁶ Robertson 244-245.

obligation nor even a need to give explanation for his actions. The new king is a conqueror and not the emanation of a people's will.

As powerful in England as they were, or were thought to be, however, Norman leaders had much to learn from their subjects. The main body of the lawcodes revealed the Norman weakness in writing the law.

2. "All men should keep and observe the law of King Edward": The Anglo-Norman continuation of Anglo-Saxon lawcodes¹¹⁷

Historians, such as Daniel Coquillette, have expressed considerable admiration for the Norman success at "introduc[ing] to England the science of law."¹¹⁸ The Normans did not seek to establish a clear difference between law and custom, seeing in both of these an intention to establish a better, more efficient social fabric. Custom and laws have distinctly different means of transmission; of course, the first relies on collective memory while the second is codified in writing. If both were active practices in Anglo-Saxon culture, from the seventh century, the inhabitants of the region called Normandy from 911 on apparently

¹¹⁷ Robertson 240-241. The citation in this subtitle translates the phrase "ut omnes habeant et teneant legem Eadwardi Regis," which is the principal resolution of the seventh article of William's lawcode entitled *The Ten Articles*.

¹¹⁸ Daniel Coquillette, *The Anglo-Norman Legal Heritage*, p 56.

knew only about customary law. The oldest copy of a Norman manuscript containing legal material dates from the first half of the thirteenth century: a compilation of two earlier treatises, dating from ca. 1199 and ca. 1220; it is entitled the *Très Ancien Coutumier*. A second important legal corpus, the *Summa de legibus Normanniae in curia laicali*, was written between 1235 and 1245.¹¹⁹ How then did the Normans, whose legal system before the Conquest depended exclusively on tradition that was transmitted orally, develop and introduce in England a “science” that was for them unprecedented?

Indeed, the Normans, lacking written codes and ordinances, favored the perpetuation of a system of traditional written rights that were irrefutable. This is even specified in the fourth law of the *Leges Henrici Primi*:

[Institutio equitatis duplex est]: in lege scripta, in moribus uel communi usu pro lege suscepto.¹²⁰

(“Law is of two kinds: written law and custom or general usage accepted as law”)

William I rapidly profited from the written legal practice. He went further than his Anglo-Saxon predecessors and put many matters of custom into writing.

¹¹⁹ http://www.mondes-normands.caen.fr/france/cultures/GB_FR/culture1_7.htm

¹²⁰ Downer 82-83

Article three of the *Leis e custumes* codified in writing a Mercian customary practice relative to the proper treatment of thieves.¹²¹ Making a written record of customs was not seen as perpetuating indigenous customs but was meant to familiarize the Normans with the most important local laws. The knowledge of customary laws, gained by questioning well-informed persons¹²², could allow an effective grip on the country and avoid dangerous misunderstandings in a hostile environment. Indeed, the Norman kings added some legal innovations, such as the *murdrum*, to adjust to the new social order introduced by the conquest and the coexistence of two distinct societies and not to make changes due to political or cultural disagreements.

Seizing the opportunity offered by the written law, the Normans based their juridical system on Anglo-Saxon structure which often meant that they copied Anglo-Saxon verbatim.

C. A comparative textual study

¹²¹ See B. “*Leis e Custumes* of William I”, p 147

¹²² Around 1150, the case of a trial involving two knights accused of treasons, in which King Stephen was involved, was not decided by lawmen. The decisive intervention was made neither by a lawman nor an officer but by an old man, Hervey de Glanville who put forward his memories to help the jury. Robert Bartlett, *England under the Norman and Angevin Kings*, 152-153.

1. Copying Anglo-Saxon codes

John Matzke, in his translation of the *Leis e Custumes*, noticed that articles 39 through 52 of the *Leis e Custumes* were literal translations of Cnut's laws.¹²³ One may, for example, compare article 49 in the Norman corpus with article 29 in Cnut's Anglo-Danish code:

E ki larun encontre e sanz cri a acient l[e] leit aler, si l'amend a la vailaunce de larun, u s'en spurge per plenere lei que il laroun nel sout¹²⁴

("And if anyone comes upon a thief and of his own accord lets him escape, without raising the hue and cry, he shall make compensation by the payment of the thief's value, or he shall clear himself by the full oath, [asserting] that he did not know him to be a thief.")

7 gyf hwá ðeof gemete 7 hine his ðances aweg láete buton réame, gebete be ðæs ðeofes wére oððe hine mid fullum aðe geladige, þæt he him mid nan facn nyste.¹²⁵

¹²³ John E. Matzke, *Lois de William le Conquérant*, XI.

¹²⁴ Robertson 74.

¹²⁵ Robertson 188-189.

(“And if anyone comes upon a thief and of his own accord lets him escape without raising the hue and cry, he shall make compensation be the payment of the thief’s wergeld, or clear himself with the full oath, [asserting] that he did not know him to be guilty of any crime.”)

A close examination of these laws reveals two significant differences in vocabulary and grammar. The Old English phrase “þæt he him mid nan facn nyste” reappears in French as “que il laroun nel sout”, and “wére” is in French “vailaunce.” Both articles are otherwise identical. This comparison seems to indicate that the Norman kings did not show much originality in establishing their legislation. In certain extreme cases, as the preceding example shows, their decisions were not creations *ex nihilo* but they were simple copies of older laws. This practice of copying ancient laws was not peculiar to the first Anglo-Norman sovereign. It was also the practice of all the members of his lineage, in any case, with regard to those for which we have legislative documents. The following example testifies of this fact.

King Alfred (871-899), responding to the inevitable incidence of accidental injury or death resulting from the transport of weapons (especially spears) established legislation that was intended to define a soldier’s responsibility for his own conduct. Accordingly, Alfred made such injuries - even when unintentional –

punishable under the law. In article 36 of his code, three paragraphs treat this phenomenon:

Eac is funden: gif mon hafað spere ofer eaxle, 7 hine mon on asnaseð, gielde þone wer butan wite.

Gif beforan eagum asnase, gielde þone wer; gif hine mon tio gewealdes on ðære dæde, getriowe hine be þam wite 7 mid ðy þæt wite afelle, gif se ord sie ufor þonne hindeward sceaft. Gif hie sien bu gelic, ord 7 hindeward sceaft, þæt sie butan pleo.¹²⁶

(“Moreover, it is established: if anyone has a spear over his shoulder, and he pierces a man on it, the wergild is to be paid without contribution to the king.

If he wounds a man before his very eyes, he is to pay the wergild; if anyone accuses him of intending to commit this, he must clear himself in proportion to the contribution to the king, and by that [oath] do away with the contribution to the king, if the point of the spear is higher than the butt end of the shaft. If they are both leveled, the point and the butt end, that is to be [considered] safe.”)

¹²⁶ <http://www.georgetown.edu/labyrinth/library/oe/texts/prose/laws.html>

More than two centuries later, Henry I inserted in his *Leges Henrici Primi* three laws in order to fight the same unfortunate occurrences. These last belong to the 88th chapter and stipulate:

Si quis lanceam ferat super humerum et inde quis occidatur, reddatur pretio natiuitatis eius, sine wita.

Si acumen lancee ante oculos portitoris sit, weram mortui reddat, et si possibilitatis accusetur in eo, pernegare studeat secundum pretium wite, et ita remaneat.

Si uero cupsis et acies lancee pari sustentatione respondeant, sine culpa sit.¹²⁷

(“If anyone carries a spear over his shoulder, and someone is killed by it, compensation according to native law shall be paid, without imposition of the wite.

If the point of the spear is carried in the bearer’s line of sight, he shall pay the wergeld of the dead man, and if he is accused of deliberate intention in the matter he shall take care to declare his denial by an oath equal in value to the amount of the contribution to the king; and in this way the contribution to the king shall be not payable.

¹²⁷ Downer 270-271.

If the butt-end and the point of the spear were carried at the same level, no blame shall attach to the person carrying it”)

Henry I added nothing to Alfred’s law, at most removing specific mention of situations in which the lance’s point might be held higher than the end of its shaft (since this is implied in the context).

The Norman copies of Anglo-Saxon legal articles, almost verbatim, indicate that the Normans had access to reliable versions of the lawcodes and a clear intention of comprehending them fully. The copies were not the result of a proclivity of the Anglo-Normans king to prefer facility to reflection. An examination of article 8, paragraph 6, of the *Leges Henrici Primi* underscores such as situation:

Set de hiis omnibus pleniorum suggerunt uentura notitiam sicut Edwardi beatissimi principis extitisse temporibus indiciis et fida relatione cognouimus.¹²⁸

(“What is to follow provides a more complete account of all these matters, as we have learned through faithful translation and trustworthy record, that they were found in the time of the most blessed sovereign Edward.”)

¹²⁸ Downer 104-105.

This remark demonstrates that Anglo-Saxon lawcodes were models for the Anglo-Norman aristocracy. Their study permitted the Anglo-Norman kings and their lawmen to understand Anglo-Saxon law gradually and to profit greatly from it. Hence, one observes a difference between William I's laws, issued at a time when the knowledge of English laws by the Normans was in its infancy, and the code of Henry I's reign, when this knowledge was mastered. While the *Ten Articles* of William I - in fact gathering only nine laws presumed new - called on respecting all "legem Eadwardi regis" ("King Edward's laws")¹²⁹, the legislation of King Henry I freed itself from this Anglo-Saxon tutelage. Henry I, based on a deeper knowledge of Anglo-Saxon law, had been able to target with accuracy the articles he had to keep and the ones he had to discard.

2. The reasons for the survival of Anglo-Saxon laws

The reasons why the Norman kings of England enforced Anglo-Saxon laws are many. First, enforcing laws issued by previous kings was widely practiced in European courts. King Alfred wrote in the introduction of his code:

¹²⁹ Robertson 240.

Hie ða on monegum senoðum monegra menniscra misdæda bote gesetton, 7 on monega senoðbec hie writan, hwær anne dom hwær oþerne.

Ic ða Ælfred cyning þas togædere gegaderode 7 awritan het, monege þara þe ure forengan heoldon, ða ðe me licodon; 7 manege þara þe me ne licodon ic awarep mid minra witena geðeahte, 7 on oðre wisan bebed to healdanne. Forðam ic ne dorste geðristlæcan þara minra awuht fela on gewrit settan, forðam me wæs uncuð, hwæt þæs ðam lician wolde ðe æfter us wæren. Ac ða ðe ic gemette awðer oððe on Ines dæge, mines mæges, oððe on Offan Mercna cyninges oððe on Æþelbryhtes, þe ærest fulluhte onfeng on Angelcynne, þa ðe me ryhtoste ðuhton, ic þa heron gegaderode, 7 þa oðre forlet.¹³⁰

("[Holy bishops and other distinguished wise men] then in many synods fixed the compensation for many human misdeeds, and they wrote them in many synod-books, here one law, there another.

Then I, King Alfred, collected these together and ordered to be written many of them which our forefathers observed, those which I liked; and many of those which I did not like, I rejected on the advice of my councillors, and ordered them to be differently observed. For I did not dare to presume to set in writing only [laws] of my own, because I did not know what would please those who should come after us. But of the laws that I

¹³⁰ Whitelock 373.

did find - dating either from the time of my kinsman King Ine, or of Offa, king of the Mercians, or of Ethelbert, who was the first among the English to receive baptism – the ones that seemed most just to me I have collected and [I have] omitted others.”)

Second, of course, the Anglo-Saxon population was already used to the legislation issued by pre-Conquest kings. Third, the Anglo-Saxon laws were efficient and there was no need to change them. Finally, there is a less pragmatic and more psychological advantage for Norman kings in keeping Anglo-Saxon laws. If renowned sovereigns had issued some laws, they were considered to be efficient. Naming a king had a psychological purpose and William had himself understood this principle. When Alfred had insisted on the fact that Ethelbert was among the first Englishmen to be baptized, he was not giving his readers historical information. Instead, in a society in which Christianity had become a moral and political force, Ethelbert’s conversion and piety endowed his juridical choices with particular legitimacy. In other cases, the king’s fame and renown were sufficient to give a law its strength. By copying laws from Anglo-Saxon codes, the Anglo-Norman kings secured for themselves the prestige of their predecessors. That explains the constant reference to “Edward’s laws” in the Anglo-Norman legislation. King Edward, who died in 1066, had an excellent reputation both among his people and the Normans – William was supposed to be his chosen

successor. Edward was so beloved that he was canonized in 1161 on Henry II's demand after a first request in 1139.¹³¹ Enforcing his legislation could only be profitable to William I and his successors.

II. The writ

The writ is an Anglo-Saxon legal document that the Normans encountered in establishing their control over England after the Conquest. Already in use under King Ethelred¹³², the writ continued to be employed by the Normans, who concluded it could be an exceptional device for imposing the royal will. Then, they issued more and more writs during the centuries of their rule, and by so doing, showed their attachment to, and reliance on, this efficient Anglo-Saxon legal document.

¹³¹ Barlow 74.

¹³² Jack Robert Lander, *Ancient and Medieval England*, 57.

A. The formal evolution of the writ

The writ is generally thought to have been developed during the tenth century - the oldest extant writ was issued under King Æthelræd II (978-1016)¹³³ - although its origin is uncertain. In a few decades, the writ became an essential component of the English administration.

1. The Anglo-Saxon characteristics of the writ

a. The difference between the writ and the charter

During the Anglo-Saxon period, a clear distinction existed between the writ and the charter, an important, commonly used and ancient legal document; the first royal charter dates from 679. This kind of document typically records the donation of land by the king or any other person, mainly to the Church. Written in Latin, its text was formal and prolix. It confirmed the donation and, because it could be used as evidence in a juridical contest, had to be carefully guarded by its recipient.¹³⁴

The writ, a completely different kind of document, had a more administrative

¹³³ Raoul Charles Van Caenegem, *The Birth of English Common Law*, 31. According to Harmer, the writ was already in use under King Alfred since a “ærengewrit” and its “insegel” are mentioned in his translation of the *Soliloquies* of St Augustine of Hippo.

¹³⁴ Lyon 4-5.

function; it appeared late in the Anglo-Saxon history and had a more immediate purpose.

b. The configuration of the writ

“King Cnut greets in friendship all my bishops and my earls and my reeves in every shire in which Archbishop Æthelnoth and the community at Christ Church hold land. And I inform you that I have granted him that he is to be entitled to his sake and soke, and [fines for] breach of peace, hamsocn, forsteal, to [the right to do justice on] the thief caught on his land, and to [the fine for] harboring of fugitives; over his own men within the borough and outside, and over Christ Church, and over as many thanes as I have relinquished to him. And I do not wish any man to withdraw anything there except him and his officials; for I have granted these rights to Christ Church for the eternal redemption of my soul, and I will not permit that any man violate this on pain of forfeiting my friendship.”¹³⁵

The charter begins with an invocation and preamble. Addressed to a particular individual, it contained neither a date nor a seal but could be authenticated by a list of witnesses among which the king was cited first. On the

¹³⁵ Withelock 555.

contrary, after a succinct standard and formal salutation, the writ, itself undated, was made official only by its seal; no witness was necessary in order to validate it.¹³⁶ This was a written formal order or notification that was linked to the scriptural branch of the Frankish *indiculi* - letters transmitting orders or notifying decisions - (of which it may have been an imitation¹³⁷) and of the papal *brevia*, among others. Equivalent to the French *bref*, it could be issued by the king or any lord. It distinguished itself from other legal documents by means of five characteristics¹³⁸:

- a systematic use of Old English;
- a specific format (the width being longer than the length);
- a laconic text;
- the absence of any sign of authentication other than its seal;
- a practical, short-term use.

¹³⁶ Van Caenegem 127-128.

¹³⁷ Van Caenegem 114 and 116.

¹³⁸ Van Caenegem 107 and 109.

