Law as Literature

in the Vernacular Codes of Early Medieval England

Arendse Lund

UCL

Submitted for the degree of PhD in English Literature and Language
2021

I, Arendse Lund, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

Abstract

This thesis argues that the involvement of figures like Bishop Æthelwold, Ælfric of Eynsham, and Archbishop Wulfstan of York transformed how legal language was used and understood in early medieval England, and that they spread specific terms across royal legislation, through literary works, and even abroad. *Law as Literature* investigates the legal prologues and then focuses on individual words that highlight social and political issues of the time — words that serve as evidence of changing notions of royal power and authority, and the role of the king as mediator and divine representative. On a lexical level, these terms position violations committed in the kingdom as an affront to the crown itself, building upon nascent ideas of the king as wronged by otherwise civil offenses.

Beginning in medieval England and expanding out to Scandinavia and beyond, *Law as Literature* traces the spread of specific Old English legal language into Latin, Old Norse, and Anglo-Norman. Among the terms examined are: *cynescipe* "royal dignity," which is used to flatter a king but also came to stand for royalty's innate responsibility to both the people and god; *cynehlaford* "royal lord," which is employed as a flattering address to the king and became a political way to signify hierarchy between kings, past and present; and *berstan* "oath-breaking," which is a general Old English literary term adapted as a specific legal transgression, and was so successful that it appeared in Scandinavian law codes centuries later. Each subsequent term, and chapter of this thesis, broadens the scope of the discussion, both geographically and through the legal and literary language analyzed. These terms are all instruments for a larger analysis on royal authority and social situations that allow for words to catch on and flourish among legal writers. *Law as Literature* concludes with a discussion of which Old English legal terms survive into modern legislation and why.

Impact Statement

This thesis examines the interplay between law and literature, and the medieval writers who moved seamlessly between both. *Law as Literature* brings new evidence found during extensive archival research into conversation with traditional sources and literature to track the development of Old English legal language. By situating these terms within their historical contexts, giving insight into the political and religious climates of the time, this thesis will be accessible to students and professional scholars alike, within the fields of medieval studies, law, and linguistics; it will also be of interest to scholars working in Old English, Middle English, and Old Norse. Chapters 2 and 3 will be published in an academic journal, while Chapters 4, 5, and 6 will form the basis of a monograph on the transmission and changes to medieval law during the Early Middle Ages and beyond. The monograph will fit in the sphere of books dissecting language in the law, such as those by Sara Pons-Sanz and Jürg R. Schwyter.[1] Although there are studies that track different words for the term "law" itself, or those that pick a specific moment in time or used in a particular writer's works — such as the aforementioned books by Pons-Sanz and Schwyter — there is no comparable volume analyzing these specific terms which appear in the law, nor analyzing how those words change over time, and from pre- to post-Conquest. In doing so, the monograph will offer new ways of understanding how medieval law was crafted and influenced.

Disseminating and discussing relevant research with audiences — both specialist and general — is critical. I have presented elements of this thesis at academic conferences, such as the International Congress on Medieval Studies, hosted by the Medieval Institute at Western Michigan University, and the International Medieval Congress, hosted by University of Leeds. I have also spoken about aspects of this research during public engagement events,

---

[1] Sara Pons-Sanz, *Norse-derived Vocabulary in Late Old English texts: Wulfstan's works, a case study,* (University Press of Southern Denmark, 2007); Jürg R. Schwyter, *Old English Legal Language: The lexical field of theft* (Odense University Press, 1996).

such as "Materials & Objects," hosted by UCL Art Museum. The research that serves as the underpinnings of this thesis also informed my curation of the exhibition "Writing the Law: Lambeth's Legal Manuscript Collection" at Lambeth Palace Library in 2019. During the course of this exhibition, I gave a presentation and tour to the French Ambassador, and 75 British Members of Parliament and business leaders. The exhibition was subsequently featured in the *London Student* newspaper, and the *Researchers in Museum*s blog. For my work connecting the public with cutting-edge academic research, I won the Association of British Science Writers's award for the top blog written in the United Kingdom and Ireland.

Finally, my commitment to research-based teaching means that I have incorporated material from my research into undergraduate modules in the English, Scandinavian, History, and Bachelors of Arts and Sciences Departments at UCL. I have also been asked to guest lecture at NYU and Eton College. This has introduced students — future academics, policy makers, and business leaders — to the importance of legal language and how to be conscientious about the language we use in our own writing. By incorporating multiple historical examples deeply founded in my own research, the class material and lessons are more engaging, and my own knowledge makes it more accessible to a larger audience.

Acknowledgements

As an undergraduate at UC Berkeley, I had no idea how my life was going to change when I signed up for classes with Emily Thornbury and Katherine O'Brien O'Keeffe. Thereafter, it was everything medieval for me. Susan Irvine and Erin Goeres helped nurture this passion through my Masters and PhD at University College London, reading countless chapter drafts and providing insightful feedback. I am indebted to them both for shaping my graduate experience, supporting my pursuits, and promoting my work. Words don't do it justice, but, thank you.

I want to extend a special thanks to the UCL Public Engagers, with whom I discovered my love for museum engagement. Our time together in the UCL Art Museum, Grant Museum of Zoology, and Petrie Museum of Egyptian Archaeology defined my years in London. I learned so much from each of you.

I'm grateful for every library and archive that hosted me and gave me access to their medieval manuscripts. In particular, thanks go to the Arnamagnaean Institute and Anne Mette Hansen for supporting me as a visiting researcher in Copenhagen, and inviting me back to teach at the Summer School. Thanks also go to Yale University, and Anders Winroth, for hosting me as an Exchange Scholar during the writing of my second chapter. Last, but certainly not least, thank you to Lambeth Palace Library and Giles Mandelbrote who invited me to curate an exhibition of medieval legal manuscripts, and to Rachel Cosgrave, who was generous with her time and knowledge during that process. Thank you to the entire staff, who shared tea, biscuits, and good conversation every afternoon.

I couldn't have done this research, honed my argument, or connected with scholars abroad without the support of numerous organizations. The London Arts & Humanities Partnership, Knud Højgaards Fond, and Augustinus Foundation all financially supported this research. Archival visits were supported by generous grants from the Medium Ævum,

Table of Contents

List of Illustrative Material

Abbreviations

Ab. Ch.	*Charters of Abingdon*, ed. Kelly.
Abt	Laws of Æthelberht, ed. Oliver.
Af	Laws of Alfred, ed. *Gesetze*.
AGu	Treaty of Alfred and Guthrum, ed. *Gesetze*.
AGu App.	"Appendix to the Alfred-Guthrum Treaty," ed. *Gesetze*.
ASC	*Anglo-Saxon Chronicle*
ASE	*Anglo-Saxon England*
[I-VI] As	Laws of Æthelstan, ed. *Gesetze*.
[I-X] Atr	Laws of Æthelred, ed. *Gesetze*.
Becwæð	*Hit Becwæð*, ed. *Gesetze*.
Can. Eg.	*Wulfstan's Canons of Edgar*, ed. Sawyer.
CDL	*Codice Diplomatico Longobardo I-V*, ed. Schiaparelli, Brühl, Zielinski.
[I-II] Cn	Laws of Cnut, ed. *Gesetze*.
Cn 1018	Cnut's law code of 1018, ed. Kennedy.
Cn 1020	Cnut's Letter to England (1020), ed. *Gesetze*.
Cn 1027	Cnut's Letter to England, ed. *Gesetze*.
Cons. Cn.	*Consiliatio Cnuti*, ed. *Gesetze*.
DDR	*Den Danske Rigslovgivning indtil 1400*, ed. Kroman.
DOE	*Dictionary of Old English*
DOEC	*Dictionary of Old English Corpus*
Duns.	*Dunsæte*, ed. *Gesetze*.
EETS	Early English Text Society
EGu	Peace of Edward and Guthrum, ed. *Gesetze*.
[II-IV] Eg	Laws of Edgar, ed. *Gesetze*.
EHD	*English Historical Documents*, ed. Whitelock.
[I-III] Em	Laws of Edmund, ed. *Gesetze*.
Epi.	Epilogue
[I-II] Ew	Laws of Edward the Elder, ed. *Gesetze*.
Forf.	*Forfang*, ed. *Gesetze*.
Gesetze	*Die Gesetze der Angelsachsen*, ed. Liebermann.
Glanville	*Treatise Commonly Called Glanville*, ed. Hall.
Grið	*Be Grið 7 be munde*, ed. *Gesetze*.

Had.	*Hadbot,* ed. *Gesetze.*
Hl	Laws of Hloþhere and Eadric, ed. Oliver.
Hn	*Leges Henrici Primi,* ed. *Gesetze.*
Hom.	Homilies of Wulfstan
Hu.	Hundred Ordinance (otherwise known as I Edgar)
Inst. Cn.	*Instituta de legibus regum anglorum* (*Instituta Cnuti*)*,* ed. *Gesetze.*
Ine	Laws of Ine, ed. *Gesetze.*
Iudex	*Iudex,* ed. *Gesetze.*
Mirc.	*Mircna laga,* ed. *Gesetze.*
Nor grið	*Norðhymbra cyricfrið,* ed. *Gesetze..*
Northu.	"Northumbrian Priests' Law," ed. *Gesetze.*
OEN	Old English Newsletter
Ord.	*Ordal,* ed. *Gesetze.*
Pax	Peace, ed. *Gesetze.*
Prol.	Prologue
Quad.	*Quadripartitus,* ed. Liebermann, *Gesetze* or *Englisches Rechtsbuch.*
RoAsCh	*Anglo-Saxon Charters,* ed. Robertson.
S	*Anglo-Saxon Charters,* ed. Sawyer.
Swer.	*Hu se man sceal swerie,* ed. *Gesetze.*
Wal.	*Walreaf,* ed. *Gesetze.*
Wer.	*Wergeld,* ed. *Gesetze.*
Wi	Laws of Wihtræd, ed. *Gesetze.*
Wif.	*Wifmannes Beweddung,* ed. *Gesetze.*
WPol	Wulfstan's *Institutes of Polity,* ed. Rabin.

Chapter 1: Introduction

In the Early Middle Ages, five major kingdoms emerged in England: East Anglia, in the east; Kent, in the southeast; Wessex, in the southwest; Mercia in the middle; and Northumbria to the north. The kingdom of Kent is particularly notable as the place where King Æthelberht (r. 589-616), the ruler of the wealthiest kingdom in southern England, issued the first written law code that survives to us today. The rulers of Mercia and Wessex also later issued legal codes, in attempts to expand royal reach. These law codes of the early English provide unparalleled insight into the writing and legal cultures of the time, and gesture towards the power and authority the crown attempted to claim. Whether realistic or not, exercised or not, the codes function as a type of propaganda as royal figures are positioned as divine representatives, wise and generous rulers, and inheritors of ancestral authority. The laws hold a mirror to social change, and by reading them — and their claims, changes, and corruptions — we see the concerns of the early English religious and political communities reflected. Just as the influence of the Benedictine reform becomes apparent in the tenth-century laws, and the worries over a foreign ruler as king of the English in the eleventh-century codes, all of these surviving codes provide significant insights into their times and place.

The texts of the early English laws were all written in the vernacular, each with its own distinct features.[2] There is evidence that those who wrote these laws had read or accessed those that had preceded them, and many were inspired by or borrowed sections from earlier laws — Edgar's laws, in particular, seem to have served as inspiration for later codes. Taken together, these codes can be considered an English law of the land. These legal writings also influenced vernacular literature. While the ideas of law and literature may be at odds on the surface, the study of literature provides us with many of the necessary tools to analyze legislation, and legal terminology crops up in nonlegal texts more often than we

---

[2] Although VI and VII Atr may have circulated in Latin before they did in English.

might first assume. Modern writers, lawyers, and government officials employ legal diction to claim authority either for themselves or on the behalf of others. Medieval writers were no different. Utilizing legal diction was a method of establishing authority in texts, legal or otherwise. Authors of medieval legislation used the language to delineate royal power by creating clauses that established fines payable to the king, or other lords, based on legal infractions; with specific meaning, and bearing legal weight to them, these words developed into legal terminology used in royal law codes, charters, writs, and other legal documents. The development of these terms served to increase the power and operating sphere of royals in the Middle Ages — at least on parchment. As such, they are fascinating insights into a type of propaganda employed by medieval writers to expand the authority of the crown. Nor are these terms static. We see many of them appear in nonlegal texts, as the writers of legal texts sometimes also wrote nonlegal works, and, although there are many examples of this, the most pertinent for our purposes here are Ælfric of Eynsham (c. 955-c. 1010) and Archbishop Wulfstan (d. 1023), both of whom we will hear more about later.

There is great overlap in the use of literary and legal language in Old English texts. This connection is particularly strong in the language of legal prologues, in which the early medieval kings used the space provided by the prologue in an attempt to influence perceptions of their authority. There is a large surviving corpus of Old English legal documents — more so than anywhere else in early medieval Europe.[3] I am primarily interested in royal codes, those issued by the king — usually in consultation with the *witan* — in contrast to charters, which include writs, wills, contracts, deeds, and other related documents. These legal codes exhibit certain trends, and the terminology reflects a variety of related social interests of the period. For the legal scholar, the study of Old English literature can tell us about how legal terms were used and perceived outside a legal context. For the

---

[3] Andrew Rabin, "Medieval Law," *Oxford Bibliographies in British and Irish Literature,* ed. Andrew Hadfield (2015): DOI 10.1093/OBO/9780199846719-0098.

literary scholar, the study of law improves our understanding of wider cultural, political, and historical contexts in which the literature was written.[4] By recognizing this complex relationship between literature and law, we start to question the traditional genre boundaries in modern scholarship. The main questions posed by my reading are: How did the historical circumstances affect the promulgation of royal law codes? How did law function as a type of literature, especially with regards to the prologue, and serve as a space to deploy royal narratives and propaganda? How did literary authors draw upon legal terminology and the law to compose their works? Finally, how did these efforts lead to the promulgation of legal terminology in both legal and nonlegal texts alike? These questions emphasize how law and literature are not as separate as scholars have traditionally understood them to be, and that the need to study them together is of vital importance to further our understanding of Old English culture.

In this dissertation, I examine the overlap between the law and literature in two sets of paired chapters intended to be read together, followed by a discussion that grapples with the post-Conquest use and treatment of Old English. In Chapters 2 and 3, I start my examination with a scrutiny of the legal prologues, treating them as narratives and analyzing them for the methods they use to establish royal authority. These paratextual spaces provided avenues for writers to speak directly about the motivation behind new legislation and to justify the necessity of the code. After assessing the developments in legal prologue writing, I turn my attention in Chapters 4 and 5 to specific language that appears in legal texts: *cynescipe*, *cynehlaford*, and *berstan*. These terms operate in a similar, albeit narrower, way than the prologues: they define and identify the law setting out parameters for authority and power. By examining these two words in depth, I can track their development and the evolution of similar (related and cognate) terms in legal and nonlegal texts alike. This leads me to identify

---

[4] For instance, see David Porter, "Legal Terminology in the Anglo-Saxon Glossaries," *Languages of the Law in Early Medieval England: Essays in Memory of Lisi Oliver*, eds. Stefan Jurasinski and Andrew Rabin (Peeters Publishers, 2019), 211-24.

concrete patterns in how medieval writers used these terms. In Chapter 6, I demonstrate that the persistence of this legal terminology post Conquest — and the endurance of many of these terms well into the modern era — reveals that they fulfilled a necessary function and lacunae in the legal framework. By examining which terms managed to persevere the longest, I reveal how the words are intricately tied up in royal and governmental authority, and I offer suggestions on directions for further research.

Throughout, I use these legal paratexts and terminology as a method of discussing changing perceptions of royal authority, thereby highlighting social and political issues of the times. My research responds to developing scholarly interest in the intersection between literature and legal codes and I expand upon theories of law-as-literature to show that traditional genre boundaries hinder the development of the field. I use a combination of Robert Weisberg's law-in-literature and law-as-literature approaches (which I discuss in my Methodology section below) to examine what literature can tell us about law and argue that by analyzing the literary techniques used by medieval writers in law, we can learn more about the rhetorical effects of the legislation.[5] This is why legal diction, both in and out of legal texts, matters so much: its use by writers indicates a desire to formally identify certain actions as beholden to royal oversight, whether or not it was acted upon in practice. The appearance of these terms in nonlegal texts indicate a growing popularity or awareness of said terms and the relevance of their application in a wider domain.

Literature Review

In this section, I offer an analysis of how the field of Old English studies has developed over time, with a particular focus on literary and legal aspects. I begin with a discussion of editions of pre- and post-Conquest texts, and modern digital resources, and then broaden out to

---

[5] Robert Weisberg, "The Law-Literature Enterprise," *Yale Journal of Law & the Humanities* 1, no. 1 (1989): Art. 4, 1-67.

evaluate major secondary scholarship, which includes essential readings; this approach encompasses introductions helpful to both the neophyte and veteran alike. Moreover, I have listed scholarly histories for religious context and political backgrounds, and other major works. Scholarship by both medievalists and legal experts alike is included.

Pre- and Post-Conquest Editions

Law changed rapidly in the early medieval period, and Old English lawmakers did not build on previous legal texts as reliably as lawmakers on the Continent built on their textual precedents.[6] Royal legislation sometimes conflicted with regional practices, and in the later period the interests of Church and king did not always align. Scholarly interest in the prologues attached to these law codes has not always kept pace with interest in the body of the law itself. Many of the editions below, although critical to our understanding of the laws, and essential scholarly materials unto themselves, have only partial prologues included, if they have not been excised completely. F. L. Attenborough, whose edition with parallel translation has been crucial for scholars working on the laws in the English-speaking world, only includes some of the legal prologues.[7] More recent scholarly work, and enthusiasm for questions of Alfredian authorship, has led to a greater focus on Alfred's prologue, but there is still much work to be done in analyzing these texts, for the prologues offer invaluable commentary on the nature and limits of royal authority. In particular, Michael Treschow has argued for editing Alfred's prologue as part of the text.[8] Despite the potential historical value

---

[6] One decision by the Burgundian royal court was incorporated into the Burgundian Code with the stipulation that "the judgment attains the authority of perpetual law:" L.R. de Salis, "Leges Burgundionum," in *Monumenta Germaniae Historica, Leges Nationum Germanicarum*, 1.2.1 (Hahn, 1892), 85-87. For a brief description of the sources of early medieval law, see Kenneth Pennington, "Medieval Law," in *Medieval Studies: An Introduction*, ed. James M. Powell (Syracuse University Press, 1992), 333-352.