B. Anglo-Norman influence on the writ

1. The decline of the charter

While the writ was an administrative document of notification, the charter was a legal instrument whose purpose was to perpetuate a will or testament and to declare the terms of a transaction. However, in the tenth century, the writ began to assume the function of the *diploma*. This evolution continued under the Norman dynasty and gave the writ two different forms: the writ in its original form and the writ-charter. The first one was meant to be sent to individuals or local communities and to bear a seal *sur simple queue*; the second one had a larger audience, a more elaborated text, was initialed by important witnesses and was recognizable by its seal *sur double queue*. Chronologically, under the two first Williams, only the writ and the traditional Old English charter were issued; the writ-charter was still to be created. The difference between the two types of writs and the decline of the charter started under Henry I. During this period, the writ transmitted orders and the writ-charter dealt with donations of various kinds; under Henry II, the Old English charter was no longer used.

2. The evolution of the writ under Norman rule

The form of the writ in 1189 diverged slightly from the one it had in 1066¹³⁹.

William, by the grace of God, king of the English, to Lanfranc, archbishop of Canterbury, and Geoffrey, bishop of Coutances, and Robert, count of Eu, and Richard, son of Count Gilbert, and Hugh of Montfort-sur-Risle and to all his other magnates of England, greeting. Summon my sheriffs by my order and tell them from me that they must return to my bishoprics and abbacies all the demesne, and all the demesne-land which my bishops and abbots, either through carelessness or fear or greed, have given them out of the demesne of my bishoprics and abbacies; which they have consented to hold; or which they have seized by violence. And unless they return those things belonging to the demesne of my churches which they have up to now wrongfully held, you are to compel them no matter what to make restitution. And if anyone else, or if any of you, to whom I have addressed this instrument of justice, is liable to the same accusation, let him likewise make restitution of whatever he holds of the demesne of my bishoprics and abbacies, lest one of you holding anything by a similar wrong might be the

¹³⁹ See appendix D, "Writ of Stephen (1139-1153)," p 162, for an original Anglo-Norman writ.

less able to coerce any sheriff or other person who in like manner possesses the demesne of my churches.¹⁴⁰

The previous writ, dating from ca. 1070-1071, does not contain any novelty brought by the Normans and keeps its Anglo-Saxon characteristics. Nevertheless, it is already representative of the Anglo-Norman writ. The alterations borne by this document under the first two Anglo-Norman kings, according to Raoul Charles Van Caenegem, fall into two categories: historical modifications and diplomatic modifications.¹⁴¹

From a historical point of view, the cultural pressures and the consequences of a major relocation of peoples brought about by the Norman Conquest in 1066 led the scribes to modify the writ. First, up to the time of Henry II's reign, which began in 1154, the writ was directed at French and English subjects of the Crown. During the period of Anglo-Saxon rule, no ethnic distinction was made in the writ among the English subjects, should they be Norman or of Saxon ancestry. Then Latin replaced the vernacular language. If a few bilingual writs are known before the reign of Henry I - such as the one by which William I announces a donation in

¹⁴⁰ Douglas and Greenaway 431-4

¹⁴¹ Caenegem, *Royal Writs in England from the Conquest to Glanville*, p 141.

favor of Lanfranc in January 1075¹⁴² - this is only transitory between the Anglo-Saxon writ issued in Old English and the Anglo-Norman Latin writ.

The diplomatic modifications are also various. Normans were as familiar with the charter as they were ignorant of the writ; accordingly, they integrated in the latter some elements of the former, leading to the development of a new kind of document: the writ-charter. The people who benefitted from the writs became more and more individual, in the first place sheriffs; so much so that this use of the writ became ordinary; boroughs, hundreds and shires were no longer the main beneficiaries. In the same manner, the main part of the text incorporated regularly an important element: an injunction. The king warned the audience that, if anyone refused to obey his command, actions would be taken to punish this outrage. Accordingly, the king could impose a fine on the wrongdoer or arrest him. The ending of the writ was also modified. It became more substantial, integrating two new elements from 1070 on. Henceforth, the date¹⁴³ and the witness(es) of the issue of the writ were clearly indicated. Irregular at first, only half of the writs of William II ended thus; the practice became standard by the time of King Henry I.¹⁴⁴

¹⁴² Van Caenegem 142.

¹⁴³ The way of dating the writ was not based on the actual use of a time. The scribes preferred to use an event as a temporal reference.

¹⁴⁴ Van Caenegem 148.

In addition to observing these modifications, we notice also that the writ lost one of its traditional components: the farewell formula; common before 1066, it survived only in the vernacular writs of the first years of the Norman rule and it became rare in the Latin manuscripts.

By 1100, most of the Norman alterations of the writ had been realized, partially at least. Henry I had only to confirm these modifications and his own innovations were minor.

Henry I and his chancellery modified mainly the writing of the injunction. The royal command became common and followed a formal pattern: “nisi feceris, Z feciat.”¹⁴⁵ The king warned that a refusal to obey would lead to the intervention of an officer of his court, often a sheriff or a judge. This injunction had a considerable impact on Anglo-Norman justice. It had its share of responsibility concerning the transfer of trials from the private courts to the shires and, from there, to the royal courts. This transfer had two advantages. On the one hand, the writ gave to its beneficiary the strength and the moral superiority that the king inspired. Holding a royal writ, a man knew he was protected by the higher authority of the state and feared neither lord nor ecclesiastical entity. On the other hand, this clause ensured that justice would be done by a royal representative.

3. The Anglo-Norman wording of the writ

¹⁴⁵ Van Caenegem 154.

a. A means of sharing legal information

Before the Norman Conquest, the king could use the writ as an injunction. By this means, Æthelred exhorted his thanes in eastern and western Kent to settle litigation over Snodland, and Edward the Confessor asked the shire court of Norfolk to deliver a verdict against a man named Samaer. The use of the writ as a means to command an assembly to settle a dispute was not regular before 1066. Before then, the writs were mainly means of sharing legal information. They were read in local courts to announce, for example, donations of land, exemptions from taxation, nominations of new royal officers, renting of royal lands, and grants of any privilege.¹⁴⁶ Thus, the following writs were issued by King Edward:

Edward the king to Grimketel the bishop and Ælgar the earl and Toli and all my thanes in Suffolk, greeting. I make known to you that I will that the soke of the eight and a half hundreds that pertain to Thingow shall be held ... by St. Edmund with sake and soke as fully as my mother held it. And I forbid that any man shall take away anything that I have already given her.¹⁴⁷

Edward the king greets Harold the earl and Tofi his sheriff and all his thanes in Somerset in friendly fashion. And I make known that Alfred has sold to

¹⁴⁶ Robin Fleming, *Domesday Book and the Law*, 30.

¹⁴⁷ Douglas and Greenaway 429.

Giso the bishop the land of Lutton peacefully and quietly: he did this in my presence at Parret, and in the presence of Edith, my wife, Harold the earl and many others who were there present with us. We also wish that the same bishop shall hold that land with all its appurtenances which the bishop possesses with sake and soke as freely as any of his predecessors as bishop ever held anything. And if anything be taken away from it unjustly we ask that it may be restored. Nor shall it be done otherwise.¹⁴⁸

The original writ went into action after an assembly had made a decision. It was more reactive than active, showing the autonomy of local courts. Around 1014, Ork, housecarl of Cnut, and his wife Tole gave a parcel of land to Abbotsbury under the benevolence of “godre manna,” litigants of the hundred or shire court of the region. A decade later, after Ork’s death, the abbot of Abbotsbury went to the royal court in order to obtain a writ of confirmation by which the king promised to protect Abbotsbury and all its possessions, and to send a writ to the assembly of Dorset.¹⁴⁹ The king did not take part either in the transaction or in its promulgation. If he became involved in this affair, it was *a posteriori* and only at the request of one of the interested parties.

¹⁴⁸ Douglas and Greenaway 429.

¹⁴⁹ Robin Fleming, *Kings and Lords in Conquest England*, 31.

The Conquest changed the role of the writ. Henry I, issuing a writ between September 16, 1115 and May 16, 1127, commanded:

“Henricus rex anglorum Albrico de Ver vicecomiti, salutem. Fac sedere comitatum de Essex’ super terram Alestani, que est in calumpnia inter archiepiscopum Cant’ et abbatem Westm’, et fac recognosci per comitatum quis eorum rectum habeat in ipsa terra. Et cujus juste esse debuerit saysietur inde. T.N. de Alb’. Apud Westm’”¹⁵⁰

(Henry, king of the English, to Aubrey de Vere, sheriff, greeting. Cause the county court of Essex to sit on the land of Atelstan which is claimed by the archbishop of Canterbury and by the abbot of Westminster and let the county court recognize which of them has the right in that land and let him to whom it should justly belong be seised thereof. Witness: Nigel d’Aubigny. At Westminster”)

After the year 1066, a great change occurred. The writ became active rather than reactive. Such documents not only confirmed any decision made by an assembly but instigated deliberations. They became a real juridical tool that royal officers used in order to manage the kingdom.

¹⁵⁰ Van Caenegem 210.

b. The Anglo-Norman specialization of the writ

Under the Norman dynasty, new problems arose and judicial methods were improved. As a consequence, the number of writs multiplied.¹⁵¹ The chancery put a huge collection of writs at the king's disposal, ending its informal ambivalence. Each kind of juridical case had to have its particular type of writ. This idea, latent up to King Stephen, became official and organized under Henry I. A precise classification of the different writs was set up; each kind of writ had its own wording. These writs can today be arranged according to three different categories, without any sense of hierarchy.¹⁵² The first can be called "feudal". It includes the manuscripts that rule over the ties between lords and vassals. The second encompasses writs commanding the convocation of public or private courts. The heterogeneous third gathers all the other cases.

¹⁵¹ George Osborne Sayles, *The Medieval Foundations of England*, 333.

¹⁵² These categories are not exclusive and a single writ could belong simultaneously to two categories.

c. The feudal writs

Like the *breve de recto*,¹⁵³ feudal writs, more than any other, were of major importance for the Anglo-Norman kings. Using this document, the kings interfered with feudal customs and diminished the power of earls and high ranking barons.

At the beginning of the Anglo-Norman dynasty appeared one of the most important legal innovation of the period: the writ of *novel disseisin*. It gave to its possessor a way to defend against a *disseisin*, i.e. an unjust expulsion from his free tenement without any trial (“injuste et sine iudicio”). Any freeman, lord or small landholder, could ask for such a writ like the following one, issued between 1087 and 1091:

Willelmus, Rex Anglorum, R fratri Ilgeri salutem. Mando tibi et praecipio ut abbatem Herebertum habere facias dimidiam hidam terrae de Saltreio quam Ailwinus praepositus tenuit, quam Walterus de Belmeys vi nunc tenet, sicut praecepi breve meum. Et vide ne amplius inde clamorem audiam pro penuria recti, super decem libras forisfacturae. Teste Rad cap’ Regis.¹⁵⁴

¹⁵³ See below, [p 123](#)

¹⁵⁴ Van Caenegem 444.

(“William, King of the English, to R¹⁵⁵, brother of Ilger, greeting. I command you and order you to let Abbot Herbert have the half hide of land of Sawtry which Ailwin the reeve has held and which Walter of Beaumais now holds by force, as I have ordered by my writ. And see that I hear no further complaint thereof for default of right on ten pounds forfeiture. Witness: Radulf, the king’s chaplain.”)

Such a document in hand, a jury was summoned by royal judges. They established who could claim the disputed land, upon the testimony of witnesses. For the king and the victims, it was a rapid way of settling important litigation, land being one of the bases of medieval society. Success was immediate; the *pipe roll* - ancient record of the crown revenue and expenditures of England - of 1177 listed 95 disseisins. During the Assizes of Northampton¹⁵⁶, another medieval essential question, arose and added to the *novel disseisin*:

Item, if any freeholder has died, let his heirs remain possessed of such seisin as their father had of his fief on the day of his death; let them have his chattels from which they may execute the dead man’s will. And afterwards let them seek out his lord and pay him his relief and the other things which

¹⁵⁵ Possibly Radulf or Ranulf

¹⁵⁶ See appendix E. “The Assize of Northampton (1176)”, pp 154-158, for the full text of this juridical document.

they ought to pay him from the fief. And if he is under age, let the lord of the fief receive his homage and keep him in ward so long as he ought [...]. And should the lord of the fief deny the heirs of the deceased seisin of the said deceased which they claim, let the justices of the lord king thereupon cause an inquisition to be made by twelve lawful men as to what seisin the deceased held there on the day of his death. And according to the result of the inquest let the restitution be made to his heirs. And if anyone shall do anything contrary to this and shall be convicted of it, let him remain at the king's mercy.¹⁵⁷

This resolution was combined with a particular writ called the writ of *mort d'ancestor*, which followed the pattern:

Henricus rex Anglorum vicecomiti Londoniarum et omnibus baronibus et vicecomitibus in quorum bailiis Gervasus filius Rogeri terram habet, salutem. Precipio quod Gervasius filius Rogeri sit saisitus et tenens de omnibus terris et rebus patrius sui sicut pater ejus erat die quo movit ire ad Jerosolimam et sicut illi reddidi et concessi, nec placitet de aliqua terra donec sit quietus erga me de pecunia quam mihi debet. Et ipse et tota terra sua interim sint in custodia et saisina Johaninis et Roberti filiorum Radulfi

¹⁵⁷ Douglas and Greenway 412.

qui pecuniam illam mihi pro eo reddunt. T comite Gloecestrie. Apud West'.¹⁵⁸

(“Henry, King of the English, to the sheriff of London and all barons and sheriffs in whose bailiwicks Gervase, son of Roger, has land, greeting. I order that Gervase, son of Roger, be seised and tenant of all the lands and property of his father, as his father was on the day when he started for Jerusalem and as I gave and conceded them to him and let him not plead concerning any land until he be quit towards me as regards the money which he owes me. And in the meantime he and all his land shall be in the wardship and seisin of John and Robert, sons of Ralf, who give me back that money for him. Witness: the earl of Gloucester. At Westminster.”)

This document was based on the principle of the writ of *novel disseisin* since it dealt with land problems. Royal judges interrogated twelve jurors to establish who could claim the disputed land. The difference was that the land had to be an inheritance. This document prevented heirs from being despoiled of their land. It condemned the practice of certain lords who seized any opportunity to appropriate the lands of their tenants. The royal power could use this writ to alter the authority of the Anglo-Norman lords.¹⁵⁹

¹⁵⁸ Van Caenegem 465. This writ was issued around 1130.

¹⁵⁹ Lovell Colin Rhys, *English Constitutional and Legal History*, p 106-107.

d. The procedural writs

The term *breve de recto* appeared for the first time in a charter of Conan, duke of Brittany and earl of Richmond, issued before 1158. It was a writ sent to a person who had the right of justice or who presided over a private court; directing him to render justice between his vassals in a dispute as to ownership of land. Its formulation could be, as Glanville wrote in his treatise¹⁶⁰:

The king to the earl of W. greeting. I command you without delay to grant full right to N. concerning the ten ploughlands in Middleton which he claims to hold from you by the free service of one knight's fee for every service; or by the free service of 100 shillings a year for every service; or by the free service of which twelve ploughlands make a knight's fee for every service; or which he claims to belong to his free tenement that he holds from you in the same village or in Morton, by the free service, or by the service, etc.; or which he claims to hold of you as the free marriage portion of M. his mother; or in free burgage; or in frankalmoign¹⁶¹; or by the free service in the king's host with two horses at his own cost for every service; or by the free service of one crossbowman in the king's army for forty days; of which

¹⁶⁰ Book XII, chapter III in Douglas and Greenway 471.

¹⁶¹ Lands held under frankalmoign were subject only to ecclesiastical courts

R. the son of W. had dispossessed him; unless you do so, the sheriff of Nottingham will do so, lest I should hear any further complaint about this through default of justice. Witness: etc.”

The *breve de recto* had an immense success for it was useful both for the king and his subjects. When buying this writ – the writ of right was a great source of profit for the king - a plaintiff could obtain a rapid verdict and could not lose the case. The increase in the number of such trials was due to the royal nature of the document. The fear of the king was not imaginary. If the order was not carried out, litigation was transferred to the sheriff. In this case, not only was the authority of the possessor of the *sake et soke* disapproved but he also lost the profit generated by the trial.

Armed with this document, the king reinforced the principle that all lands belonged to him and that the possession of a domain was subjected to his authority. However, the king could not circumvent the feudal custom; that is why Henry II issued the writ *de summonitione*.