[7] F. L. Attenborough, *The Laws of the Earliest English Kings* (Russell & Russell, 1963), 112-3.

[8] Michael Treschow, "The Prologue to Alfred's Law Code: Instruction in the Spirit of Mercy," *Florilegium* 13 (1994): 79-110. A good summary of the debate on Alfredian authorship may be found in Janet M. Batley, "Alfred as Author and Translator," in *A Companion to Alfred the Great*, ed. Nicole Guenther Discenza and Paul E. Szarmach (Brill, 2015), 111-142. For other recent studies of literary prefaces, and prefaces to canon law, which show the value of prologues as historical sources, see Jonathan Wilcox's edition of *Ælfric's Prefaces*, Durham Medieval Texts 9 (Durham University Press, 1995); Robert Somerville and Bruce C. Brasington, eds. and trans., *Prefaces to Canon Law Books in Latin Christendom* (Yale University Press, 1998); Brasington,

of legal prologues, "such introductions have been largely excluded from sourcebooks in medieval and religious history, and there has never been an anthology of them in any language."[9] As scholarly interest has increased recently in preserving the full texts, even the elements that sometimes seem peripheral, more editions are including the prologues as part of the text.

Felix Liebermann's edition of the pre-Conquest laws, although over a century old, is still the most authoritative and remains the standard edition for many of the vernacular texts.[10] It covers more than 180 manuscripts, with the Old English text facing a German translation. A similar English edition would be of great benefit to the field. The more recent editions by Attenborough and A.J. Robertson are more accessible to English speakers, but far less complete; their translations are not always accurate.[11] Lisi Oliver's edition of the Kentish laws into modern English is another example of how scholarly interest in the laws is growing.[12] Dorothy Whitelock's *English Historical Documents* is also a valuable resource, although her selection of codes is somewhat arbitrary.[13]

For post-Conquest editions, Liebermann's edition, described above, also contains the *Quadripartitus* and other eleventh- and twelfth-century texts in Latin, with his German translation, and continues to be invaluable.[14] Other post-Conquest texts include the text misattributed to Henry I, and known as *Leges Henrici Primi*, which can be found edited and translated in L. J. Downer's edition.[15] Likewise Bruce O'Brien did an edition and translation

"Prologues to Medieval Canon Law Collections as a Source for Jurisprudential Change to the Eve of the Investiture Contest," *Frühmittelalterliche Studien* 28 (1994): 228-42.

[9] Somerville and Brasington, *Prefaces to Canon Law Books*, 3.

[10] Felix Liebermann, ed., *Die Gesetze der Angelsachsen*, 3 vols (Halle, 1903-1916).

[11] F.L. Attenborough, *Earliest English Kings* (Cambridge University Press, 1992); A.J. Robertson, ed., *The Laws of the Kings of England from Edmund to Henry I* (Cambridge University Press, 1925); also Robertson, ed. *Anglo-Saxon Charters*, 2d ed. (Cambridge University Press, 1956). There is also Florence E. Harmer, *Anglo-Saxon Writs* (Manchester University Press, 1952).

[12] Lisi Oliver, *The Beginnings of English Law* (University of Toronto Press, 2002).

[13] Dorothy Whitelock, *English Historical Documents, Vol. 1, C. 500-1042* (Oxford University Press, 1979); hereafter, this is abbreviated as *EHD*.

[14] See also Felix Liebermann, *Consiliatio Cnuti, eine Übertragung Angelsächsischer Gesetze aus dem Zwölften Jahrhundert* (Max Niemeyer, 1893).

[15] L. J. Downer, ed. *Leges Henrici Primi* (Clarendon Press, 1972).

of the laws of Edward the Confessor, a legal forgery.[16] There are also the massive works

commonly referred to as *Glanville* and *Bracton,* after their supposed authors; G. D. G. Hall's

translation is the standard edition for *Glanville,* and S. E. Thorne's translation for the Selden

Society is likewise the standard edition of *Bracton*.[17]

There are additionally many useful editions of medieval Scandinavian law, although

frequently translated into modern Scandinavian languages.[18] Older editions include Johannes

Brøndum-Nielsen and Poul Johannes Jørgensen's *Danmarks Gamle Landskabslove med*

Kirkelovene, and Erik Kroman's *Den Danske Rigslovgivning indtil 1400*.[19] However, the last

two decades have seen a surge of interest in medieval Scandinavian legal editions in English.

Andrew Dennis, Peter Foote, and Richard Perkins produced an edition of Grágás, replete with

historical context and including material from other manuscripts.[20] Most recently, Ditlev

Tamm and Helle Vogt's edition provides context and a translation for the laws of Scania,

Zealand, and Jutland, although the edition does not print the text in the original language.[21]

There are several online resources which offer digital editions of critical medieval

texts. The Electronic Sawyer Database and the Early English Laws Project are both major

collaborative sources for details on manuscripts and extensive bibliographies.[22] The

---

[16] Bruce O'Brien, ed. *God's Peace & King's Peace: The Laws of Edward the Confessor* (University of Pennsylvania Press, 1999).

[17] G. D. G. Hall, *The Treatise on the Laws and Customs of the Realm of England, Commonly Called Glanvill,* Oxford Medieval Texts (Clarendon Press, 1993). Henry de Bracton, *De Legibus et Consuetudinibus Angliae,* trans. S. E. Thorne. 4 vols. (Selden Society, 1968–1977). There is also a three-volume edition of case notes owned by Bracton, which were used in the composition of *De Legibus*; see Henry de Bracton, *Bracton's Note Book,* 3 vols., ed. Frederic William Maitland (Cambridge University Press, 1887).

[18] *Norges Gamle Love indtil 1387*, eds. R. Keyser and P.A. Munch (Christiania, 1846-90). *Svenska Landskapslagar: Tolkade och förklarade för nutidens Svenskar,* I-V, eds. and trans. Åke Holmbäck and Elias Wessén (Hugo Gebers Förlag, 1933-46).

[19] *Danmarks Gamle Landskabslove med Kirkelovene* I-VIII, eds. Johannes Brøndum-Nielsen and Poul Johannes Jørgensen (Det Danske Sprog- og Litteraturselskab, Gyldendal, 1933-1961). *Den Danske Rigslovgivning indtil 1400,* Det Danske Sprog- og Litteraturselskab, ed. Erik Kroman (Munksgaard, 1971); hereafter, this is abbreviated as *DDR.*

[20] *Laws of Early Iceland: Grágás, The Codex Regius of Grágás,* I-II, trans. Andrew Dennis, Peter Foote, and Richard Perkins (University of Manchester Press, 2000).

[21] *The Danish Medieval Laws: The Laws of Scania, Zealand and Jutland,* eds. Ditlev Tamm and Helle Vogt (Routledge, 2006).

[22] Esawyer.org.uk. (2008). *Electronic Sawyer: The Electronic Sawyer*. [online] Available at: http://www.esawyer.org.uk; Earlyenglishlaws.ac.uk. (2009). *Early English Laws Project*. [online] Available at: http://www.earlyenglishlaws.ac.uk/.

Electronic Sawyer Database is based on Peter Sawyer's *Anglo-Saxon Charters*, which was the first comprehensive listing of the early medieval charters, including over 1850 separate entries. His work is still the definitive index for early medieval charters and the Electronic Sawyer seeks to digitize this valuable resource.[23] The scope of the Early English Laws Project is even larger: the site aims to eventually print new editions, with accompanying translations, of all law codes up until the time of the Magna Carta. Both these digital resources are indicative of how the field is expanding and developing in new ways.

Histories, Introductions, and Major Texts

Old English legal texts and practices have not received the attention they deserve, and legal scholars still too frequently assume that modern law has no basis in pre-Conquest law, although this perception is slowly changing. Frederick Pollock and Frederic William Maitland's collaborative work on the history of law is still the starting point into the field.[24] Both these authors tend to overstate how little of an impact early medieval law had on post-Conquest law. In the introduction to the second chapter, Pollock confesses to being interested in the laws "only so far as they are connected with, and tend to throw light upon, the subsequent history of the laws of England."[25] Thomas Lambert and Patrick Wormald both noted this deficiency as well, with Wormald describing the issue as: "Maitland and his disciples ever since have confused the history of England's extraordinary and unique legal profession with that of state regulation of the law."[26] Although many of the scholars mentioned below have refuted some of their claims, both Pollock and Maitland's work is an essential building block for understanding in the field.

---

[23] Peter Sawyer, *Anglo-Saxon Charters: An Annotated List and Bibliography* (Royal Historical Society, 1968).
[24] Sir Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2d ed (Cambridge University Press, 1968).
[25] Pollock and Maitland, *The History of English Law*, 25.
[26] Patrick Wormald, "Anglo-Saxon Law and Scots Law," *The Scottish Historical Review* 88, no. 226 (2009): 201.

Spearheading a renewal of interest in the ingenuity of pre-Conquest law are scholars such as Mary Richards, Lisi Oliver, Patrick Wormald, and Andrew Rabin.[27] The most extensive and authoritative history of early English law is that of Wormald, whose *The Making of English Law* has changed how scholars analyze Old English legal texts; his extensive discussion of legal manuscripts is invaluable. Although Wormald's untimely death prevented the publication of the sequel, Stephen Baxter and John Hudson edited and published a version of Wormald's papers.[28] Wormald strongly argued for an ideological context to the primary legislation of the national codes; even those codes that seemed to have "strictly practical objectives" could be interpreted ideologically, as they had practical purposes as well.[29] In addition to Wormald's work, Carole Hough's survey of vernacular legal prose is an excellent introduction to early medieval legal writing.[30] Moreover, Lisi Oliver's "Legal Documentation and the Practice of English Law" is a thorough discussion of the practicalities of medieval law itself.[31]

Andrew Rabin's numerous publications on medieval law frequently overlap with literature. His article on "Female Advocacy and Royal Protection" analyzes the historical sources for *forespreca*, legal advocates before the law. In it, Rabin stresses that patronage and advocacy seem to go hand in hand, which may be an important factor to remember when

---

[27] Mary Richards, "The Dictionary of Old English and Old English Legal Terminology," in *The Dictionary of Old English: Retrospects and Prospects*, ed. M. J. Toswell (Western Michigan University Medieval Institute, 1998): 57-61. Lisi Oliver, "Sick-Maintenance in Anglo-Saxon Law," *The Journal of English and Germanic Philology* 107, no. 3 (2008): 303-26; see also previous note on her edition of *The Beginnings of English Law* and Wormald's edition of *The Making of English Law*. Andrew Rabin has written extensively on early medieval law, and some of the highlights are "Archbishop Wulfstan's Canon Law Collection," *Old English Newsletter* 46, no. 1 (2016): 1-10; "Female Advocacy and Royal Protection in Tenth-Century England: The Legal Career of Queen Ælfthryth," *Speculum* 84, no. 2 (2009): 261-88; "Gang Violence in Anglo-Saxon Law: The Problem of *hlóþ-sliht*," *Notes and Queries* (October 16, 2016): 1-6; "Law and Justice," *The Blackwell Handbook of Anglo-Saxon Studies*. ed. Jacqueline Stodnick and Renee Trilling (Blackwell, 2012), 85-98. His work on Wulfstan will be discussed more below.

[28] Patrick Wormald, *Papers Preparatory to the Making of English Law: King Alfred to the Twelfth Century*, vol. II: *From God's Law to Common Law*, eds. Stephen Baxter and John Hudson (Early English Laws Project, 2014) <http://www.earlyenglishlaws.ac.uk/reference/wormald/>.

[29] Patrick Wormald, *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (Hambledon Press, 1999), 38.

[30] Carole A. Hough, "Legal and Documentary Writings," in *A Companion to Anglo-Saxon Literature*, eds. Philip Pulsiano and Elaine Treharne (Blackwell, 2001), 170-187.

[31] Lisi Oliver, "Legal Documentation and the Practice of English Law," in *The Cambridge History of Early Medieval English Literature*, ed. Clare Lees (Cambridge University Press, 2013), 499-530.

reading the extant primary sources; in other works, he dives into discussions of particular words and their appearances across documents.[32] He describes how royal control over the production of legal codes in the forms of diplomas and charters increased during the tenth century and that this documents further political agendas. More recently, he has written extensively about Archbishop Wulfstan, his career, and the sources pointing to his involvement in legal and literary composition, building on the work of Dorothy Whitelock, which will be discussed further below.[33]

Lawmakers of the Old English period were sophisticated legislators who knew how to apply technical solutions to influence public perception. The laws of the early Kentish kings reveal the development of royal authority and their influences from Continental and canon law. Wormald's article, *"Inter cetera bona genti suae,"* remains an authoritative analysis of concepts of law, including those on the Kentish kings.[34] The ruling practices of the kings are also the subject of Oliver's article, titled *"Cyninges fedesl."*[35] The provisions of the laws of Ine and Alfred cover nearly every aspect of medieval life. Richard Abels' *Alfred the Great* is the best biography on this influential king.[36] Moreover, Stefan Jurasinski's work examines the prologue to Alfred's code, and argues for a strong continental influence.[37] Likewise, David Pratt's *The Political Thought of King Alfred the Great* articulates the Frankish influences on

---

[32] Rabin, "Female Advocacy," 261-88; "Gang Violence in Anglo-Saxon Law," 1-6; see also "Law and Justice," 85-98.

[33] Andrew Rabin, *The Political Writings of Archbishop Wulfstan of York* (Manchester University Press, 2014); "The Wolf's Testimony to the English: Law and the Witness in the 'Sermo Lupi Ad Anglos,'" *The Journal of English and Germanic Philology* 105, no. 3 (2006): 388-414; "Archbishop Wulfstan's Canon Law Collection," *Old English Newsletter* 46, no. 1 (2016): 1-10; "Wulfstan at London: Episcopal Politics in the Reign of Æthelred," *English Studies* 97, no. 2 (2016): 186-206; "Archbishop Wulfstan's 'Compilation of Status' in the *Textus Roffensis,*" in *Textus Roffensis: Law, Language, and Libraries in Early Medieval England,* eds. Bruce O'Brien and Barbara Bombi (Brepols, 2015), 175-192.

[34] Patrick Wormald, "'*Inter Cetera Bona Genti Suae*:' Law-Making and Peace-Keeping in the Earliest English Kingdoms," in *Legal Culture in the Early Medieval West: Law as Text, Image, and Experience,* ed. Patrick Wormald (Hambledon Press, 1999), 179–199.

[35] Lisi Oliver, "*Cyninges Fedesl*: The King's Feeding in Æthelberht, ch. 12," *Anglo-Saxon England* 27 (1998): 31-40.

[36] Richard Abels, *Alfred the Great: War, Kingship, and Culture in Anglo-Saxon England* (Longman, 1998).

[37] Stefan Jurasinski, "Violence, Penance, and Secular Law in Alfred's Mosaic Prologue," *Haskins Society Journal* 22 (2011): 25-42.

Alfred's model of kingship.[38] For more biographies on kings, Levi Roach reassessed the

much maligned King Æthelred in *Æthelred the Unready*.[39] Furthermore, Timothy Bolton and

M. K. Lawson have both written biographies of King Cnut, discussing the Danish king's

North Sea Empire.[40]

The religious underpinnings to legislation cannot be ignored. The tenth-century

Benedictine Reform tightened the relationship between the Church and the king, centralizing

power and allying the secular and ecclesiastical. Pauline Stafford's "Church and Society in

the Age of Ælfric" gives an excellent overview of the reform movement and its political

implications.[41] In addition, Patrick Wormald's article, "Giving God and King Their Due"

dissects legal disputes of the tenth and eleventh centuries.[42] In the article "Edgar, *Rex

Admirabilis*," Simon Keynes builds on Wormald's argument in his discussion of the

tenth-century King Edgar's legislative practices.[43] The monastic development plays a critical

role in the king's power in the later period, and increasingly scholars are exploring this

connection. Religious figures draw particular attention. From the later tenth century,

Archbishop Wulfstan was a critical figure who influenced the legislation of two major kings,

Æthelred and Cnut, while preaching homilies on legal themes. Even so, it was only in the

1940s that scholars began to recognize his influence. Dorothy Whitelock demonstrated

Wulfstan's authorship of the law codes of Æthelred and Cnut in a series of essays, including:

"Archbishop Wulfstan, Homilist and Statesman" and "Wulfstan and the Laws of Cnut."[44]

---

[38] David Pratt, *The Political Thought of King Alfred the Great*, Cambridge Studies in Medieval Life and Thought (Cambridge University Press, 2007).

[39] Levi Roach, *Æthelred the Unready* (Yale University Press, 2016).

[40] Timothy Bolton, *Cnut the Great* (Yale University Press, 2017); also *The Empire of Cnut the Great: Conquest and the Consolidation of Power in Northern Europe in the Early Eleventh Century* (Brill, 2009). M.K. Lawson, *Cnut: England's Viking King* (Tempus, 2004).

[41] Pauline Stafford, "Church and Society in the Age of Ælfric," in *The Old English Homily and Its Backgrounds*, eds. Paul Szarmach and Bernard F. Huppe (State University of New York Press, 1978), 11-42.

[42] Patrick Wormald, "Giving God and King Their Due: Conflict and Its Regulation in the Early English State," in *Legal Culture in the Early Medieval West: Law as Text, Image, and Experience* (Hambledon Press, 1999), 333-358.

[43] Simon Keynes, "Edgar, Rex Admirabilis," in *Edgar, King of the English 959–975: New Interpretations*, ed. Donald Scragg (Boydell, 2008), 3-59.