The Cartulary of Ramsey Abbey gives an example of a writ *de summonitione* :

Willelmus, Rex Anglorum, Willelmus de Cahannis salute. Praecipio tibi ut facias convenire scira de Hamptona et iudicio ejus cognosce si terra de Hisham reddidit firmam monachis Sancti Benedicti tempore patros mei et si ita inventum fuerit, sit in dominio abbatis. Si vero teinlanda tunc fuisse invenietur, qui eam tenet, de abbate teneat et recognoscat ; quod si nuluerit, eam abbas in dominio habat. Et vide ne clamor inde amplius ad me redeat. Teste W Episcopo Dunelmensi.¹⁶²

(“William, king of the English, to William of Cahannis, greeting. I order you to convene the shire [court] of Northampton and to find out by its judgment whether the land of Isham paid a farm to the monks of St. Benedict in the time of my father. And if it is found that it did, let it be in the abbot’s demesne. But if it is found to have been thane’s land, let him who holds it hold it from the abbot and recognize it [as such]; which if he refuses to do, let the abbot have it in his demesne. And see that no further complaint come to me thereof. Witness: William, bishop of Durham.”)

With this writ, the king could circumvent the feudal jurisdiction of the Norman lords. He could bring a case from a private to a public court. The danger

¹⁶² Van Caenegem 413.

of the writ *de summonitione* for the lords was expressed in clause 34¹⁶³ of the Magna Carta, written in 1215. The king was creating a public supreme court, which challenged the feudal rights of the lords.

e. Miscellaneous writs

Other writs, complementary to the most important ones studied above, existed and had various uses. One finds, for instance, the writ *de ultima presentatione* that governed the ecclesiastical litigation, and the writ *utrum* that determined if a land was possessed by lay or ecclesiastical right. In addition, there was the *breve de nativis*. The financial situation of the nobility depended on its control over the serfs. Consequently, the nobles did not let them leave easily their domains. Nevertheless, the members of this servile population desired to obtain the status of freemen. A runaway “impoverished” his previous lord but “enriched” his new master. To avoid conflicts between lords and allow a recovery of the runaway, the royal chancellery created the *writ of naifty*. The following text, issued around 1155-1156, is an example of this kind of document:

Henricus rex Angliae et dux Normannie et Acquit’ et comes Andagavie

Willelmo de Bosco salutem. Precipio quod sine dilacione et iuste reddas

¹⁶³ “The writ which is called praecipe shall not for the future be issued to anyone, regarding any tenement whereby a freeman may lose his court.”

abbati de Hulmo nativos et fugitivos suos cum catallis suis qui post mortem regis Henrici aui mei fugerunt de terra sua. Et ne feceris, vicecomes de Northfolchie faciat ne quis eos iniuste detineat super forisfacturam meam. Teste Ricardo de Camvilla. Apud Windeser'.¹⁶⁴

(“Henry, king of England and duke Normandy and of Aquitaine and count of Anjou, to William of Bosco, greeting. I order that you give back without delay and justly to the abbot of Holmes his naifs and fugitives with their chattels, who have run away from his land since the death of King Henry [I], my grandfather. And unless you do it, the sheriff of Norfolk shall do it, that no one may unjustly withhold them on my forfeiture. Witness: Richard de Camvill. At Windsor.”)

This writ was, with the writ of *libertate probanda*,¹⁶⁵ a guarantee of social and political stability.

Finally, a sub-class of writs existed that was directed to the sheriffs. Being of a purely executive and procedural nature, these royal documents commanded these officers to accomplish various tasks. For instance, the following abstract,

¹⁶⁴ Van Caenegem 476.

¹⁶⁵ Van Caenegem 339. It could happen that a man captured on the order of a *breve de nativis* contested his servility. In this context, he could obtain, from royal judges, a *breve de libertate probanda* that suspended the arrest until the truth was established.

drawn from the *Chronicle of Ramsey* and dated from 1087, asks that the decision previously taken be enforced:

Willelmus, rex Angliae, W vicecomiti, salutem. Mando et praecipio tibi ut abbatem Ailsi facias habere Isham sicut ipse eam dis rationavit in Hamptona et sicut testimoniata est et jurata ad opus sancti [Benedicti]. Teste R Bigot.¹⁶⁶

(“William, king of England, to William the sheriff, greeting. I command and order you to cause abbot Ailsi to have Isham as he deraigned¹⁶⁷ it at Northampton and as it was witnessed and sworn to the benefit of St Benedict. Witness: Roger Bigod.”)

The Normans multiplied the kinds of writs according to their needs and their will.

4. Increased Norman use of the writ

¹⁶⁶ Van Caenegem 507.

¹⁶⁷ To deraign : To prove or to refute by proof; to clear (one's self).

Only a few writs are extant. This document did not have to be kept after its order had been carried out¹⁶⁸. After using a writ, the addressee just threw it away or forgot about it. As a result, only sixty-three writs issued by the Anglo-Saxon kings are extant whether in their original form, like the only writ of King Harold, addressed to Æthelnoth, bishop of Glastonbury, Tofi, sheriff of Somerset, and all the thanes of this region, or as texts inserted in charters, royal or episcopal documents, registers and chronicles¹⁶⁹.

Once the Anglo-Norman kings understood the advantages of the writ, they issued more and more writs to manage their kingdom.

V. Number of writs issued by the Anglo-Norman kings¹⁷⁰

	William I	William II	Henry I	Stephen	Henry II
Originals	5	11	115	around 130	around 470
Total	140	180	1290	800/900 ¹⁷¹	3500/4500

¹⁶⁸ Douglas J V. Fisher, *The Anglo-Saxon Age: C. 400-1042*, p 311.

¹⁶⁹ Ian W. Walker, *Harold the Last Anglo-Saxon King*, p 139.

¹⁷⁰ Van Caenegem 3.

¹⁷¹ The decreased quantity of writ under Stephen can be explained by the long war against Matilda.

The Anglo-Norman kings used writs with increasing frequency for a variety of reasons. From a judicial point of view, the writ speeded up and facilitated justice. Moreover, the English liked the protection and the favors it offered. It was a protection against private justice. Under Stephen, litigation opposed the baron Hugh of Mortimer and his vassal and steward Oliver of Merlemond. The latter had been summoned in order to respond to several complaints against him. Oliver, fearing his lord, chose not to come to any of the three meetings organized by Hugh.¹⁷² For such people, the writ was an advantage. From a financial viewpoint, it was also a great source of profit for the king since the recipient of this royal document had to pay for it.

In view of its success and its assets, the writ was naturally exported to Normandy. From this duchy, it conquered the European courts in a few decades. It was already used, in a new form called *sur simple queue* in France at the end of Philip I's reign (1059-1108) and in the Holy Roman Empire in the middle of the twelfth century. Thanks to Norman respect for an Anglo-Saxon institution, the writ became a European legal instrument.

¹⁷² Bartlett 220.

III. The coronation documents

A. The Anglo-Saxon oath.

The coronation of William took place at Westminster on Christmas Day 1066; the king insisted on the duality of his title. Following the French tradition, he asked the assembly if it accepted him as king. To ensure that everyone understood the question, it was announced in French by Geoffroy, bishop of Coutances, and in English, by Ealdred, bishop of York. This new element of the coronation ritual later became a traditional component of the English royal coronation.¹⁷³ Above all, William swore the English coronation oath. William of Poitiers, in his *Gesta Guillelmi ducis Normannorum et regis Anglorum*, written between 1066 and 1071, insisted on the fact that:

Cujus liberi atque nepotes justa successione praesidebunt Anglicaе terrae, quam et hereditaria delegatione sacramentis Anglorum firmata, et jure belli ipse possedit.¹⁷⁴

¹⁷³ Douglas 249.

¹⁷⁴ William de Poitiers, *Histoire de Guillaume le Conquérant*, 222-223.

(“His sons and grand-sons will preside by legal succession over the kingdom of England, which he took possession of as much by hereditary right confirmed by the oath of the English as by right of conquest.”)

The *Anglo-Saxon Chronicle* records that before Ealdred crowned him king William “swore moreover that he would rule all his people as well as the best of the kings before him, if they [the assembled people] would be loyal to him.”¹⁷⁵ His heirs respected this custom.

The Anglo-Saxon oath was codified and comprised precise clauses. The scribe of an eleventh century manuscript, saying that he was using a document written by Archbishop Dunstan who consecrated Edgar in 973, Edward in 975 and Æthelred around 978/979, writes:

On þære halgan þrinnesse naman! Ic þreo þing beháte Cristenum folce 7 me
underðeoddum:

án ærest, þæt Godes cyrice 7 eall Cristen folc minra gewealda soðe sibbe
healed;

oðer is, þæt ic reafiac 7 ealle unrihte þing eallum hádum forebode;

¹⁷⁵ Dorothy Whitelock, *Anglo-Saxon Chronicle*, 145.

þridde, þæt ic beháte 7 bebeode on eallum dómum riht 7 mildheortnisse, þæt us eallum arfæst 7 mildheort God þurh þæt his ecean miltse forgife, se lifað 7 rixað.¹⁷⁶

(“In the name of the Holy Trinity! I promise three things to the Christian people who are under my authority:

First, that true peace be guaranteed to the church of God and to all Christian people in my dominion;

second, I forbid robbery and all unrighteous deeds by all classes of society;

third, I promise and enjoin justice and mercy in the decision of all cases, in order that God, who lives and reigns, may in his grace and mercy be brought thereby to grant us all his eternal compassion.”)

The royal oath sworn by Henry I, in 1100, is extremely similar to the last:

In the name of the Christ I promise these three things to the Christian people subject to me. In the first place, I will devote my rule and power to all men in order that all Christian people and the Church of god may serve the true peace according to our command for all times; again, I forbid all rapacity and injustice to all classes of men; thirdly, I command that there be mercy

¹⁷⁶ Robertson 42.

and fairness in all judgments, so that a compassionate and clement God may grant his mercy to me and to you.¹⁷⁷

By respecting the Anglo-Saxon royal oath, Anglo-Norman kings deliberately became legal heirs of their English predecessors and submitted themselves to English law. The Norman kings agreed to rule under the force of the Anglo-Saxon law.

B. Homage to William I

The Anglo-Saxon royal oath set out the duties of the king toward his people. If it made the king the lord of the whole country by using diverse expressions (“the Christian people subject to me”, “I forbid”, “I command”), it also put the king in the service of the people (“[...] I promise these three things to the Christian people subject to me [...]”). This vision of royal dignity was not William the Conqueror’s. He had been able to gather in his sole person more power than any English sovereign before him. Master of the country, he had no wish to have his power weakened by any custom whatsoever, not even a symbolic oath.

¹⁷⁷ Norton Downs, *Basic Documents in Medieval History* 76 -77.

While the French king had some difficulty imposing his superiority over his vassals, William I was recognized as the overlord of England. Even though the tenants-in-chief had sworn fealty to the king during the ceremony of coronation, the lower classes of the society were still beyond his reach, either because of their position as lesser vassals or as people outside of the feudal customs. In one case or another, William decided to reinforce his monarchic position.

At first, he secured the fealty of all his subjects. In order to do so, he used his power to legislate that his new title gave him. One century earlier, King Edmund had legislated in the same manner and in the prologue of a text, known as *III Edmund*, writes:

Haec est instituto quam Eadmundus rex et episcopi sui cum sapientibus suis instituerunt apud Culintonam de pace et juramento faciundo.¹⁷⁸

(“These are the provisions for the preservation of public peace and the swearing of allegiance which have been instituted at Colyton by King Edmund and his bishops, together with his councillors.”)

¹⁷⁸ Robertson 12-13.

More precise was the first article of this code:

Imprimis, ut omnes jurent in nomine Domini, pro quo sanctum est, fidelitatem Eadmundo regi, sicut homo debet esse fidelis domino suo, sine omni controversia et seductione, in manifesto, in occulto, et in amando quod amabit, nolendo quod nolet; et a die qua juramentum hoc dabitur, ut nemo concelet hoc in fratre vel proximo suo plus quam in extraneo.¹⁷⁹

(“In the first place, all shall swear in the name of the Lord, before whom that thing is holy, that they will be faithful to King Edmund, just as it behoves a man to be faithful to his lord, without any dispute or dissention, openly or in secret, favoring what he favors and discountenancing what he discountenances. And from the day on which this oath shall be rendered, let no one conceal the breach of it in a brother or a relation of his, any more than in a stranger.”)

¹⁷⁹ Robertson 12-13.

William was inspired by this example and stated in the second article of the *Ten Articles*:

Statuimus etiam, ut omnis liber homo foedere et sacramento affirmet, quod infra et extra Angliam Willelmo regi fidele esse volunt [...].¹⁸⁰

(“Further, we have decreed that all freemen shall affirm by covenant and oath that, both in and out of England, they will be loyal to King William [...].”)

Secondly, William put this decision into practice. According to the *Anglo-Saxon Chronicle*, in the year 1086, the king went to Salisbury, “where he was met by his councillors; and all the landsmen that were of any account over all England became this man's vassals as they were; and they all bowed before him, and became his men, and swore him oaths of allegiance that they would over all other men be faithful to him.”¹⁸¹

From then on, the English population was entirely under the domination of the king. Employing an Anglo-Saxon right, therefore the Normans became the undisputed masters of the country.

¹⁸⁰ Robertson 238-239.

C. The charter of liberties

From Henry I onward, the coronation oath was prolonged by a charter of liberties or charter of coronation (two in the case of Stephen, one dated from 1135, the other from 1136¹⁸²). More than a simple will to see fair justice in England and to look after the country, this charter was a contract of fundamental importance. The clauses of the charter of liberties, which added to the traditional oath, placed the king under the authority of law; he committed himself to abolish bad laws, to restore the law of King Edward, and the good laws of the past. In return, the English subjects swore fidelity to him. The clauses of Stephen's charter of 1136 were:

I wholly annul all exactions, injustices and miskennings, whether wrongfully imposed by the sheriffs or by another person.

I will observe good laws and the ancient and lawful customs in respect of pecuniary exactions for murder and pleas and other causes, and I command them to be observed and established.

All these things I grant and confirm saving my royal and lawful dignity.

¹⁸¹ <http://sunsite.berkeley.edu/OMACL/Anglo/part6.html>

¹⁸² Douglas and Greenaway 402-404.

This document, far from being decorative, had a great importance. That of the crowning of Henry I had for witnesses Maurice, bishop of London, William, bishop of Winchester, the earls Henry and Simon, Walter Giffard, Robert of Monfort-on-Risle, Roger Bigot, Eudo the steward, Robert, son of Haimo, and Robert Malet¹⁸³. There is no doubt that having powerful men for witnesses made the king respect his oath. A contrary attitude could have serious political consequences.

¹⁸³ Douglas and Greenaway 402.

CONCLUSION

From 1066 to 1154, the rule of a new dynasty in England led to changes in the administration of the country. In order to adjust the situation to their own needs and habits, the Norman kings made specific decisions, such as the legislation concerning the *murdrum*. However, the Anglo-Saxon administration was advanced compared to its Norman counterpart, and the conquerors largely accepted Saxon practices, especially the writ, which they developed and specialized. The literary changes brought by the Normans were minor and tended to be more part of an evolutionary cycle than being a disruptive break. The consequences were more obvious in the linguistic field.