[44] Dorothy Whitelock, "Archbishop Wulfstan, Homilist and Statesman," in *Transactions of the Royal Historical Society*, 4th ser., 24 (1942), 25-46; also Whitelock, "Wulfstan and the Laws of Cnut," *The English Historical*

These two essays are particularly influential in that later scholars used Whitelock's

methodology to prove that particular legislative and homiletic works were composed by

Wulfstan.[45] Furthermore, Whitelock was the first scholar to focus on Wulfstan's combined

role as lawmaker and ecclesiastic. These publications have led to a body of current

scholarship in which studies on further intersections between Wulfstan's legal and homiletic

matter play an important role.[46] Andrew Rabin's articles and books, mentioned above, build

on this work by Whitelock and extend it further, arguing how Wulfstan's literary works were

structured to mimic his legal writings as well.[47]

The past two decades have seen an increase in the analysis of law and literature

together. The relationship between the two is discussed in Richard Firth Green's aptly-titled

"Medieval Literature and Law," which tackles the subject matter in the later Middle Ages; 11

years later, he revised this for his updated article "Literature in Law."[48] Literary and linguistic

features of the laws are the focus in Dorothy Bethurum's article "Stylistic Features of the Old

English Laws," which traces their development over the early medieval period.[49] More

narrowly focused, Sara M. Pons-Sanz uses Wulfstan's extensive corpus of writing in the late

tenth and early eleventh centuries as the basis for her thorough case study of Norse loanwords

and influence in early medieval England.[50] Furthermore, J. R. Schwyter's works provide an

---

Review 63, no. 249 (1948): 433-52; and Whitelock, Wulfstan's Authorship of Cnut's Laws," *English Historical Review* 70 (1955): 72-85.

[45] See Dorothy Bethurum Loomis, "Regnum and Sacerdotium in the Early Eleventh Century," in *England before the Conquest: Studies in Primary Sources Presented to Dorothy Whitelock*, eds. Peter Clemoes and Kathleen Hughes (Cambridge University Press, 1971), 129-147.

[46] Simon Keynes, "An Abbot, an Archbishop, and the Viking Raids of 1006-7 and 1009-12," *Anglo-Saxon England* 36 (2007): 151–220. M. K. Lawson, "Archbishop Wulfstan and the Homiletic Element in the Laws of Æthelred II and Cnut," *English Historical Review* 107.424 (1992): 565-586.

[47] Cf footnotes 24 and 25. In particular, this very point is expressed in Andrew Rabin, "The Wolf's Testimony to the English: Law and the Witness in the 'Sermo Lupi Ad Anglos,'" *The Journal of English and Germanic Philology* 105, no. 3 (2006): 388-414. See also, Andrew Rabin, *Archbishop Wulfstan of York: Old English Legal Writings* (Harvard University Press, 2020).

[48] Richard Firth Green, "Medieval Literature and Law," in *The Cambridge History of Middle English Literature*, ed. David Wallace (Cambridge University Press, 1998), 407-431; and "Literature and Law," in *A Companion to Medieval English Literature and Culture, c. 1350–c. 1500*, ed. Peter Brown (Wiley-Blackwell, 2009), 292-306.

[49] Dorothy Bethurum, "Stylistic Features of the Old English Laws," *Modern Language Review* 27 (1932): 263-279.

[50] Sara M. Pons-Sanz, *Norse-Derived Vocabulary in Late Old English Texts: Wulfstan's Works, a Case Study* (University Press of Southern Denmark, 2007).

example of how to treat vernacular legal language and analyze its development and the implications of such, especially with regards to Old English terms for theft.[51]

Lastly, on the subject of genres, the legal scholar and literary critic James White's book *Legal Imagination* has been hugely influential in criticising the siloing of genres and demonstrating that we can learn much about legal arguments from analyzing literary devices.[52] Kenji Yoshino builds on this in his article "What's Past is Prologue," where he dissects precedents in literature and law.[53] The legal scholar Robert Weisberg's article "The Law-Literature Enterprise" is responsible for dividing the law-and-literature movement into two branches: law-in-literature and law-as-literature, and this article remains the foundational study.[54] Weisberg has influenced a new branch of study with this work, and I discuss this more in the section below. Richard A. Posner's monograph *Law and Literature: A Misunderstood Relation* has helped to further this field as well.[55] The selection of texts, editions, articles, chapters, and monographs above have all contributed to the fields of law and literature. What remains to be done is to combine them to analyze both fields and genres together.

Terminology and Methodology

The renewed interest in early medieval law, the connection between monastic reform and the king's power, and the discovery of Wulfstan's composition of eleventh-century legislation have all led to a quantum shift in scholarship regarding law-making in the Old English period. Nonetheless, a few key areas remain underexplored, and I contribute to the discussion

---

[51] J. R. Schwyter, *Old English Legal Language: The Lexical Field of Theft* (Odense University Press, 1996); and "Syntax and Style in the Anglo-Saxon Law-Codes," in *Verschriftung – Verschriftlichung: Aspekte des Medienwechsels in Verschiedenen Kulturen und Epochen*, eds. C. Ehler and U. Schaefer (Gunter Narr, 1998), 189-231.

[52] James B. White, *The Legal Imagination* (Little, Brown & Co., 1973).

[53] Kenji Yoshino, "What's Past is Prologue: Precedent in Literature and Law," *Yale Law Journal* 104 (1994): 471-510.

[54] Robert Weisberg, "The Law-Literature Enterprise," *Yale Journal of Law & the Humanities* 1, no. 1 (1989): Art. 4, 1-67.

[55] Richard A. Posner, *Law and Literature: A Misunderstood Relation* (Harvard University Press, 1988).

on the relationship between literary and legal language as I explore how terminology unique to Old English furthered royal authority. The concepts and approaches discussed above have been instrumental in the development of my methodological approach to law and literature, and will be discussed in more detail below.

As this work dissects the development of a legal vocabulary in Old English law codes, I include below some clarification on the terminology I use. As a time period, early medieval England covers over 600 years; as a term, it is misleading by suggesting unity across the various medieval kingdoms. While I discuss the concept of Old English legislation, I am using this phrase not as a unifying term but an umbrella term; these laws come from across Kent, Mercia, and Wessex, and for most of the pre-Conquest period, these regions did not amount to a single united kingdom or dialect.[56] The kings discussed here also span a chronologically wide period: King Æthelberht of Kent (r. 589-616), Hloþhere (r. 673-685) and Eadric (r. 685-6) of Kent, Wihtræd of Kent (r. ca. 690-725), Ine of Wessex (r. 688-726), Alfred of Wessex (r. 849-899), Edward the Elder (r. 899-924), Æthelred *unræd* (r. 978-1016), and Cnut (r. 1016-1035). Moreover, "legislation" here refers specifically to written law-making; prior to the writing of codes, law existed only in oral enforcement and custom, and this has stunted the ability of the modern historian to parse the legal ramifications and describe the reach of the law.[57] My study is therefore limited to written language. While law may have been spread and judgement passed orally, I will rely only on what the extant manuscripts record. Of course, it is vital to remember when relying on the extant legal codes that certain cases are privileged — those that the royal or monastic scriptoria had an interest in recording. Property disputes, especially those involving monastic communities for example, would be important to record.

---

[56] See James Campbell and Patrick Wormald, *The Anglo-Saxons* (Penguin, 1982).
[57] Raymond Wacks, *Law: A Very Short Introduction* (Oxford University Press, 2008), 3.

While the implementation of the law itself is a matter of debate amongst legal historians, I agree with Thomas Lambert's assessment that "We should not think that laws were applied to the letter" but were instead "mere starting points for negotiation," reflecting real-world practices and the "genuinely practical intentions of lawmakers with regard to the problems of social order that they perceived."[58] Lambert goes on to raise the important question: "Can we really think that the laws discussed and approved by such assemblies of the powerful were, as a rule, utterly unrelated to the realities of their society?"[59] In this way, I approach Old English law in the manner of legal positivists, so that "law is nothing more than a collection of valid rules, commands, or norms that may lack any moral content" rather than being a set of universally understood moral principles.[60] Law in the domain of the early medieval kingdoms, much as it is today, was as those with authority decided, despite the fact that the practice likely differed from their stated ideals.

Discussing early medieval law is likewise filled with traps by implying, or assuming, a consistency of thought or the idea of one strand of law developing and leading like an increasingly well-trodden path towards modern day.[61] In scholarly discussions, law can cover everything from charters and diplomas, to writs and Alfred's *domboc*. Moreover, the nearly 70 pre-Conquest law codes and approximately 1,500 early English charters comprise the largest and most diverse corpus of legal texts surviving from early medieval Europe.[62] This is an enormous corpus and impractical to analyze in its entirety in the scope of this dissertation. Instead, I focus on the royal law codes — the legislation issued in the name of the king — and will bring in charters and writs for comparison as needed, if they show patterns or linguistic oddities that further expand upon my analysis of the royal codes. When referring to

---

[58] Thomas Benedict Lambert, *Protection, Feud and Royal Power: Violence and its Regulation in English Law, c. 850 – c. 1250* (PhD diss., Durham University, 2009), 14.

[59] Lambert, *Protection, Feud and Royal Power*, 15.

[60] *Lex humana* understands laws from the position of its origins while *lex posita* approaches it from the position of its legitimacy. Thomas Aquinas conflated the two concepts. Wacks, *Law*, 2-3.

[61] This time period is comparable to the period leading from the death of Chaucer to Britain exiting the EU. Any similar efforts to group and analyze all law from this time period would be routinely mocked.