The establishment of the Norman population in the cities and its influence on the English culture were deep. Twenty-nine percent of landowners living in Winchester bore foreign names just a few years after William I was crowned king of England; this figure reached 62% by 1100.¹⁸⁴ However, that did not so much represent a greater proportion of the Normans in the population as the attribution of continental names to English children. Still, however, it shows that the Anglo-Saxons were not afraid of using French names at least at the beginning of the Anglo-Norman period, if it might improve the way they were perceived by the

¹⁸⁴ M.T. Clanchy, *England and its Rulers : 1066-1272*, 57.

new masters of the country. This fact may misrepresent the reality of the Norman establishment on the island of Britain. Winchester was the principal site of the royal court and the data can not be extended to all of England or seen to indicate an overall decline in the Saxon population. The Normans never wanted nor ever had the literal manpower to colonize England; at the time of the conquest, they numbered at most 100000, while approximately two million Anglo-Saxon lived in England.¹⁸⁵ The Norman population thus represented at best 5% of the total population in England. Besides, in rural areas, continental lords were scattered throughout the kingdom. After the battle of Hastings, William rewarded his allies by placing them at the head of honours and other counties. The Bretons Judhael and Geoffroy of Guèrches accepted the honour of Totnes (in Devon) and an honour in the Midlands respectively. The Fleming Drogo of Beuvrière obtained the important honour of Holderness in Yorkshire, and his compatriot Gerbod the county of Chester.¹⁸⁶ These Franco-Normans lords dominated a population whose culture they needed to understand in order to rule effectively. Alone, or in small groups, they took part in local legal life and became aware of Anglo-Saxon practices and traditions. Some also learned Old English. The immersion in the rural world modified their perception of nationality. Some started to identify

¹⁸⁵ Glasson Ernest, *Histoire du droit et des institutions politiques, civiles et judiciaires de l'Angleterre*, vol 2, 21.

Timothy Baker 14. This historian estimates that the Normans numbered between 100 000 to 200 000 and the Anglo-Saxons 1,5 millions during the twelfth century.

¹⁸⁶ Golding Brian, *Conquest and Colonization, The Normans in Britain: 1066-1100*, 63.

themselves with their Anglo-Saxon past¹⁸⁷. Henry (c. 1080-1160), son of Nicholas and archdeacon of Huntingdon, claimed that he wrote his *Historia Anglorum* to describe “the events of the kingdom and the origins of our people,” taking England to be his “nation”.¹⁸⁸ Around 1177-1179, Richard fitz Nigel¹⁸⁹, in the *Dialogus de Scaccario*, observed of freemen that the marriages between French and English had been so numerous that it was already difficult, at his time, to say which of their descendants was of French or English ancestry¹⁹⁰. Consequently, during the whole Anglo-Norman period, English was still the language of the commoners and, little by little, became the everyday tongue of the aristocracy.

However, this cultural transfer was not total. Even though a minority, the Normans were masters in the political field. In this context, Norman French the language of the newly created nobility was the commonly spoken tongue and a factor of unity for the aristocracy. This was particularly the case when the king presided over meetings or when some of his representatives, such as judges in eyre – itinerant judges - were acting in his name. In 1157 at Pentecost, Henry II presided over a trial in which Hilary, bishop of Chichester, opposed Walter de Luci, abbot of Battle Abbey, to control the privileges and exemptions held by the

¹⁸⁷ Clark Cecily, “Women’s Names in Post-Conquest England: Observations and Speculations”, in *Speculum*, 2 (1978): 223.

¹⁸⁸ Williams 178.

¹⁸⁹ By 1177, Richard fitz Nigel was bishop of London.

¹⁹⁰ Douglas and Greenaway 523.

abbey. The chief justiciar Richard de Luci, brother of the bishop, acting in favor of Battle Abbey made two significant declarations. First, he declared before the assembly that “[Battle Abbey] should be elevated to the highest rank by you and all us Normans.” Then, speaking to the king, he added: “Wherefore, my lord, most excellent of kings, all this gathering of Norman nobles asks with fervent prayer that your royal severity maintain that abbey, as the emblem of you and our triumph, in its proper privileges and exemptions against all its enemies, and above all, against the stratagems of the English.”¹⁹¹

If both vernacular languages stratified the society - Old English was spoken by the commoners and Norman French by the nobility -, Latin was not to ignored. It was the language of the Church and had been used as a written tool for more than a millennium all over Europe. This ecumenical nature became its chief asset in the English kingdom. In order for official decision to be understood by all and, consequently, to be applied efficiently the kings chose it as the common written language.

English society, from 1066 to 1154, was a trilingual world in which Latin, Norman French and Old English each played a significant role. Neither direct nor open opposition occurred between the different tongues; on the contrary, complementary to one another, they evolved jointly.

¹⁹¹ Eleanor Searle, *The Chronicle of battle Abbey*, 177-183.

APPENDICES

Appendix A. English witnesses and addressees of Anglo-Norman charters and writs¹⁹²

Tanes		Date	Shire
Ælfwine of Gotton	Addressee	1066/1067	Hertfordshire
Azur	Witness	1068	Somerset
Beorhtric Algarson	Addressee Witness	1067 1068	Wiltshire, Gloucestershire Somerset
Bondi the staller	Addressee Witness	1067 1068	Oxfordshire Somerset
Eadnoth the staller	Addressee	1067	Somerset
Eadric the Wild	Addressee	1067	Wiltshire, Gloucestershire
Engelric	Addressee Addressee Witness	1067 (?) 1067 1068 1069	Hampshire Lincolnshire Essex, Hertfordshire Devonshire
Gamal, son of Osbern	Addressee	1066/1069	Yorkshire

¹⁹² Robin Fleming, *Kings and Lords in Conquest England*, 175.

Hearding, son of Eadnoth	Witness	1068	Somerset
Leofnoth	Addressee	1069	Devonshire
Mærle-Sveinn	Addressee Addressee	1067 1066-1070	Lincolnshire Suffolk
Tofi	Addressee Witness	1067 1068	Somerset Somerset
Ulf, son of Tope	Addressee	1067	Lincolnshire

Appendix B. Leis e Custumes of William I¹⁹³

Cez sunt les leis e les custumes que li reis Will. grantad al pople de Engleterre après le cunquest de la terre, iceles meimes que li reis Edward tint devant lui.

Ceo est a saver, pais a seinte iglise. De quel forfait que hom fet oust e il poust venir a seinte iglise, oust pais de vie e de membre.

E si aucuns meist main en celui ki la mere iglise requereit, si ceo fust u evesque u abeie u iglisc de religiun, rendist ceo qu'il avreit pris e cent souz le forsfeit, e de mere iglise de parosse XX souz, e de chapele X souz.

E ki enfrei[n]t pais le rei, en Merchenelahe cent souz les amendes. Autresi de hemfare et de agawait purpensé. Ice[z] plai[z] afierent a la curune le rei.

E si aucuns vescunte u provost mesfait as humes [de sa baillie], e de ceo seit atteint devant justise le [rei], forfait est a double de ceo que auter fust forfait.

Et ki en Denelahe enfreint la pais le rei, set vint livres e quatre les amendes.

E les forpez le rei ki aferent al vescunte, XL souz en Merchenelahe e L souz en Westsexenelahe.

¹⁹³ Robertson 252-274.

E cil francs hom ki ad e sache e soche e toll e tem e infangentheof, se il est enplaidé e il seit mis en forfeit el cunté, afert a l'os le vescuente en Denelahe XL ores, et de cel hume ki ceste franchise nen ad XXXII ores.

De cez XXXII [ores] averad le vescuente a l'os le rei X ores, e cil ki le plait averad deredné vers lui XII ores, e le seinur, en ki fiu il meindra, les X ores. Ceo est en Denelahe.

La custume en Merchenelahe est: si aucuns est apelé de larrecin u de roberie, e il seit plevi a venir devant justise e il s'en fuie dedenz sun plege, il averad terme un meis e un jur de querre le ; e s'il le pot truver dedenz le terme, s'il merra a la justise ; e s'il nel pot truver, si jurra sei duzime main que, a l'hure qu'il le plevi, larrun nel sout, ne par lui s'en est fuid, ne aver nel pot.

Dunc rendrad le chatel dunt il est retez, e XX souz pur la teste, e IIII den. [al] ceper, e une maille pur la besche, e XL sol. al rei.

E en Westsexenelahe C sol., XX sol. al clamif pur la teste, e IIII lib. al rei. En Denelahe, VIII lib. le forfeit, les XX sol. pur la teste, les VII lib. al rei.

E s'il pot, dedenz un an e un jur, truver le larrun e amener a justise, si lui rendra cil les XX sol., kis averad oud, e si'n ert faite la justise del larrun.

Cil ki prendra larrun senz siwte e senz cri, que cil en lest a ki il avera le damage fait, e il vienge après, si est resun qu'il qu'il duinse X sol. de hengwite, e si face la justise a la primere devise.

E s'il passe la devise senz le cuned a la justise, si est forfeit de XL sol.

Cil ki avoir rescut, u cheval u bos u vaches u berbis u pors, que est forfeng apelé en Engleis, cil kis claimed durrad pur la rescussiun VIII den, ja tant n'i ait, mes qu'il i oust cent almaille ne durrad que VIII den.

E pur [un] por[c] I den., e pur I berbiz I den., e issi tresque a VIII, pur chascune I den., ne ja tant n'i averad ne durrad que VIII den.

E durrad gwage e truverad plege que, si autre vienge aprof dedenz l'an e le jur pur l'abeir demander, qu'il [l'] ait a dreit en la curt celui ki l'aveit rescus.

Autersi de avoir adiré, e autersi de truveure – seit mustred de treis parz del visned qu'il ait testimonie de la truveure.

E si aucuns vienged avant pur clamer la chose, duinst gwage e truiet plege que, si auter le cleimt dedenz l'an e un jur, qu'il l'ait a dreit en la curt celui ki l'avera trued.

Si homo cist auter e il seit cunuissant e il deive faire les amendes, durrad de sa manbote al seinur pur le franch hume X sol. e pur le serf XX sol.

La were del thein – XX lib. en Merchenelahe, XXV lib. en Westsexenelahe.

E la were del vilain – C sol. en Merchenelahe e ensement en Westsexene.

De la were primereinement rendrad l'om de l'[halsfang] a la vedve e as orfenins x sol., e le surplus les parenz e les orfenins partent entre eus.

En la were purra il rendre cheval ki ad la coille pur XX sol., e tor pur X sol., e ver pur V sol.

Si hom fait plaie [a] auter e il deive faire les amendes, primereinement lui rende sien leche[feo]. E li plaiez jurra sur seinz que pur meins nel pot feire ne pur haur si cher nel fist.

De sa[r]bote, ceo est de la dulur: - Si la plaie lui vient el vis en descuvert, al pouz tuteveies VIII den., u en la teste u en auter liu u ele seit cuverte, al pouz tuteveies III den. E de tanz os cum l'om trait de la plaie al os tuteveies III den.

Puisa l'acordement si lui metera avant honors e jurra que, s'il lui oust fai[t] ceo qu'il lui ad fet, e se sun quor lui purportast e s'un conseil lui dunast, prendreit de lui ceo que offert ad a lui.

Si ceo avient que aucuns coupe le puing a l'auter u le pié, si lui rendrad demi were sulunc ceo qu'il est nez.

Del poucer lui rendra la meité de la main. Del dei après le poucer, XV sol. Engleis que est apelé quaer denier. Del lung dei, XVI sol. De l'autre ki porte l'anel, XVII sol. Del petit dei, V sol.

De l'ungle, s'il le couped de la charn, V sol. de souz Engleis. A l'ungle del petit dei, III den.

Cil ki autrui femme purgist, si forfeit sun were vers sun seinur.

Autersi ki faus jugement fait, pert sa were s'il ne pot jurer sur seinz que mieuz nel sout juger.

Si hom apeled auter de larrecin e il seit franchs hom e puissed aver testimonie de lealted, se escundirad par plein serment.

E ki blasmé unt esté se escundirunt par serment numé, ceo est a saver par XIII humes leals par num ; s'il les pot aver si s'en escundira sei duzime main.

E si il aver nes pot, si s'en defende par juisse.

E li apelur jurra sur lui par VII humes numez sei siste main, que pur haur nel fait ne pur auter chose se pur sun dreit nun purchacer.

E si aucuns est apeled de mustier fruissir u de chambre, e il n'ait testé en ariere blasmé, s'en escundisse par XIII humes leals numez sei duzime main.

E s'il ait auter fiede esté blasmé, s'en escundisse a treis duple, ceo est a saveir par XVLL leals humes numez sei trente-siste main.

E s'il aver nes pot, aut a la juisse a treis duple, si cum il deust a treis duple serment.

E s'il ad larrecin ça en ariere amendé, aut a l'ewe.

Li ercevesque averad de forfeiture XL sol. en Merchenelahe, e li eveske XX sol., e li queons XX sol., e li barun X sol., e li socheman XL den.

Cil ki ad aveir champestre XXX den. vaillant deit duner le den. Sein Piere.

Le seignur pur un den. que il dourad si erunt quites ses bordiers e ses boverz e ses serjanz.

Li burgeis qui ad en soun propre chatel demi marc vailant deit doner le dener Seint Pere.

Ki en Denelahe franch hume est, s'il ad demi marc vaillant d'aveir champestre, si duinst le den. Seint Piere, e par le den. que li sire durrad si erent quite cil ki meindrunt en sun demeine.

Ki retient le dener Seint Pere, le dener rendra per la justice de seinte eglise e XXX den. forfait.

E si il en est plaidé de la justice le rei, le forfait al evesque XXX den. e al rei XL solsz.

Cil ki purgist femme a force forfait ad les membres.

Ki abat femme a terre pur fere lui force la munte al seinur X sol.

S'il la purgist, forfait est de membres.

Si alque crieve l'oïl a l'autre per aventure, quel que seit, si amendrad LXX solz de solz Engleis.

E si la pur[n]ele I est remis, so ne rendra lui que la meité.

De relief a cunte ki al rei afert: VIII chevaux, enfrenez e enselez [les IIII], e IIII haubercs e IIII haumes e IIII escuz e IIII lances e IIII espees. Les autres [IIII]: II chaceurs e II palefreis a freins e a chevestres.

De relief a barun: IIII chevaux, les II enfrenez e enselez e II haubercs e II haumes e II escuz e II espees e II lances. E les autres II chevaux: un chaceur e un palefrei a freins e a chevestres.

De relief de vavassur a sun lige seinur: deit estre quite par le cheval sun pere tel cum il out le jur de sa mort, e par sun haume e par sun escu e par sun hauberc e par sa lance e par s'espee.

E s'il fust desapareillé qu'il n'oust cheval ne armes, fust quite par C sol.

Del relief al vilain: le meillur avoir qu'il averad, u cheval u bof u vache, durrad a sun seinur.

E puis seient tuz les vilains en franc plege.

Cil qui tenent lur terre a cense, so[i]t lur dreit relief a tant cum la cense est de un an.

De entercement de vif avoir: kil voldra clamer pur embled e voldrad duner gwage e truver plege a parsivre sun appel, dunc estuvera celui ki l'avera entre les mains numer sun garant s'il l'ad.

E s'il ne l'ad dunc numerad il sun heimelborch [e ses testimonies], e ait les a jur a terme, s'il les ad, e li enterceur le mettrad en guage sei siste main, e li auter le mettrad en la main sun garant u a sun heimelborch, le quel qu'il averad.

E s'il n'ad garant ne haimelborch e il ait les testimonies qu'il le achatad al marché le rei e qu'il ne set sun garant ne sun plege vif ne mort, ceo jurrad od ses testimonies od plein serment; si perdera sun chatel, s'il testimonient qu'il heimelborch en prist.

E s'il ne pot garant ne testimonie avoir, si perderad e parsoudrad e pert [sa were] vers sun seinur. Ceo est en Merchenelahe e en Denelahge.

En Westsexenelahe ne vocherad il mie sun guarant devant iceo qu'il seit mis en guage.

En Denelahe mettrad l'om l'aveir en uele main de ici qu'il seit derehdned.

E s'il pot prover que ceo seit de sa nureture, par de treiz parz de sun visned, si l'averad derehdné, kar, puis que le serment lui est juged, ne l'en pot l'om puis lever par le jugement de Engleterre.

Ki Franceis ocist, e les humesdel hundred nel prengent e meinent a la justise dedenz les VIII jurs pur mustrer ki l'ait fet, si renderunt le murdre: XLVI mars.

Si hom volt derehdner cuvenant de terre vers son seinur, par ses pers de la tenure meimes, qu'il apelerad a testimonie, lui estuverad derehdner, kar par estrange nel purrad pas derehdner.

De hume ki plaided en curt, en ki curt que ceo seit, fors la u le cors le rei seit, e hom lui met sure k'il ad dit chose qu'il ne voille conuistre, s'il pot derehdner par un entendable hume del plait oant e veant qu'il ne l'averad dit, recovré ad sa parole.