[62] Andrew Rabin, "Medieval Law," DOI 10.1093/OBO/9780199846719-0098.

law, I am primarily citing these royal codes, unless otherwise specified. Similarly, when I am

discussing literature, I am referencing nonlegal texts: poems, homilies, sermons, saints' lives,

and the variety of other works that are not used in legislative contexts.

I purposefully call into question the boundaries between law and literature through my

examination of paratextual elements, such as the prologues I discuss in Chapters 2 and 3 or

the manuscript glossaries in Chapter 6. Throughout, I consistently use the term "prologue" as

the texts are not so much scribal interventions, like rubrics, but an essential part of the code

itself, giving a sometimes literary and narrative flourish to the following legislation.[63]

Therefore, I begin my investigation with a discussion of the prologues: a well-known feature

of many types of medieval texts, with a function described by rhetorical theory, and

vernacular law codes followed in this tradition.[64] However, prefatory comments to canon law

frequently concern themselves with the difficult task of translation, which was something

with which the Old English law codes, written and promulgated in the vernacular, do not

concern themselves.[65] These prologues reinforce the content of the laws; as a genre, they

"ensure the text's presence in the world, its 'reception' and consumption."[66] Philippe Lejeune

refers to the "ambiguous game of prefaces" as "a fringe" of the main body of text.[67] Gerard

Genette expands, referring to this text on the fringe as the:

---

[63] For work on medieval English literary prologues, see: Malcolm Godden, "Prologues and Epilogues in the Old English Pastoral Care, and Their Carolingian Models," *The Journal of English and Germanic Philology* 110, no. 4 (2011): 441-73.; Elizabeth Dearnley, *Translators and Their Prologues in Medieval England* (Boydell & Brewer, 2016); Andrew Galloway, "Middle English Prologues in Readings," in *Readings in Medieval Texts*, eds. David F. Johnson and Elaine Treharne (Oxford University Press, 2005), 288-305; and Susan Irvine, "The Alfredian Prefaces and Epilogues," in *A Companion to Alfred the Great*, eds. Nicole Guenther Discenza and Paul Szarmach (Brill, 2015), 143-170. For more on twelfth- and thirteenth-century prefaces, see Alastair Minnis, *Medieval Theory of Authorship: Scholastic Literary Attitudes in the Later Middle Ages*, 2nd edition (University of Pennsylvania Press, 2010).

[64] This is discussed at length in Brasington, "Prologues to Medieval Canon Law Collections," 228-242.

[65] The dedicatory letter to Martin of Braga's Chapters (*Capitula*) includes a comment on the difficulty of translation and the deficiency of the Greek canons; then there is a fifth-century translation of the Eastern canons, the *Prisca*, which was named by the early modern scholar Christophe Justel from a reference in the prologue to his "confusion of the 'old translation' in his translation of the Greek councils." For a survey of pre-thirteenth-century canon law, see Jörg Müller, "Forschungsstand und Aktuelle Aufgabenplanung in der Vorgratianischen Kanonistik," *Österreichisches Archiv für Kirchenrecht* 43 (1994): 225-40.

[66] Although Gerard Genette was writing on paratexts in general, this applies to prologues specifically as well; see *Paratexts: Thresholds of Interpretation*, trans. Jane E Lewin (Cambridge University Press, 1997), 2.

[67] Philippe Lejeune, *Le Pacte Autobiographique* (Seuil, 1975), 45.

conveyor of a commentary that is authorial or more or less legitimated by the

author...an influence on the public, an influence that — whether well or poorly

understood and achieved — is at the service of a better reception for the text and a

more pertinent reading of it (more pertinent, of course, in the eyes of the author and

his allies).[68]

The prologue belongs to a type of grey area where scholars and readers alike are unsure

where to draw the boundary line. What if the prologue is unclearly marked — do law codes

begin at the first article and after all explanatory notes? What about explanations that occur

once legislation has already begun to be listed? While a prologue is not legislation unto itself,

the paratextual information provides a better way for the laws to be read, namely through

their historical context. An examination of the vernacular legal prologues introduces many of

the important issues — such as royal authority and legal terminology — that will feature in

the rest of the dissertation.

My study will rely heavily on theories of law-as-literature to show that traditional

genre boundaries hinder the development of the field. The law-and-literature movement owes

a great deal to the legal scholar Robert Weisberg, who, as we have seen, divided it into two

branches: law-in-literature and law-as-literature.[69] Law-in-literature considers literature which

includes references to legal procedure, such as *Njáls Saga, Hrafnkels saga Freysgoða,* or

Gísla saga Súrssonar; this also covers laws regarding literature, such as the Code of Canon

law regarding translations of the Bible.[70] However, law-as-literature considers the study of

---

[68] Genette, *Paratexts*, 2. There are many examples of Old English literary prologues — such as in the translations of the *Regula Pastoralis* and of Bede's *Historia Ecclesiastica* — however, most of these are translated or heavily influenced by the Latin source text and culture. The Old English law codes have not been translated from Latin, and though the Latin prologue tradition was known in early medieval England, these Old English legal prologues do not follow directly in their literary footsteps.

[69] Weisberg, "The Law-Literature Enterprise;" see also White, *The Legal Imagination*; Posner, *Law and Literature.*

[70] Henry Ordower, "Exploring the Literary Function of Law and Litigation in 'Njal's Saga,'" *Cardozo Studies in Law and Literature* 3, no. 1 (1991): 41-61; R. D. Fulk, "The Moral System of 'Hrafnkels saga Freysgoða,'" *Saga Book of the Viking Society* 22 (1986-89), 1-32; Vilhjálmur Árnason, "Morality and Social Structure in the Icelandic Sagas," *The Journal of English and Germanic Philology* 90, no. 2 (1991), 157- 174.

rhetoric in legal writing and the application of literary theory to law. James B. White argues that we can learn much about legal arguments from analyzing literary devices.[71] In Chapter 4, I take a broad approach to law-as-literature, and investigate the occurrences of the words *cynescipe* and *cynehlaford* in legal texts, how the words spread to literary works, and who was responsible. In Chapter 5, I elaborate on this further, in that I take a law-in-literature approach as I trace the development of the word *berstan* from its appearances in Old English literature to its use in legal texts, and how it developed a specifically legal connotation; I then follow the term abroad as it begins to appear in Scandinavian works in its cognate form. By taking a two-pronged approach to my analysis of legal diction, I show the use and evolution of the terminology over time and for different purposes.

Throughout this study, I use close readings of specific legal terms to assess their function both in the individual legislation and in the development of law-making as a whole. By comparing these terms, in both compound and standalone form, I will show their intricate connotations as well as the effect this had in the legislation. Online resources are especially useful in this regard. For Chapters 2 and 3, I use the Electronic Sawyer Database and the Early English Laws Project to find overlap between different legal codes and their deployment of such terminology. Then, particularly in Chapters 4 and 5, I rely on the electronic *Dictionary of Old English* (hereafter abbreviated as the *DOE*), which currently has definitions for words beginning in A-I, as well as the web corpus (hereafter abbreviated as *DOEC*), which allows for proximity searches useful for finding words that occur together in the same text.[72] Where the *DOE* does not supply a definition, or does not capture a specific

---

[71] White, *Legal Imagination*, 81. See also Yoshino, "What's Past is Prologue," 471-510. Another example of the latter branch of law-in-literature includes the thirteenth-century monastic statute decreeing that a monk unwilling to copy a text receives no wine; see Frederick G. Kilgour, *The Evolution of the Book* (Oxford University Press, 1998).

[72] *Dictionary of Old English: A to I online*, ed. Angus Cameron, Ashley Crandell Amos, Antonette diPaolo Healey et al. (Dictionary of Old English Project, 2016). Available at: https://www.doe.utoronto.ca.

nuance, I cite the online Bosworth-Toller dictionary.[73] When referencing the law itself, I

provide both the name of the legal code and a cross reference to Liebermann's *Die Gesetze*

der Angelsachsen, accompanied by volume and page numbers. The only exceptions to this

are the Kentish laws — those of Æthelberht, Hloþhere and Eadric, and Wihtræd — for which

I reference Lisi Oliver's edition *The Beginnings of English Law*.[74] For Cnut's Letter of 1018, I

use Alan Kennedy's edition, as Liebermann prints the letter as a mixed variant of VI

Æthelred and I-II Cnut, instead of its own legislative pronouncement.[75] For any of Wulfstan's

compositions on behalf of kings (V-X Atr, I-II Cn, Cn 1018, Cn 1020), I also include a

citation to Andrew Rabin's recent edition; for *Institutes of Polity*, I provide cross-references

to both Andrew Rabin's and Karl Jost's editions.[76] I cite charters with their "Sawyer number,"

a numerical value that Peter Sawyer assigned each of the charters in his edition of

Anglo-Saxon Charters; I hereafter abbreviate this as "S."[77] For the laws of Scania, Zealand,

and Jutland, I follow the numbering of the clauses found in Ditlev Tamm and Helle Vogt's

The Danish Medieval Laws.[78]

     Finally, I have examined a number of manuscripts at Lambeth Palace Library, the

British Library, Yale's Beinecke Library, the Arnamagnaean Institute, and the Danish Royal

Library, amongst others, for legal terminology. I discuss these manuscripts, including their

provenance and dating, in the Manuscripts section below. This manuscript research is the

fundamental basis of my study, in which the manuscript context for these laws, and how they

---

[73] Joseph Bosworth, *An Anglo-Saxon Dictionary Online*, eds.Thomas Northcote Toller, Christ Sean, and Ondřej Tichy (Charles University, 2014): https://bosworthtoller.com/42423. Hereafter, I reference the dictionary as "Bosworth Toller," followed by the specific dictionary entry.