De francplegio.

Omnis qui sibi vult iusticiam exhiberi vel se pro legali et iusticiabili haberi, sit in francplegio.

De quatre chemins, ceo est a saveir Watlingestrete, Er[m]ingestrete, Fosse, Hykenild, ki en aucun de ces quatre chemins ocist aucun ki seit errant par le pais, u asaut, si enfreint la pais le rei.

Si larrecin est trued, en ki terre que ceo seit, e le larrun ovoc, li seinur de la terre e la femme averunt la meité de l'aveir al larrun e les chalenjurs lur chatel, s'il le trovent.

E l'autre meited, s'il est trove dedenz sache e soche, si perderad la femme e le seinur l'averad.

De stretwarde.

De chascuns X hides del hundred un hume dedenz la feste seint Michel e la seint Martin.

E si li guardireve avera XXX hides, quite serrad pur sun travail.

E si aveir trespasse par iloc u il deivent guaiter, e il ne puissent mustrer ne cri ne force que lur fust faite, si rendissent l'aveir.

Cil qui cu[l]ti[v]ent la terre ne deit l'um travailler, se de lour droite cense noun;

Ne leist a seignurage departir les cultivurs de lur terre, pur tant cum il pussent le dreit seirvise faire.

Les naifs ki departet de sa terre ne devient cartre faire nauvrie quere que il ne facent lur dreit service que apend a lour terre.

Li naifs qui departet de sa terre dunt il nez, e vent a autri terre, nuls nel retenet ne li ne se[s] chatels, enz le facet venir arere a faire soun servise, tel cum a li apend.

Si les seinurages ne facent altri gainurs venir a lour terre, la justise le facet.

Nullui ne toille a soun seinour sun dreit servise pur nul relais que il li ait fait en arere.

Si femme est jugee a mort u a defac[iun] des membres ki seit enceintee, ne faced l'um justice desqu'ele seit delivere.

Si hom mort senz devise, si departent les enfans l'erité entre sei per uwel.

Si le pere truvet sa file en avulterie en sa maisoun u en la maisoun soun gendre, ben li laist ocire l'avultere.

Similiter si filius matrem in adulterio deprehendit, patre vivente, licet adulterium occidere.

Si hom enpuissuned altre, seit occis u permanablement eissilled.

Jo jettai voz choses de la nef pur pour de mort, et de ço ne me poez enplaidier, kar leist a faire damage a altre pur pour de mort, quant per el ne pot eschaper.

E si de ço me mesc[re]ez que pur pour de mort nel feisse, de ço m'esp[u]rj[e]rai.

E les choses qui sunt remises en la nef seient departis en comune sulun les chatels.

E si alcun jethed les chatels fors de la nef senz busun, sil rendet.

Dous sunt perceners de un erithet, e est l'un enplaidé senz l'autre, et per sa folie si pert, ne d[e]it pur ço l'autre estre perdant qui present ne [f]ud, kar jose juge[e] entre eus ne forsjudge pas les autres qui ne sunt a present.

Ententivement se purpensent cil qui les jugementz unt a faire, que si jugent cum [il] desirent quant il dient: « Dimitte nobis debita nostra. »

Ki tort eslevera u faus jugement fra pur curruz [u] pur hange u pur avoir, seit en la forfaiture le rei de XL solz, s'il ne pot aleier que plus dreit faire nel so[u]t ; si perde sa franchise, si al rei nel pot reachater a soun plaisir.

E s'il est en Denelae seit forfait de sa laxlite, s'il alaier ne se pot que il melz faire ne so[u]t.

Ne quis pro parvo delicto morti adiudicetur.

Prohibemus ne pro parvo forisfacto adiudicetur aliquis homo morti ; sed ad plebis castigacionem al[i]a pena secundum qualitatem et quantitatem delicti plectatur. Non enim debet pro re parva deleri factura, quam ad ymaginem suam Deus condidit et sanguinis sui precio redemit.

E nous defendum que l'un Christien fors de la terre ne vende, n'ensurchetut en pai[s]nime

Wart l'um que l'um l'anme ne perde que Deu rechatat de sa vie.

E qui dreite lei e dreit jugement refuserad seit forfait envers celi ki dreit ço est a avoir.

Si ço est envers l[e] rei, VI liv[re]s, si ço est envers cunte, XL solz, si ço est en hundred, XXX solz, e envers touz içous ki curt unt en Engleterre – ço est a[s] solz Engleis.

E en Denelae, qui dreit jugement refuserad seit en la merci de sa laxlite.

E ne face [h]un plainte a rei d'ici que l'un li seit defaili el hundred u el cunté.

Ne prenge hum nam [nu]l en conté ne defors, d'ici qu'il eit tres foiz demandé dreit el hundred u el conté.

E s'il a la terce fiée ne pot dreit aver alt a[l] conté, e la conté l'en asete le quart jurn.

E se cil i defa[l]t de ki il se claime, dunt prenge congé que il pusse nam prendre pur le son lu[in] e pref.

Ne nul achat le vailiant de IIII den., ne mort ne vif, sans testimonie ad IIII hommes u de bur[c] u de vile.

E [s]e hum le chalange e il n'en ait testimonie, si n'ad nul warrant, rende l'um a l'hum soun chatel, e le forfait ait qui aver le deit.

E si testimonie ad, si cum nous einz desimes, voest les treis f[e]iz e a la quarte[e] feiz le dereinet u il le rende.

Nus ne semble pas raisoun que l'um face pruvance sur testimonie ki conussent ço que entercé est, e que nul nel prust devant le terme de VI meis après iço que l'aveir [f]u emblé.

E cil qui est redté e testimoniet de deleauté e le plait tres foiz eschuit, e al quart mustrent li sumenour de se[s] treis defautes, uncore le mande l'um que il plege truse e vienge a dreit.

E s'il ne volt, sil [v]e[ncu]list l'um vif u mort, si prenge l'um quanque il ad, e si rende l'um al chalangeur sun chatel, e li sire ait la meité del remenant e le hundred la meité.

E si nul parent n'ami ceste justise deforcent, seint forfeit envers l[e] rei de VI lib.

E quergent le larun, ne, en ki poesté il seit trové, n'ait warant de sa vie, ne per defense de plait n'ait mes recoverer.

Nuls ne receit hom[e] ultre III nuis, si [c]il ne li command od qui il fust ainz.

Ne nuls ne lait sun hum[e] de li partir pus que il est reté.

E ki larun encontre e sanz cri a acient l[e] leit aller, si l'amend a la vailaunce de larun, u s'en espurge per plenere lei que il laroun nel sout.

E ki le cri orat e sursera, la sursise l[e] rei amen u s'en espurget.

Si est a[l]cons qui blamet seit dedenz le hundred, e IIII humes le retent, sei XII main s'espurget.

E chascun seniour eit soun serjant [en] sun plege que, si [um]e le rete, que [il l'] ait a dreit el hundred.

E si il s'ent fuist dedenz la chalange, li sire rende sun were.

E si l'un chalange le seignour que per li s'ent seit alé, si s'escundie sei VI main, e s'il ne pot, envers l[e] rei l'ament. E cil soit utlage.

Appendix C. Decree of Henry I concerning the county and hundred courts¹⁹⁴

Carta eiusdem ubi comitatus teneri debet et ubi placita de divisis terrarum.

Henricus Dei gratia rex Anglorum, Samsoni episcopo et Ursoni de Abetot et omnibus baronibus suis Francis et Anglis de Wirecestrescira, salutem.

1. Sciatis quod concedo et praecipio ut amodo comitatus mei et hundreda in illis locis et [e]isdem terminis sedeant sicut sederunt in tempore regis Eadwardi, et non aliter.

2. Et nolo ut vicecomes meus propter aliquod necessarium suum quod sibi pertineat faciat ea sedere aliter.

§1. Ego enim, quando voluero, faciam ea satis summonere propter mea dominica necessaria ad voluntatem meam.

3. Et si amodo exurgat placitum de divisione terrarum vel de preoccupatione, si est inter barones meo dominicos, tractetur placitum in curia mea

§1. Et si est inter vavasoires alicuius baronis mei honouris, tractetur placitum in curia domini eorum.

¹⁹⁴ Robertson 286.

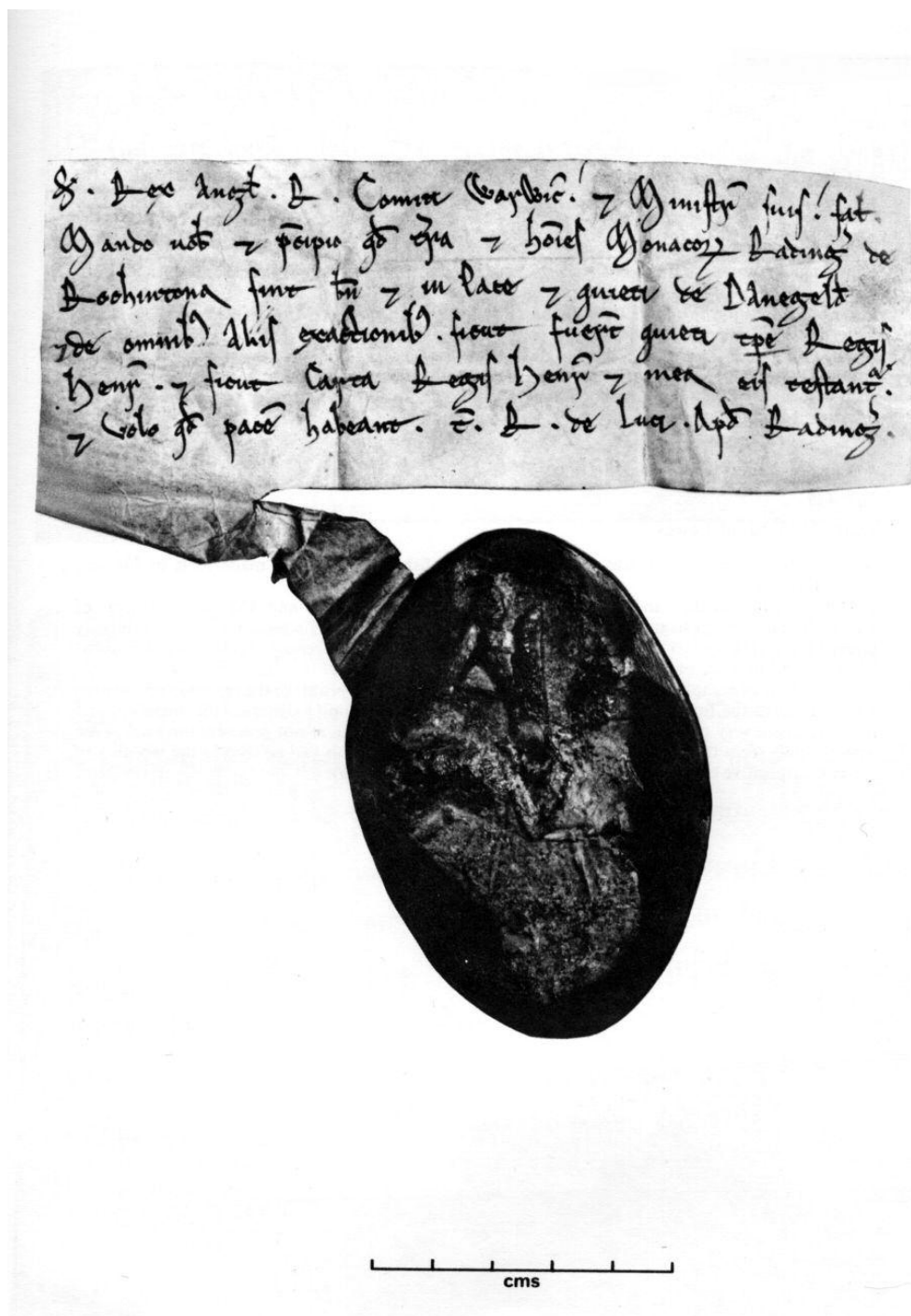
§2. Et si est inter vavasores duorum dominorum, tractetur in comitatu

§3. Et hoc duello fiat nisi in eis remanserit.

4. Et volo et praecipio ut omnes de comitatu eant ad comitatus et hundreda sicut fecerunt in tempore regis Eadwardi, nec rem[aneat] propter aliquam pacem meam vel quietudinem qui non sequ[a]ntur placita mea iudicia mea sicut tunc temporis fecissent.

Teste – R[icardo] episcopo Lundoniae et Rogero episcopo et Ranulfo cancellario et R[odberto] comite de Mellent, apud Rading.

Appendix D. Writ of Stephen (1139-1153)¹⁹⁵



¹⁹⁵ Henry Alfred Cronne and Ralph H.C. Davis, *Regesta Regum Anglo-Normannorum*, Vol. IV, plate XXXIII.

Appendix E. The Assize of Northampton (1176)¹⁹⁶

These are the assizes made at Clarendon and afterwards revised at Northampton.

If anyone has been accused before the justices of the lord king of murder or theft or robbery or of harbouring men who do such things, or of forgery or arson by the oath of twelve knights of the hundred or, if knights be not present, by the oath of twelve free and lawful men and by the oath of four men from each vill of the hundred, let him go to the ordeal of water, and if he fail, let him lose one foot. And at Northampton it was added for the sake of stern justice that he shall likewise lose his right hand with his foot, and shall abjure the realm and within forty days be banished from the kingdom. And if he shall be cleared of guilt at the water, let him provide sureties and remain in the kingdom, unless he has been accused of murder or some other base felony by the common report of the county and of the lawful knights of the country; moreover, if he has been accused in the aforesaid manner, although he may have come safely through the ordeal of water, nevertheless let him depart from the realm within forty days, and let him take his chattels with him, saving the rights of his lords, and let him abjure the realm at the mercy of the lord king. Moreover, this assize shall remain in force from the time

¹⁹⁶ Douglas and Greenaway 411-413.

the assize was made at Clarendon continuously up to the present time and from now on, so long as it shall please the lord king, in cases of murder and treason and arson and in all the aforesaid articles, except in cases of petty thefts and robberies, which have been committed in time of war, as of horses and oxen and lesser things.

Item, let no one either in a borough or in a vill entertain in his house for more than one night any stranger from whom he is unwilling to be responsible, unless there be a reasonable excuse for his hospitality, which the host of the house shall show to his neighbours. And when the guest shall depart, let him leave in the presence of the neighbours and by day.

If anyone shall have in his possession the spoils of murder or theft or robbery or forgery, and shall confess the fact or any other felony, which he has committed, before the reeve of the hundred or borough and in the presence of lawful men, he cannot afterwards deny it before the justices. And if he shall also confess anything of this kind in their presence without having the spoils thereof in his possession, he cannot deny this either before the justices.

Item, if any freeholder has died, let his heirs remain possessed of such 'seisin' as their father had of his fief on the day of his death; and let them have his chattels from which they may execute the dead man's will. And afterwards let them seek out his lord and pay him a 'relief' and the other things which they ought to pay him from the fief. And if the heir be under age, let the lord of the fief

receive his homage and keep him in ward so long as he ought. Let the other lords, if there are several, likewise receive his homage, and let him render them what is due. And let the widow of the deceased have her dowry and that portion of his chattels which belongs to her. And should the lord of the fief deny the heirs of the deceased 'seisin' of the said deceased which they claim, let the justices of the lord king thereupon cause an inquisition to be made by twelve lawful men as to what 'seisin' the deceased held there on the day of his death. And according to the result of the inquest let restitution be made to his heirs. And if anyone shall do anything contrary to this and shall be convicted of it, let him remain at the king's mercy.

Item, let the justices of the lord king cause an inquisition to be made concerning dispossessions carried out contrary to the assize, since the lord king' coming into England immediately following upon the peace made between him and the king, his son.

Item, let the justices receive oaths of fealty to the lord king between the Octave of Easter and the final term, the Octave of Pentecost, from all who wish to remain in the kingdom, namely from the earls, barons, knights and freeholders, and even vilains. And whoever shall refuse to take an oath of fealty may be arrested as an enemy of the lord king. The justices shall also order that all who have not yet paid homage or allegiance to the lord king shall come at a time appointed for them and pay homage and allegiance to the king as their liege lord.

Item, let the justices determine all suits and rights pertaining to the lord king and to his crown through the writ of the lord king, or of those who shall be acting for him, or half a knight's fee or under, unless the dispute is so great that it cannot be determined without the lord's kin, or is such as his justices shall refer to him, or to those who are acting for him, by reason of their uncertainty in the case. Let them, nevertheless apply themselves to the utmost to act in the interest of the lord king. Let them also hold assize for wicked robbers and evildoers throughout the counties they are about to traverse, for this assize is enacted in accordance with the advice of the king, his son, and his vassals.

Item, let the justices see to it that the castles which have been destroyed are utterly demolished, and those which are due for destruction are razed to the ground. And if they do not do this, the lord king will have the judgment of his curia upon them, as on men who have held his commands in contempt.

Item, let the justices make inquiry concerning 'escheats', churches, lands and women, who are in the gift of the lord king.

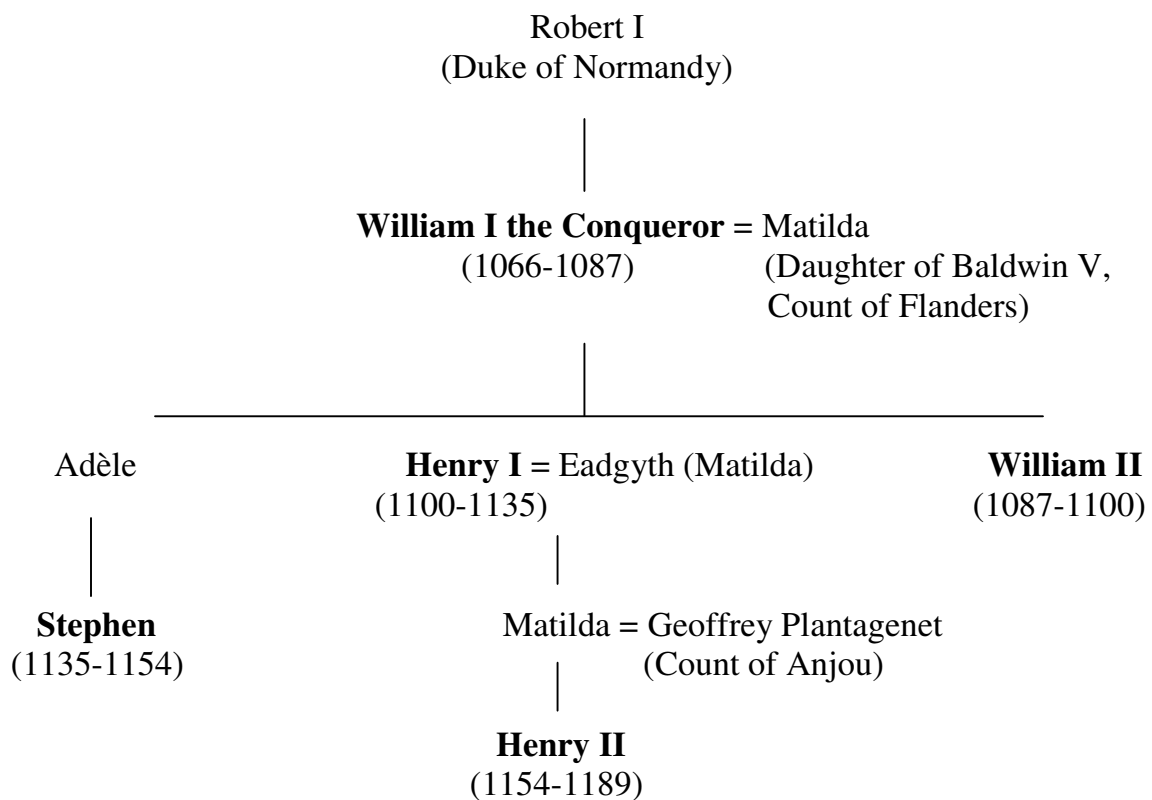
Item, let the bailifs of the lord king answer to the Exchequer both for the revenue from the assize and also for all the profits they make in the bailiwicks, with the exception of those pertaining to the sheriffdom.

Item, let the justices make inquiry concerning the custody of castles, as to who owes service for them, and how much, and where, and afterwards let them send word to the lord king.

Item, let a thief be handed over to the sheriff of the place where he is arrested for safe-keeping. And should the sheriff be absent, let the accused be brought to the custodian of the nearest castle, and let him keep him in ward until he may deliver him to the sheriff.

Item, let the justices cause search to be made according to the custom of the land for those who have fled from the kingdom; and unless the fugitives be willing to return within the appointed time and stand trial in the king's court, let them henceforth be outlawed; and let the justices report the names of the outlaws at Easter and Michaelmas to the Exchequer, and from thence let their names be sent to the lord king.

Appendix F. Genealogical table of the Norman dynasty



GLOSSARY

Ætheling: man belonging to the extended royal family

Æwdas: witness, usually by compurgation

Aldor: elder, senior, lord (often taking the form *ealdor*)

Ambihtsmith: court smith, court carpenter, court handyman

Angylde: compensation payment

Assize: 1. act of legislation

2. procedures following this legislation.

3. body that carries out this procedure

4. trial

Boc-lands: lands for which charters were held

Borh: pledge, security, debt

Borhbryce: breach of surety

Bot: 1. compensation payable to a victim or to his/her relatives

2. payment to the king or lord in compensation for an offense

Burh-bryce: breach of a dwelling (i.e., "breaking and entering")

Ceapgeld: market price, purchase price

Ceorl: freeman (of the lowest class)

Ceorlisc: ceorl-like (note that *churlish* in modern English has a much more prerogative meaning than does ceorlisc)

Cothseti: cottage dweller, representative of the lowest social class of landholder

Ciricsceatts: church tax or payment

Ciricsocns: ecclesiastical jurisdiction

Compurgation: 1. act of justifying or confirming a man's veracity by the oath of others (called also *wager of law*)

2. exculpation by testimony to one's veracity or innocence.

Cynebot: royal compensation

Cyreath: oath of compurgation undertaken by accused and compurgators

Danegeld: An annual tax laid on the English nation to buy off the Danish invaders, or to maintain forces to oppose them. It afterward became a permanent tax, raised by an assessment upon every hide of land throughout the realm

Danelaw: 1. territory of the North and the East of England, formally under Danish domination

2. the law practiced in the above territory

Disseisin: 1. dispossession

2. capture of a "seisin" (see "seisin")

Drihtinbeah: payment to a lord in compensation for killing his freeman

Ealdorman: an Anglo-Saxon officer responsible for a shire

Edorbryce: breaking into a house

Eorl: officer in charge of a shire; the word is borrowed from Old Norse *jarl*, often used in place of *ealdorman* in documents from Cnut's reign on; the Normans translated this term *comte* (Latin “comes”)

Eorl-right: earl's right

Esne: slave, servant, retainer

Essoin: valid excuse for not appearing in court

Eyre: a juridical visit made by the king or his judges

Flyma: fugitive, outlaw, exile

Flymas-wer: legal value of an outlaw's life

Flymenfyrn: to harbour a criminal

Folkmote: *folkmoot*, meeting of a district (usually a hundred) for legal actions and to hear royal writs

Folkright: common law, folk law

Francpleige: a group of men, generally ten or twelve, each one more than and over twelve years old, who act as mutual surety

Frith-gewritu: peace agreement

Frankalmoign: Lands held under frankalmoign were subject only to ecclesiastical courts and enjoyed other benefits

Frum-gyld: first installment of a payment

Fryth: peace, restoration of rights, amnesty

Furst and fandung: postponement of a trial and opportunity to prove one's innocence

Fyrd: military expedition, royal levy

Gaengang: return

Gafol: tribute, tax, debt

Geld: payment

Gemot: meeting

Gesithcund: retainer-like, fit to be a thegn

Hamfaru: Housebreaking and violence toward the inhabitant of the dwelling

Hamsocn: See *Hamfaru*

Hand-grith: security, surety given by the king's hand

Handhabbendam: a thief caught in an act of crime (e.g., “red-handed”)

Healsfang: a fine, a preferential share of a wergeld

Hearn: damage, injury, tort

Hengwite: fine for not having been able to guard a criminal in prison. From the twelfth century onward, it was paid to the king when thieves were hanged without benefit of trial.

Hlope: attack by a band of marauders

Hloth-bot: penalty for being a member of a band or gang of marauders

Hold: faithful, loyal; holder of an allod (land which is the absolute property of the owner)

Honour: Domain of lord generally given by the king and directly under his jurisdiction

Hordere: treasurer, steward, hoarder

Hue and cry: loud and persistent outcry from many people

Hundred: 1. smallest administrative division of the kingdom of England

2. (court of) : local and public court of justice of a hundred

Hurðefest: freemen, house-holders in their own right

Husting: term of Scandinavian origin related to an official meeting; after Cnut, it referred to a court held by the citizens of London

Infangentheof: right of hanging thieves caught in an act of crime

Justiciar: viceroy while the English king is at large and official in charge of the administration of justice (*capitalis justiciarius*)

Hlafordspike: treachery towards one's lord

Lah-slit: fine for breach of the law, equivalent to the wite (used in Danelaw)

Leod: man, people

Leodgeld: wergeld for manslaughter

Manbot: see *Bot*

Manwyrth: value or price of a man

Miskennig: mistake in pleading that could lead to a fine or used by the opponent to gain a judgment in his favor

Morgengyft: gift of a husband to his wife the morning after their marriage

Morthdaed: murder, mortal sin

Mund: protection

Mundbyrd: protection, patronage

Murdrum: common fine paid by the francpleige for the murder of a Frenchman when the murderer has not been caught

Nithing: outlaw

Novel disseisin: Legal act cancelling an unjust disseisin (see at *disseisin*)

Oferhynes: disobedience (particularly disobedience to royal laws)

Orwige: cowardly, unwarlike, free of liability for homicide

Pipe roll: records of the crown revenue and expenditures, so called because of the pipe-like form of the rolled parchments on which these records were kept.

Portreeve: reeve managing the royal estates and supervising justice and trading transactions

Praeipe (Writ): Writ ordering a public court to do justice.

Riht hamscyld: legal means of protecting one's home

Rimath: oath of compurgation

Rome-feoh: Peter's pence

Sake: right to hold a court

Scot and Lot: tax raised by the State

Seisin: property ownership

Shire: 1. administrative division of the kingdom of England

2. (court of): local and public court of justice of the shire

Sithcund: fit to be a thegn

Sixhindeman / Syxhindi: a man worth a wergeld of six hundred shillings

Soke: right to collect fines

Sokeman: man who holds lands or tenements by socage (land tenure by agricultural service or payment of rent)

Team: right to hold a court to judge litigations on possession of cattle

Thane: retainer, minister

Theow-men: servants

Thudehethet: cutting of wood outside the park and forest

Tihlam: wood which has been cut but not carried away

Tithing: group of ten men, twelve years old, who act as mutual surety

Toll: right to collect a payment on sale of cattle and property

Tun: farm, manor, dwelling, village

Twelfindeman / Twelfhindo: a man having a wergeld of 1200 shillings

Twihindeman / Twyhindi: a man having a wergeld of 200 shillings

Virgate: surface equal to one fourth of a hide (about 120 acres, which may vary between sixty and two hundred and forty acres)

Wapentake: administrative division answering to the hundred in the shires of Lincoln, Derby, Leicester, Nottingham, and parts of York (Old Norse word

Vapnatak ; literally, “a weapon taking or weapon touching”, hence an expression

of assent)

Wælreaf: the taking of spoils from the slain

Wed: pledge, security, dowry

Wedbryce: treachery

Wegreaf: highway robbery

Wemminge: objection to a judgment

Were: man, money value of a man's life

Wer-borh: pledge for the payment of wergeld

Wergeld: price set upon a person's life on the basis of rank and paid as compensation by the family of a slayer to the kindred of a slain person to free the culprit of further punishment and to prevent a blood feud

Wic-reeve: reeve of a *wic* (village, town), bailiff, tax-collector

Witan: royal council

Wite: punishment, penalty, contribution to the king

Witena: member of the witenagemot

Witenagemot: an Anglo-Saxon royal council

Withertihlam: see *tihlam*

Wither-tihhle: counter-charge

Writ: short administrative document confirming a decision or commanding an action

BIBLIOGRAPHY

Summary

I. Primary Sources	168
A. Codes of law and other juridical documents	168
B. Annals and chronicles	170
C. The <i>Domesday Book</i>	170
1. <i>The Great Domesday</i>	171
2. <i>The Little Domesday</i>	173
II. Secondary Sources	173
A. English law	173
B. English history	177
C. Biographies	180
III. Miscellaneous books and reference books	181
IV. Internet websites	182
A. Anglo-Norman Kings	182
B. Miscellaneous biographies	183
C. Historical facts	183
D. Medieval law	183
E. Miscellaneous websites	184

I. Primary Sources

A. Codes of law and other juridical documents

ATTENBOROUGH, Frederick Levi (trans.). The Laws of the Earliest English Kings. New York: Russel & Russel, 1963.

BAKER, Derek, The Early Middle Ages: 871-1216. London: Hutchinson Educational, 1966.

BEMONT, Charles, Chartes des libertés anglaises (1100-1305). Paris: Alphonse Picard, 1892.

CRONNE, Henry Alfred and Ralph Henry Carless **DAVIS**. Regesta regum Anglo-normannorum: 1100-1135. 3 vols. Oxford: Oxford University Press. 1956-69.

DOWNER, L.J. (trans.). Leges Henrici Primi. Oxford: Clarendon Press. 1972.

DOWNS, Norton. Basic Documents in Medieval History. Princeton: Van Nostrand, 1959.

DOUGLAS, David C. and George W **GREENAWAY**. English Historical Documents: 1042-1189. Vol. 2. London: Eyre and Spottiswoode, 1953.

GARNETT, George and John **HUDSON**. Law and Government in Medieval England and Normandie. Cambridge, Eng.: Cambridge University Press, 1994.

GROSS, Charles. The Sources and Literature of English History from the earliest times to about 1485. London: Longmans and Green, 1900.

GUYOTJEANNIN, Olivier. Archives de l'Occident: le Moyen Age (V-XVe). Paris: Fayard, 1992.

HENDERSON, Ernest F. Select Historical Documents of the Middle Ages, New York: Biblo and Tannen, 1965.

MATZKE, John E. Lois de Guillaume le Conquérant, Paris: Alphonse Picard, 1899.

PELTERET, David A.E. Catalogue of English post-Conquest Vernacular Documents, Woodbridge, Sussex: Boydell Press, 1990.

ROBERTSON Agnes Jane. The Laws of the Kings of England: From Edmund to Henry I, Cambridge, Eng.: Cambridge University Press, 1925.

STEPHENSON, Carl and Frederick George **MARCHAM**. Sources of English Constitutional History. New York: Harper and Brothers, 1937.

STUBBS, William. Select Charters, Oxford: Clarendon Press, 1876.

THORPE, Benjamin. Ancient Laws and Institutes of England. London: Eyre & Spottiswoode, 1840.

VAN CAENEGEM, Raoul Charles, English Lawsuits from William I to Richard I. 2 vols. London: The Selden Society, 1990-91.

--. Royal Writs in England from the Conquest to Glanville. London: The Selden Society. 1959.

WHITELOCK, Dorothy. English Historical Documents: c 500-1042. Vol. 1, London: Eyre and Spottiswoode, 1955.

B. Annals and chronicles

GUILLAUME DE POITIERS [William of Poitiers]. Histoire de Guillaume le Conquérant, Ed. Raymonde Foreville, Paris: Les Belles Lettres, 1952.

HOOK C. Chronicle of Henry of Silegrave. 1849. New York: Burt Franklin, 1969.

JOHN OF WORCESTER. Chronicle. Vol. 3. Ed. P. Mc Gurk, Oxford: Clarendon Press, 1998.

ORDERIC VITALIS. The Ecclesiastical History. 6 vols. ed. Marjorie Chibnall, Oxford: Clarendon Press, 1966-80.