[74] See Oliver, *The Beginnings of English Law*; I identify the cross reference to Liebermann's *Die Gesetze der Angelsachsen* with "*Gesetze*" and the volume and page number. Other references to Liebermann's writings include the full title.

[75] Alan Kennedy, "Cnut's Law Code of 1018," *Anglo-Saxon England* 11 (1983): 57-81. A digital edition can also be found online at the Early English Laws Project "Cnut's Oxford Code, 1018 (Cn 1018)" https://earlyenglishlaws.ac.uk/laws/texts/cn-1018/view/#edition/commentary-5.

[76] Andrew Rabin, *Old English Legal Writings: Wulfstan*, Dumbarton Oaks Medieval Library 66 (Harvard University Press, 2020); *Die 'Institutes of Polity, Civil and Ecclesiastical': Ein Werk Erzbischof Wulfstans von York*, ed. Karl Jost, Schweizer Anglistische Arbeiten 47 (Bern, 1959).

[77] Peter Sawyer, *Anglo-Saxon Charters: An Annotated List and Bibliography* (Royal Historical Society, 1968).

[78] Tamm and Vogt, *The Danish Medieval Laws*.

are treated in relation to other legislation, is a critical component. These primary texts drive

my research and lead me from the legal prologues to the proliferation of critical terminology.

By investigating vernacular words and phrases, I, in turn, can emphasize which terms are

uniquely Old English and not derived from Latin texts. Old Norse and Continental legal

terms and texts will have an important role in providing context for similar trends in

law-making efforts. At points, the role of these elements in a comparison with the Old

English material will highlight the Latin learning that forms the basis of many legislative

efforts of the time; at other points, these elements will instead spotlight where the early

English have diverged in their lawgiving efforts. In Chapter 5, Old English vocabulary is

highlighted in later Scandinavian legislation. Chapter 6 includes Old English terms in a later

medieval context, as a means of showing comparatively how untranslated vernacular

terminology is treated. By combining hands-on manuscript research with close reading and a

thorough analysis of legal terms, my study aims to track Old English legal terminology

through the early medieval royal codes, into Old English literature, and as they spread abroad

into later medieval texts. This investigation aims to change how genre boundaries are

conceived in Old English scholarship and also to promote the studying of legal and literary

works together.

Terminology for Law and Law Codes

The language of the law changed over time and the linguistic changes reflect social, cultural,

and linguistic occurrences in the English kingdoms, and require some explanation. The

vernacular terms *æ*, *þeaw*, *dom*, are used by the early English to classify their own legislation

and are surprisingly tricky to translate. As we see in Chapters 2 and 3, many of the earliest

royal codes use *dom* and then *æ*; later *æ* falls out of favor, overtaken by the Scandinavian loan

word *lagu*. While these are all legal terms self-consciously used to translate the various types

of law, there is a certain overlap between them. The close juxtaposition between *æ* and *dom* makes this all the more critical in understanding how these terms differ.[79] Early on, Wihtræd's code uses the term *dom* in reference to itself, first in the prologue and then in the main body in reference to *boca dom*. While the phrase literally means "edicts of the books," it can be understood as written law.[80] Liebermann understands this to mean compilations of canon law as well as Biblical law.[81] The same statute declares that restitution should be made according to *an ald reht* [an established right]; in consideration of Liebermann's argument that the statute cannot be that old at all, I follow Oliver in translating it as "established" rather than "ancient" or "old."[82] These *boca dom* can either be reminiscent of Æthelberht's legislation, and therefore the written laws of their earlier ancestors, or invoking religious texts, such as the Bible. While Wihtræd's law never uses the term *æ* in contrast to *dom,* the *domas* are explicitly added to the *Cantwara rihtum þeawum* [just customs of the Kentish people].[83] The written *domas* that have just been devised are working in congruence with the established *þeaw* that have existed previously.

Tom Lambert defines *æ* as "law," a more formal practice than *þeaw* [custom], although he notes that the terms may overlap in some usages.[84] As we will see in Ine's code, there is an explicit connection between the *æ* and the *dom*. The prologue uses the phrase *ryht æw 7 ryhte cynedomas* [just law and just royal judgements] and the following statute uses the phrase *æw 7 domas* [law and edicts].[85] As Lambert has noted, these two references make *æ* something separate from, but complemented by, the king's law.[86] Furthermore, the prologue

[79] Oliver argues that the difference between the two here is reflective of their etymological origins; both are Proto-Indo-European, with *æ* deriving from **ei* [go] and *dom* from **dhe* [set/place]. Oliver, *The Beginnings of English Law*, 134.

[80] Wi 4; Oliver, *The Beginnings of English Law*, 154.

[81] *Gesetze*, 3:27.

[82] The restitution amounts of Æthelberht 8, 11, 12, and 14 are 50 shillings rather than 100, but a century has passed by the time Wihtræd's laws are composed. See also *Gesetze,* 3:27; and Oliver, *The Beginnings of English Law*, 155.

[83] Wi Prol.; Oliver, *The Beginnings of English Law*, 152.

[84] Lambert, *Law and Order*, 70.

[85] Ine Prol. and 1.1; *Gesetze,* 1:88.

[86] Lambert, *Law and Order*, 72.

concludes with the declaration that no one, ealdorman or subject, can pervert *ure domas* [our edicts]. While current laws, or *æ*, are expanded upon by individual *domas*, the connotations of these terms change over the early medieval period and it is the *dom* of these laws that are now being increasingly associated with royal power. This transition to focus on law stemming from royal authority allows the terms *æ* and *dom* to become much closer in meaning; in some ways, they act as lexical doubling, reiterating the legislative coverage of the realm as the terms become connected as a set phrase.[87] Later, Alfred's code connects *dom* and *æ* to religious law.[88] Throughout this code, the distinction between *æ* and *dom* that existed in the Kentish codes has lessened with time and distance.

Æ falls out of favor as a term after Alfred's law code; however, as we will see in Chapter 3, the Scandinavian-derived term *lagu* [law] ends up covering any type of "law," both secular and divine, by the beginning of the eleventh century.[89] Both *æ* and *lagu* function as formalized law, whether memorized through mnemonics or written in manuscripts; *þeaw* may have been the less formalized laws which existed in communities but not necessarily through a precise set of words. The term *þeaw* is so rarely used in the laws themselves that scholars are left to infer which of the recorded laws were *þeaw* or changes to *þeaw*. Lambert suggests one example of a change to *þeaw* is Hloþhere and Eadric's ruling that the procedure of vouching for stolen goods must take place in the king's hall.[90] *Þeaw* would have taken far less political capital to change than the more formalized *æ*. Furthermore, Lambert argues that *dom*, in its common translation of "judgement," is "a [manifestation] of the king's role as

---

[87] Similarly *æ 7 witegan* [the law and prophets] later develops as a phrase (but not a doublet); see Theodolf of Orleans 26.341.1, the Gospel of Luke in Old English 16.16, and the Lindisfarne Gospels 5.11. For more on lexical doubling, and the later practice of legal doublets, see David Crystal, *The Stories of English* (The Overlook Press, 2005), 153.

[88] The prologue opens with God informing Moses that *Þis sint ða domas þe ðu him settan scealt…* [These are the edicts which you shall set…] and, almost 40 lines later, this legal frame story comes to a close: *Þis sindan ða domas þe se ælmihtega God self sprecende wæs to Moyse 7 him bebead to healdanne.* [These are the edicts which the Almighty God himself spoke to Moses and commanded him to keep.] Af Prol. 11 and 49; *Gesetze*, 1:28 and 42.

[89] Richard Dance, "*Ealde æ, niwæ laȝe*: Two Words for 'Law' in the Twelfth Century," *New Medieval Literatures* 13 (2011): 149-82.

[90] Hl 7; Oliver, *The Beginnings of English Law*, 130. Lambert, *Law and Order*, 79.

judge" and that the issuing of such was a feature of kingship that was newly developed in the seventh century.[91] Some of the unusual phrasing in laws such as Ine's or Hloþhere and Eadrics' could be the result of a "case law" type of situation, where the king filled in a gap in existing law with a ruling. While it is impractical to think that all of early medieval law was built case-by-case in this manner, some of the laws are easier to understand in light of such an interpretation.[92] If this is the case, then the kings issuing *domas* to overwrite *þeaw* allows the kings to expand on their roles as legislator-judge by ascribing more authority to themselves and bringing more law under their purview. Although this explanation is intended to shed light on my translations, I have also noted where I follow accepted scholarly convention, or diverged, in certain translations over the course of these chapters.