POTTER, K.R, trans., Gesta Stephani. London: Thomas Hudson & Sons, 1995.

SEARLE, Eleanor (trans.), The Chronicle of Battle Abbey. Oxford: Clarendon Press, 1980.

SWANTON, Michael J., The Anglo-Saxon Chronicle. London: J.M. Dent, 1996.

WHITELOCK, Dorothy. The Anglo-Saxon Chronicle. New Brunswick: Rutgers University Press, 1961.

C. The Domesday Book.

The following bibliography has been established according to the order of the volumes and folios, not in alphabetical order.

This edition of the *Domesday Book* was under the general editorship of John Morris

1. The *Great Domesday*.

WELLDON, Finn. Domesday Book: a Guide. Oxford: Phillimore, 1973.

MORGAN, Philip. Domesday Book: Kent. Vol. 1. Oxford: Phillimore, 1983.

MOTHERHILL, James. Domesday Book: Sussex. Vol. 2. Oxford: Phillimore, 1976.

WOOD, Sara. Domesday Book: Surrey. Vol. 3. Oxford: Phillimore, 1975.

MUNBY, Julian. Domesday Book: Hampshire. Vol. 4. Oxford: Phillimore, 1982.

MORGAN, Philip. Domesday Book: Berkshire. Vol. 5. Oxford: Phillimore, 1979.

THORN, Caroline and Franck **THORN**. Domesday Book: Wiltshire. Vol. 6. Oxford: Phillimore, 1979.

--. Domesday Book: Dorset. Vol. 7. Oxford: Phillimore, 1983.

--. Domesday Book: Somerset. Vol. 8. Oxford: Phillimore, 1980.

--. Domesday Book: Devon, Part One. Vol. 9. Oxford: Phillimore, 1985.

--. Domesday Book: Devon, Part Two. Vol. 9. Oxford: Phillimore, 1985.

--. Domesday Book: Cornwall. Vol. 10. Oxford: Phillimore, 1979.

MORRIS, John. Domesday Book: Middlesex. Vol. 11. Oxford: Phillimore, 1975.

--. Domesday Book: Hertfordshire. Vol. 12. Oxford: Phillimore, 1976.

--. Domesday Book: Buckinghamshire. Vol. 13. Oxford: Phillimore, 1978.

--. Domesday Book: Oxfordshire. Vol. 14. Oxford: Phillimore, 1978.

MOORE, John S. Domesday Book: Gloucestershire. Vol. 15, Oxford: Phillimore, 1982.

THORN, Caroline and Franck **THORN**. Domesday Book: Worcestershire. Vol. 16, Oxford: Phillimore, 1982.

--. Domesday Book: Herefordshire, vol. 17, Oxford: Phillimore, 1983.

RUMBLE, Alexander. Domesday Book: Cambridgeshire. Vol. 18, Oxford: Phillimore, 1981.

MORRIS, John. Domesday Book: Huntingdonshire. Vol. 19, Oxford: Phillimore, 1975.

--. Domesday Book: Bedfordshire. Vol. 20, Oxford: Phillimore, 1977.

THORN, Caroline and Franck **THORN**. Domesday Book: Northamptonshire. Vol. 21, Oxford: Phillimore, 1979.

MORGAN, Philip. Domesday Book: Leicestershire. Vol. 22, Oxford: Phillimore, 1979.

MORRIS, John. Domesday Book: Warwickshire. Vol. 23, Oxford: Phillimore, 1976.

--. Domesday Book: Staffordshire. Vol. 24, Oxford: Phillimore, 1976.

--. Domesday Book: Shropshire. Vol. 25, Oxford: Phillimore, 1986.

--. Domesday Book: Cheshire. Vol. 26, Oxford: Phillimore, 1978.

MORGAN, Philip. Domesday Book: Derbyshire. Vol. 27, Oxford: Phillimore, 1978.

MORRIS, John. Domesday Book: Nottinghamshire. Vol. 28, Oxford: Phillimore, 1977.

THORN, Franck. Domesday Book: Rutland. Vol. 29, Oxford: Phillimore, 1980.

FAULL, Margaret and Marie **STINSON**. Domesday Book: Yorkshire, Part One. Vol. 30, Oxford: Phillimore, 1986.

--. Domesday Book: Yorkshire, Part two. Vol. 30, Oxford: Phillimore, 1986, folios 328c-382b.

MORGAN, Philip and Caroline **THORN**. Domesday Book: Lincolnshire, Part One. Vol. 31, Oxford: Phillimore, 1986.

--. Domesday Book: Lincolnshire, Part Two. Vol. 31, Oxford: Phillimore, 1986.

2. The *Little Domesday*.

RUMBLE, Alexandre. Domesday Book: Essex. Vol 32, Oxford: Phillimore, 1983.

BROWN, Philippa. *Domesday Book: Norfolk, Part One*. Vol 33, Oxford, Phillimore, 1984.

--, Domesday Book: Norfolk, Part Two. Vol 33, Oxford: Phillimore, 1984.

RUMBLE, Alexandre. Domesday Book: Suffolk, Part One. Vol 34, Oxford: Phillimore, 1986.

--, Domesday Book: Suffolk, Part Two. Vol 34, Oxford: Phillimore, 1986.

II. Secondary Sources

A. English law

ADAMS George Burton. Councils and Courts in Anglo-Norman England. New York: Russel & Russel, 1965.

BARRETT, Andrew and Christopher **HARRISON**. Crime and Punishment in England: a Sourcebook. Londres: UCL Press, 1999.

BARTLETT, Robert. Trial by Fire and Water. Oxford: Clarendon Press, 1986.

BIGELOW, Melville Madison. Law Capes: William I to Richard I. Boston: Soule and Bugbee, 1881.

BOUTMY, Emile. Le développement de la Constitution et de la société politique en Angleterre. Paris: Armand Colin, 1907.

BRYCE, Lyon. A Constitutional and Legal History of Medieval England. New York: Harper & Brothers, 1960.

BUTT, Ronald. A History of Parliament, the Middle Ages: London: Constable, 1989.

CAM, Helen. Law-Finders and Law-Makers in Medieval England, New York: Barnes and Noble, 1962.

CAMPBELL, James. The Anglo-Saxon State. London: Hambledon Press, 1999.

CARRUTHERS, Leo, gen. ed. Justice et Injustice au Moyen Age. Paris: AMAES, 1999.

--, "Liberté et esclavage dans la société anglo-saxonne." Bulletin des Anglicistes Médiévistes 56 (1999): 1-25.

CHADWICK, Hector Munro. Studies on Anglo-Saxon Institutions. 1905; rpt. New York: Russel & Russel, 1963.

CHRIMES, Stanley Bertram. English Constitutional History. 1948; rpt. London: Oxford University Press, 1949.

CLANCHY, M.T. England and its Rulers, 1066-1272. Totowa: Barnes and Noble, 1983..

--, "Remembering the Past and the Good Old Law." History 55 (1970): 165-76.

COQUILLETTE, Daniel R. The Anglo-American Legal Heritage. Durham: Carolina Academic Press, 1999.

CURZON, Leslie Basil. English Legal History. 1968. Plymouth, Eng.: Macdonald and Evans, 1979.

DAVIES, Wendy and Paul **FOURACRE**. The Settlement of Disputes in Early Medieval Europe. Cambridge, Eng.: Cambridge University Press, 1996.

DREW, Katherine F. Law and Society in Early Medieval Europe. London: Variorum Reprints, 1988.

FLEMING, Robin. Domesday Book and the Law. Cambridge, Eng.: Cambridge University Press, 1998.

GLASSON, Ernest. Histoire du droit et des institutions politiques, civiles et judiciaires de l'Angleterre. 2 vols, Paris: Durand et Pedone-Lauriel, 1882.

GOUGH, J.W. Fundamental Law in English Constitutional History. Oxford: Clarendon Press, 1955.

HALE, Matthew. The History of the Common Law of England. Chicago: Chicago University Press, 1971.

HARDING, Alan. The Law Courts of Medieval England, London: George Allen and Unwin, 1973.

HASKINS, Charles Homer. Norman Institutions. 1918. New York: Ungar Publishing, 1960.

HUDSON John. The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta. London: Longman, 1996.

HUDSON, John (dir.). The History of the English Law. Oxford, Oxford University Press, 1996.

HUNNNISETT, R.F. and J.B. **POST**. Medieval Legal Records. 1978; rpt. London: H.M. Stationary Office, 1980.

JOLLIFFE, J.E.A. The Constitutional History of Medieval England. London: Adam and Charles Black, 1954.

LOYN, Henry R. The Governance of Anglo-Saxon England. 1984. London: Edward Arnold, 1989.

MORRIS, Arnold S. On the Laws and Customs of England. Chapel Hill: University of North Carolina Press, 1981.

MORRIS William Alfred. The Medieval English Sheriff to 1300. 1927. London: Manchester University Press, 1968.

NEWMAN, Charlotte A. The Anglo-Norman Nobility in the Reign of Henry I. Philadelphia: University of Pennsylvania Press, 1988.

PALMER, Robert C. The County Courts in Medieval England, 1150-1350. Princeton: Princeton University Press, 1982.

PIERQUIN, Hubert, Les institutions et les coutumes des Anglo-Saxons. Paris: Alphonse Picard, 1913.

PLUCKNETT, Theodore F. English Constitutional History. 1875. London: Sweet & Maxwell, 1960.

POLLOCK, Frederick and F.W. **MAITLAND**. The History of English Law before the time of Edward I. 2 vols. Cambridge; Eng.: Cambridge University Press, 1895.

POST, Gaines. Studies in Medieval Legal Thought. Princeton: Princeton University Press, 1964.

REYNOLDS, Susan. "The rulers of London in the Twelfth Century." History 57 (1972): 337-357.

RICHARDSON, H.G. and George Osborne **SAYLES**. The Governance of Mediaeval England from the Conquest to Magna Carta. 1963. Edinburgh: Edinburgh University Press, 1964.

ROSS, Martha. Rulers and Governments of the World. Vol. 1, London: Bowker, 1978.

RHYS, Lovell Colin. English Constitutional and Legal History. New York: Oxford University Press, 1962.

SHEEMAN, Michaël M. The Will in Medieval England. Toronto: Pontifical Institute of Mediaeval Studies, 1963.

STEPHENSON, Carl et Lyon **BRYCE**. Mediaeval Institutions. Ithaca: Cornell University Press, 1954.

STUBBS, William. Histoire constitutionnelle de l'Angleterre, son origine et son développement. Vol.1, Trans. Charles Petit-Dutaillis and Georges Lefebvre. Paris: Giard & Brière, 1907.

SYPLI KYNELL, Kurt Von. Saxon and Medieval Antecedents of the English Common Law. Lampeter: Edwin Mellen Press, 2000.

VAN CAENEGEM, Raoul Charles. The Birth of the English Common Law. Cambridge; Eng.: Cambridge University Press, 1973.

--, Legal History : A European Perspective. London : Hambledon Press, 1991.

WELLDON, Finn R. The Domesday Inquest and the Making of Domesday Book. 1961. London: Longmans, 1962.

WORMALD, Patrick. Legal Culture in the Early Medieval West. London: Hambledon Press, 1999.

WHITELOCK, Dorothy. History, Law, and Literature in 10th - 11th century England. London: Variorum Reprints, 1981.

B. English history.

ADAMS, Georges Burton, "Anglo-Saxon Feudalism." American Historical Review, Vol 7 (1901): 11-35.

ALTSCHUL, Michael, Anglo-Norman, 1066-1154, London: Cambridge University Press, 1969.

APPLEBY, John T. The Troubled Reign of King Stephen. New York: Barnes & Noble, 1970.

BAKER, Timothy. The Normans. London: Cassell, 1966.

BARLOW, Frank. The Feudal Kingdom of England. 1955. London: Longman, 1988.

BARTLETT, Robert. England under the Norman and Angevin Kings, 1075-1225. Oxford: Clarendon Press, 2000.

BLAIR, Peter Hunter. An Introduction to Anglo-Saxon England, Cambridge: Cambridge University Press, 1956.

BROOKS, Christopher. The Saxon and Norman Kings. 1963. London: B.T. Batsford, 1968.

BROWN, Allen R. Les Normands. Paris: Errance, 1986.

CAMPBELL Miles W, "A Pre-Conquest Norman Occupation of England." Speculum 46 [1] (January 1971): 21-38.

CASSAGNES-BROUQUET, Sophie. L'histoire médiévale de l'Angleterre, Paris: Ophrys, 2000.

CHIBNALL, Marjorie. Anglo-Norman England: 1066-1166, Oxford, Blackwell, 1986.

--, The Normans, Oxford: Blackwell, 2000.

--, The World of Orderic Vitalis, Oxford: Clarendon Press, 1984.

CLARK, Cecily. "Women's Names in Post-Conquest England: Observations and Speculations." Speculum 53 (1978): 223-251.

DEAN, Ruth J. "What is Anglo-Norman?" Annuaire Mediaevale 6 (1965): 29-46.

DAVIS, Henry William Carless. England under the Normans and Angevins: 1066-1272. 1905. London: Methuen, 1949.

DOUGLAS, David C. William the Conqueror: the Norman Impact upon England. London: Eyre & Spottiswoode, 1964.

--. The Norman Achievement: 1050-1100. London: Eyre & Spottiswoode, 1969.

FINBERG, H.P.R. The Formation of England: 550-1042. 1974. London: Paladin, 1976.

FISHER, Douglas John Vivian. The Anglo-Saxon-Age: c. 400 – 1042. London: Longman, 1973.

FLEMING, Robin. Kings and Lords in Conquest England. Cambridge, Eng.: Cambridge University Press, 1991.

FREEMAN, Edward A. The History of the Norman Conquest of England. Vol 5, Oxford: Clarendon Press, 1876.

GOLDING, Brian. Conquest and Colonisation, The Normans in Britain: 1066-1100. 1994. London: St. Martin's Press, 2001.

GREEN, Judith. The Aristocracy of Norman England. Cambridge, Eng.: Cambridge University Press, 1997.

HAVERKAMPF, Alfred and **VOLLRATH**, Hanna. England and Germany in the High Middle Ages. Oxford: Oxford University Press, 1996.

HELM, P.J. Exploring Saxon and Norman England. London: Robert Hale, 1976.

HILL, David. An Atlas of Anglo-Saxon England. Toronto: University of Toronto Press, 1981.

HOLLISTER, G. Warren. The Making of England: 55 B.C. to 1399. Boston: D.C. Heath, 1966.

--. "1066: The Feudal Revolution." The American Historical Review 73 (1968): 703-23.

JAMES, Edward. Britain in the First Millennium. London: Arnold, 2001.

LANDER, J.R. Ancient and Medieval England. New York: Harcourt Brace Jovanovich, 1973.

LE PATOUREL, John. The Norman Empire. Oxford: Clarendon Press, 1976.

LOYN, Henry R. Anglo-Saxon England and the Norman Conquest. 1962. Oxford: Longman, 1963.

LUSIGNAN Serge. La langue des rois au Moyen Age. Paris: Presses Universitaires de France, 2004.

POOL, Austin Lane. From Domesday Book to Magna Carta: 1087-1216. Oxford: Clarendon Press, 1951.

PORTER, David W. "The Earliest Texts with English and French." Anglo-Saxon England 28 (1999): 87-110.

SACHSE, William. English History in the Making to 1689. Vol 1, New York: John Wisey & Sons, 1967.

SAWYER, Peter H. From Roman Britain to Norman England. 1978; rpt. London: Routledge, 1998.

SAYLES, Georges Osborne. The Medieval Foundations of England. 1948; rpt. London: Methuen, 1952.

STENTON, Doris Mary. English Society in the Early Middle Ages. 1951; rpt. Harmondsworth: Penguin Books, 1965.

STENTON, Franck Merry. The First Century of English Feudalism: 1066-1166. 1932. Oxford: Clarendon Press, 1961.

--. Anglo-Saxon England, Oxford: Clarendon Press, 1971.

TOMKIEIFF, O.G. Life in Norman England. London: Batsford, 1966

VACHER Aimeric. "Les prologues dans les actes royaux anglo-saxons." In Prologues et Epilogues dans la littérature anglaise au Moyen Age Ed. Leo Carruthers and Adrian Papahagi. Paris: AMAES, 2001. 29-38

WHITELOCK, Dorothy. The Beginnings of English Society. Harmondsworth: Penguin Books, 1952.

WILLIAMS, Ann. The English and the Norman Conquest. Woodbridge; Sussex: Boydell Press, 1995.

C. Biographies

BARLOW, Franck. Edward the Confessor. Los Angeles: University of California Press, 1970.

--. William Rufus. London: Yale University Press, 1983, xxiii + 486 pp.

GRANDSEN, Antonia. Historical Writings in England: c. 550 to c. 1307. London: Routledge & Kegan Paul, 1996.

KING, Edmund. "King Stephen and the Anglo-Norman Aristocracy." History 59 (1974): 180-194

SLOCOMBE, George. Sons of the Conqueror. London: Hutchison, 1960.

SMYTH, Alfred P. King Alfred the Great. Oxford: Oxford University Press, 1995.

STAFFORD, Pauline. Queen Emma and Queen Edith. Oxford: Blackwell, 1997.

WALKER, Ian W. Harold the Last Anglo-Saxon King. Thropp: Sutton, 1997.

III. Miscellaneous books and reference books

ANSON, William. The Law and Custom of the Constitution. The Parliament, Vol. 1, Oxford: Clarendon Press, 1886.

BAKER, John Hamilton. Manual of Law French. 1989. Brookfield ; Vt.: Scolar Press, 1990.

BOUGY Catherine, "La langue anglaise: des milliers de morts français." Historia, 59 (May 1999): 98-102.

BULLOUGH, D.A. The Study of Medieval Records. Oxford: Clarendon Press, 1971.

CANTOR, F. Norman. Inventing the Middle Ages. New York: William Morrow, 1991.

DUBY, Georges, gen. ed. Histoire de la France des origines à 1348. Paris: Larousse, 1987.

FAVIER, Jean. Dictionnaire de la France médiévale. Paris: Fayard, 1993.

GAUVARD, Claude, Alain de **LIBERA**, and Michel **ZINK**, eds. Dictionnaire du Moyen Age. Paris: Presses Universitaires de France, 2002.

KIRALFI, A.K.R. Potter's Historical Introduction to English Law and its Institutions. 1932; rpt. London: Sweet & Maxwell, 1958.

HEARNSHAW, F.J.C. Mediaeval Contributions to Modern Civilisation. New York: Henry Holt, 1922.

LAPIDGE. Michael (dir.). The Blackwell Encyclopaedia of Anglo-Saxon England. London: Blackwell, 1999.

MORRIS, Peter. Histoire du Royaume-Uni. Paris: Hatier, 1992.

MITCHELL, Bruce and **ROBINSON**, Fred C. A Guide to Old English. 1964. Oxford: Blackwell, 2001.

OAKLAND, John. A Dictionary of British Institutions. London: Routledge, 1993.

WINFIELD, Percy H. The Chief Sources of English Legal History. Cambridge; Eng.: Harvard University Press, 1925.

WYATT, Alfred J. The Threshold of Anglo-Saxon. Cambridge; Eng.: Cambridge University Press, 1958.

IV. Internet websites

These websites were last visited in July 2005.

A. Anglo-Norman Kings

http://dragon_azure.tripod.com/UoA/Stephen.html (page on Stephen)

<http://www.bookrags.com/books/wlmcn/> (site concerning William I)

<http://www.britannia.com/history/monarchs/mon22.html> (page on William I)

<http://www.britannia.com/history/monarchs/mon23.html> (page on William II)

<http://www.britannia.com/history/monarchs/mon24.html> (page on Henry I)

<http://www.britannia.com/history/mnnarchs/mon25.html> (page on Stephen)

<http://www.britannia.com/history/monarchs/mon26.html> (page on Henry II)

<http://www.fordham.edu/halsall/source/blois1.html> (writings of Peter of Blois on William II and Henry I)

http://www.peterwestern.f9.co.uk/william_the_conqueror.htm (page on William I)

<http://www.virtualology.com/virtualmuseumofhistory/hallofexplorers/Williamthecconqueror.org/> (page on William I)

B. Miscellaneous biographies

<http://www.geocities.com/Athens/Aegean/3532/hereward.htm> (page on Hereward the Wake)

<http://www.geocities.com/Athens/Aegean/3532/edgar.htm> (page on Edgar the Ætheling)

<http://www.geocities.com/Athens/Aegean/3532/edric2.htm> (page on Edric the Wild)

<http://www.geocities.com/Athens/Aegean/3532/wal.htm> (page on Earl Waltheof)

C. Historical facts

<http://www.fordham.edu/halsall/source/henry-hunt1.html> (text of Henry of Huntingdon concerning the Anarchy, 1139-53)

<http://www.geocities.com/Athens/Aegean/3532/earls.htm> (commentaries of some abstracts of the *Anglo-Saxon Chronicle* concerning the Revolt of the Three Earls)

<http://www.geocities.com/Athens/Aegean/3532/resist.htm> (page on the anglo-saxon resistance face to the Norman invasion between 1066 and 1088)

http://www.mondes-normands.caen.fr/france/cultures/index_cultures.htm (page on Norman history)

D. Medieval law

http://51.1911encyclopedia.org/A/AN/ANGLO_SAXON_LAW.htm (commentaries on the Anglo-Saxon law)

<http://vi.uh.edu/pages/bob/elhone/comcrts.html> (laws of Henry I)

<http://www.fordham.edu/halsall/source/1120privlndn.html> (Charter of London, granted around 1120)

<http://www.fordham.edu/halsall/source/englishwrits.html> (pages giving examples of writs)

<http://www.georgetown.edu/labyrinth/library/oe/texts/prose/laws.html>
(transcription in Old English of the laws of Alfred and Ine)

<http://www.io.com/~kellams/history.html> (page on the general history of law)

<http://www.luc.edu/publications/medieval/vol9/kapelle.html> (commentaries on the *Domesday Book*)

http://www.mondes-normands.caen.fr/france/cultures/GB_FR/culture1_7.htm
(page on the Norman law and custom until the thirteenth century)

E. Miscellaneous websites

<http://www.geocities.com/Athens/Aegean/3532/king.htm> (page on the everyday life in England prior to the Norman invasion)

<http://www.trytel.com/~tristan/towns/norwich3.html> (page on the consequences of the Norman settlement in Norwich)

<http://www.langue-fr.net/d/origines/francien.htm> (page on Old French)

http://www.tlfq.ulaval.ca/axl/francophonie/HIST_FR_s3_Ancien-francais.htm
(page on Old French)

INDEX OF PROPER NOUNS

- Æthelred, 18, 79, 80, 106, 123
Anglo-Saxon Chronicle, 7, 16, 123,
 128, 171, 184
 Assizes of Clarendon, 7, 65
 Athelstan (king of England), 18
 Azur (steward), 16, 135
 Battle Abbey, 134, 171
 Bedfordshire, 16, 172
 Beverley, 76
 Cnut (king of England), 15, 18, 23,
 24, 28, 84, 89, 99, 107, 162, 165
 Colchester, 66
 Common Law, 71, 74, 75, 76, 98,
 175, 176, 177
Consiliatio Cnuti, 6
 Constitutions of Clarendon, 7, 62, 63
Dialogus de Scaccario, 6, 72, 133
Domesday Book, 8, 58, 66, 106, 169,
 171-175, 177, 180, 185
 Dorset, 15, 67, 108, 172
 Durham, 23, 25, 29, 31, 116, 175
 Eadnoth the Staller, 16, 19, 136
 Eadric (king of Kent), 81
 Eadric the Wild, 25, 27, 136
 Ealdred (of York, archbishop), 16,
 122, 123
 East Anglia, 16, 21, 25, 27, 29
 Edgar (Aethling), 23, 25
 Edgar (king) 78, 83, 84, 123, 183
 Edmund (king of England), 4, 18, 29,
 107, 126, 127, 170, 181
 Edward the Confessor (king of
 England), 6, 13, 15, 16, 18, 21, 50,
 53, 62, 67, 86, 94, 97, 106, 107,
 123, 129, 137, 176, 179-181
 Ely, 23
 Essex, 20, 60, 108, 136, 173
 Ethelbert (king of Kent), 78, 81, 96
 Exeter, 12, 22, 26
 Geoffrey of Mowbray, 27
 Gilbert (sheriff), 29, 102
Glanville, 7, 72, 88, 103, 114, 170
 Gospatric (earl), 23, 24, 25
 Henry I (king of England), 4-7, 37,
 38, 48, 51, 59, 62, 64, 70, 72, 74,
 76, 92-94, 97, 102, 104, 105, 108,

- 109, 115, 120, 124, 129, 130, 134,
151, 160, 170, 176, 183, 184
- Henry II (king of England), 7, 62, 64,
72, 97, 102, 104, 115, 120, 134,
160, 183
- Henry of Huntingdon, 59, 184
- Hereford, 27, 29, 60, 73
- Herfast (chancellor), 12, 21, 26, 50
- Hertfordshire, 16, 20, 135, 136, 172
- Hilary (bishop of Chichester), 60,
134
- Hlothhere (king of Kent), 81
- Ine (king of Wessex), 78, 82, 84, 96,
184
- Instituta Cnuti*, 6
- Kent, 75, 78, 81, 106, 171
- Lanfranc (Bishop), 26, 27, 102, 104
- Law French, 10, 53, 62, 182
- Leges Edwardi Confessoris*, 6
- Leis e custumes*, 88
- Ligulf, 29
- London, 4-7, 12, 13, 37, 38, 52, 53,
76, 113, 130, 133, 165, 169, 170,
171, 174-182, 184
- Mærle-Sveinn (sheriff), 24, 136
- Matilda (queen of England, 22, 59,
64, 160
- Mercia, 22, 35, 75
- Midlands, 16, 29, 132
- Morcar (earl of Northumbria), 15, 22,
28
- Norman French (language), 4, 5, 19,
20, 52, 65, 67, 133, 134, 135
- Normandy, 1, 2, 55, 57, 118, 121,
159
- Northumbria, 22, 27, 29, 31, 73
- Odo of Bayeux, 15, 28, 31, 68
- Offa (king of the Mercians), 96
- Osmund (chancellor), 21, 50
- Picot (sheriff of Kent), 67, 68
- Quadripartitus*, 4, 6
- Ralf the Staller, 27, 113
- Regenbald (chancellor), 16
- Richard de Luci (chief justiciar of
Henry II), 134
- Robert Malet, 27, 130
- Rochester, 4, 26, 60, 68
- Roger de Breteuil, 28
- Selsey, 25, 26
- Stephen (king of England), 7, 59, 88,
102, 109, 120, 121, 129, 153, 160,
178, 181, 183
- Stigand (archbishop of Canterbury),
15, 25
- Stigand (bishop of Selsey), 26

- Ten Articles*, 4, 15, 32, 33, 86, 94, 128
- Textus Roffensis*, 4, 6
- The Willelmi Articuli Retractati*, 34
- Tofi (sheriff), 19, 107, 120, 136
- Très Ancien Coutumier*, 55, 87
- Tripartita*, 4
- Walcher (bishop), 29
- Walter de Luci (abbot of Battle Abbey), 134
- Waltheof (earl of Northampton), 15, 23, 25, 27, 28, 73, 184
- Wessex, 16, 37, 75
- William I (king of England), 1, 4, 6, 7, 11, 12, 15, 17, 23, 24, 25, 28, 31, 32, 33, 48, 51, 52, 53, 63, 67, 69, 72, 73, 88, 94, 97, 104, 105, 120, 125, 126, 131, 137, 160, 170, 174, 183
- William II (king of England), 67, 105, 120, 160, 183
- William of Warenne, 27
- Wiltshire, 15, 19, 135, 136, 172
- Worcester, 15, 26, 28, 31, 66
- York, 16, 22, 25, 26, 28, 66, 76, 81, 122, 167, 169, 170, 171, 174-178, 180, 182

INDEX OF COMMON NOUNS

- Archbishop, 76, 99, 123
 Atheman, 39
 Bishop, 12, 13, 19
 Blodwite, 39
 Bocland, 39
 Borchbreche, 39
Breve de recto See *writ of right*, 110,
 114, 115
 Brigbot, 40
 Burgemot, 40
 Burgobot, 40
 Cenningan, 40
 Chancellery, 50
 Code of law, 168, 169
 Compilation (of laws), 87
 Cothsetla, 40
 Custom, 87, 176, 181
 Cwalstow, 40
 Cylrisca, 40
 Dedbanan, 40
 Degenscypes, 47
 Denageld, 40
 Denelagu, 34, 40
 Ealderman, 34, 39
 Earl, 5, 27, 184
 Ferdinga, 40
 Fightwite, 40
 Firdfare, 40
 Flemenfyrma, 41
 Fletgefoht, 41
 Folgere, 41
 Foresteall, 41
 Forfeng, 34
 Forspeken, 41
 Forspillen, 41
 Frumgeld, 41
 Furst et fandung, 41
 Fyrðinga, 41
 Gilde, 41
 Griþbreche, 41
 Hallimot, 41
 Halsfang, 34, 42
 Hamfaru, 42, 164
 Hamsocn, 42, 164
 Handhabbenda, 42
 Heimleborch, 35
 Hemfare, 35
 Hengen, 42

- Hengwite, 35, 164
 Hloðbot, 42
 Hlope, 42, 164
 Honour, 18, 25, 57, 61, 132, 164
 Hundred, 33, 34, 35, 38, 42, 164
 Hurðefesterman, 43
 Husbryce, 43
 Hyda, 43
 Infangentheof, 35, 43, 165
 Infiht, 43
 Insocn, 43
 Judge, 61, 65, 105, 111, 113, 134
 Justiciar, 7, 134
 Lafordspike, 43
 Lahslit, 36, 43
 Lahslite, see Lahslit
 Law, 10, 53, 62, 76, 88, 106, 170,
 174, 175, 176, 178, 181, 182
 Law code, 4, 8, 18, 31, 32, 37, 50, 63,
 69, 70, 72, 75, 77, 79, 85, 86, 93,
 94
 Laws, 4, 81, 169, 170, 176
 Lealted, 35
 Leche[feo], 35
 Legergeld, 43
 Legerwite, 43
 Manbot, 35, 43, 165
 Merchenelagu, 35
 Merchimot, 44
 Miskenninge, 44
 Morgangifa, 44
 Morþ, 44
 Mundbreche, 44
 Open Difþ, 44
 Pundbreche, 44
 Redbanan, 44
 Romefech, 44
 Saca et socna, 36, 45
 Sache e soche, see Saca et socna
 Scildþita, 44
 Scyregemot, 44
 Sheriff, 7, 15, 16, 19, 24, 29, 66, 67,
 68, 76, 102, 103 - 105, 107, 108,
 113, 115, 118, 120, 121, 129, 157,
 158,
 Sipessocna, 44
 Sixhindeman, 44, 166
 Socheman, 36
 Socna, 39, 45
 Stretbreche, 45
 Stretwarde, 36
 Team, 45, 167
 Thain, 45
 Thane, 36, 45, 135, 167
 Þingemann, 47
 Þongtoð, 47

Protebolla, 47
 Tihle, 45
 Toll, 36, 45, 167
 Trial, 174
 Tungerefa, 45
 Twelfhindeman, 45
 Twihindeman, 45, 167
 Unfah, 45
 Utlaga, 46
 Utlage, 36
 Wapentac, 46
 Wart, 36, 148
 Weilref, 46
 Wemminge, 46, 167
 Wera, see Were
 Were, 36, 39, 46, 47, 168
 Werelada, 46
 Wergeld, 36, 39, 43, 168
 Westsexenelagu, 37
 Wite, 47, 168
 Witenagemot, 168
 Withertihla, 47
 Writ, 102, 103, 153, 166, 168, 170
 Writ *de nativis*, 117, 118
 Writ *de summonitione*, 115, 116, 117
 Writ *de ultima presentatione*, 117
 Writ of *novel disseisin*, 65, 110, 111,