Manuscripts

Finally, the medieval laws discussed here were written over the course of several hundred years. They appear transcribed, fragmented, scattered, and occasionally translated in manuscripts preserved in libraries, cathedrals, and other archives today. The number of textual witnesses that we have for each law varies tremendously; most of them date from the Early Middle Ages, though there are several post-Conquest manuscripts that are important records of the law-making efforts of the medieval kings and courts. Textual transmission and, therefore, manuscripts underpin every aspect of my study, and I summarize in this final section the relevant manuscripts I discuss in the course of the dissertation. When discussing the transmission of terminology, it is essential to always consider the manuscript context. For instance, there are two sources for the legal prologues discussed in Chapters 2 and 3: material sources (*fontes materiales*) and formal sources (*fontes formales*), terms popularized by

---

[91] Lambert, *Law and Order*, 76-7.
[92] Lambert singles out Hl 1-4 and Ine 62. Lambert, *Law and Order*, 77.

Somerville and Brasington.[93] The material sources are all the "original" sources of law, including Biblical passages, Mosaic law, and papal decrees. Formal sources are the manuscripts and their transmission history. Many of the Old English legal prologues lack allusions to material sources, with prominent exceptions being Alfred and Cnut, but the formal sources are a critical element in understanding the appearance or lack of prologues.

The manuscript context for the laws provides important clues for understanding the laws themselves. There are often visual indicators in the manuscripts that give insight into how the scribe understood sections, and the perceived importance, of the legal text. For instance, the prefaces are often integral in the manuscript context of the law codes and are frequently given large rubricated initials, whereupon the law code follows directly afterward. An example illuminating this is Alfred's prologue in the *Textus Roffensis,* which begins with a striking capital D, curling over 9 lines with the first two words taking up the entire line in capital letters written in red with green accents. Scribal rubrics do not receive the same attention. There is, after all, a difference between promulgating laws in the abstract and distributing them in manuscript form. The majority of the law codes make no explicit provision for how they are to be distributed.[94] The manuscript evidence for the laws comes from works which were written and composed in major centres across England. This early medieval legislation now survives to modern scholars in a range of manuscripts in a variety of conditions.

Below, I summarize the most important manuscripts and their relevant contents for this discussion. The manuscripts are listed alphabetically by library name and shelfmark for ease of reference. I have given widely accepted manuscript abbreviations in parenthesis and a full list can also be found in Appendix A; I have also included the dates, a list of the contents,

---

[93] Material sources are also known as "constitutive" or "legislative" sources. The ninth-century Pseudo-Isidorian corpus is a notable example purporting to represent a nonbiblical tradition and a legislative source. Somerville and Brasington, *Prefaces to Canon Law Books,* 3-4.

[94] One prominent exception is Edgar's *Wihtbordesstan* code, which includes a line on who was to copy and distribute the legislation, which I will discuss more later.

and a concise note on anything particularly noteworthy that is relevant to the chapters that follow.[95] A longer description of the two final works, *Quadripartitus* and *Textus Roffensis*, conclude this chapter. All of these manuscripts appear in the course of my dissertation and their summaries here are intended to help smooth the discussion of their contents. The majority of these manuscripts I have handled and personally examined. Where that was not possible, due to the pandemic, I have relied on digital editions or library photos to the best of my ability.

British Library

- British Library, Cotton MS Otho B.xi (Ot). Produced in Winchester right after the turn of the millenium, and contains the *Anglo-Saxon Chronicle*, papal and episcopal lists, II Æthelstan, Alfred-Ine, and *Ymb Æwbricas*.[96]

- British Library, Cotton MS Nero E.i (F). Written in Worcester sometime between the second half of the eleventh century to the second quarter of the twelfth century, and is one of two manuscripts that contains the *Wihtbordesstan* code (IV Edgar).[97]

- British Library, Harley MS 55 (A). Composed of fragments from two different manuscripts; unit A was produced in Worcester in the early eleventh-century and contains II-III Edgar; unit B contains I-II Cnut (the Winchester code), along with a

---

[95] For a longer description of the manuscript context for the laws, see Wormald, *The Making of English Law*, 162-263. Dorothy Whitelock also includes notes on the manuscripts in her descriptions preceding her translations of the laws in *EHD*, although these are brief and dependent on which laws she chose to include. Lisi Oliver has a more extensive discussion of the manuscript context for the Kentish laws in *The Beginnings of English Law*. Mary P. Richards' examines the history of these law codes in her chapter "The Manuscript Contexts of the Old English Laws: Tradition and Innovation," in *Studies in Earlier Old English Prose*, ed. by Paul E. Szarmach (State University, 1986), 171-92.

[96] This, and many of the subsequent manuscripts, can be found in N. R. Ker, *Catalogue of Manuscripts Containing Anglo-Saxon* (Clarendon Press, 1957).

[97] Richard Gameson, *The Manuscripts of Early Norman England (c. 1066-1130)* (British Academy, 1999), no. 397. Also Michael Lapidge and Helmut Gneuss, *Anglo-Saxon Manuscripts: A Bibliographical Handlist of Manuscripts and Manuscript Fragments Written or Owned in England up to 1100* (University of Toronto Press, 2014), no. 344.

complete ecclesiastical prologue and a later inscription preceding the prologue, which neither the G or B manuscripts below contain.[98] It also contains the secular prologue.

- British Library, Cotton MS Claudius A.iii (K). Contains documents pertaining to Christ Church copied in the early eleventh century, and includes VI Æthelred in Latin and Old English.[99]

- British Library, Cotton MS Nero A.i (G). Composed in the middle of the eleventh century with an unknown origin; unit A contains I-II Cnut (the Winchester code) without the accompanying ecclesiastical prologue, although it does contain the secular prologue. The manuscript also includes II-III Eg, *Romscot*, *Iudex*, and Alfred-Ine; unit B contains the Wulfstan Homilies, *Inst. Pol.*, I Æthelstan, I Edmund, II-III Edgar, V Æthelred, VIII Æthelred 1-5, *Grið*, and Wulfstan's Canon Collection.[100]

Corpus Christi College

- Cambridge, Corpus Christi College MS 173 (E). Otherwise known as the "Parker" manuscript, this contains the earliest copy of the *Anglo-Saxon Chronicle*, as well as the laws of Alfred-Ine, and papal and episcopal lists; it appears to have been written in Winchester around 1001, and thereafter in Christ Church, Canterbury.[101]

- Cambridge, Corpus Christi College MS 201 (D). Produced in Winchester and contains Wulfstan's Homilies, *Inst. Pol.*, VIIa Æthelred, *Northu.*, II-III Edgar, V Æthelred, I Æthelstan, VIII Æthelred, I Edmund, and Cnut 1018.[102]

---

[98] Helmut Gneuss, *Handlist of Anglo-Saxon Manuscripts*, Medieval and Renaissance Texts and Studies, 241 (Arizona Center for Medieval and Renaissance Studies, 2001), no. 412 (ff. 1-4).

[99] See folios 2-7. Colin Tite, *The Early Records of Sir Robert Cotton's Library: Formation, Cataloguing, Use* (British Library, 2003), 121.

[100] See Ker's *Catalogue*, no. 164.

[101] See *The Anglo-Saxon Chronicle: A Collaborative Edition. Volume 3, MS A,* ed. Janet M. Bately (D. S. Brewer, 1986). Also Robin Flower and Hugh Smith, *The Parker Chronicle and Laws*, EETS, o.s. 208 (1941, repr. 1973).

[102] See Ker's *Catalogue*, no. 49A-B, along with no. 50. Also Graham D. Caie, "Text and context in Editing Old English: The Case of the Poetry in Cambridge, Corpus Christi College 201," in *The Editing of Old English*, eds. by Donald Scragg and Paul Szarmach (Cambridge, 1999), 155-62.

- Cambridge, Corpus Christi College MS 265 (C). Produced in Worcester in the second half of the eleventh century and contains Wulfstan's Canon Collection, Excommunication and Penance formulae, and is the only other manuscript to contain the *Wihtbordesstan* code (IV Edgar).[103]

- Cambridge, Corpus Christi College MS 383 (B). Produced at St. Paul's and contains Alfred-Ine, *Blas.*, *Forf.*, *Hu*, I Æthelred, the Treaty of Alfred and Guthrum, EGu, II Æthelstan, I-II Cnut (the Winchester code) although it contains the secular prologue, it is missing the ecclesiastical prologue. The manuscript also contains I-II Edward, I-II Edmund, *Swer.*, *Wif.*, *Wer.*, *Becw.*, II Æthelred, *Duns.*, *Rect.*, *Ger.*, along with a West Saxon genealogical king list.[104]

Lambeth Palace Library

- Lambeth Palace Library MS 92 (Lh). Written in the thirteenth century, this contains a copy of Bracton's work, followed by four writs from Edward I's reign.

- Lambeth Palace Library MS 179 (Lm). A composite manuscript starting in the thirteenth century and continuing through to the seventeenth century; the majority of the contents are written in Latin, interspersed with some French texts, such as the *Summa Fet asauer* and the *Breuia placitata.* The current manuscript opens with Henry of Huntingdon's *Historia Anglorum*, which is followed by William of Malmesbury's *De Gestus Pontifium Historia Abbreviata*, and statutes of England. Land rights feature prominently amongst the statutes, which also include the Magna Carta and the Charter of the Forest, among others.

---

[103] See Ker's *Catalogue*, no. 53.

[104] Thomas Gobbitt, "Audience and Amendment of Cambridge, Corpus Christi College 383 in the First Half of the Twelfth Century," *Skepsi* 2, no. 1 (2009): 6-22. For issues in dating, see Elaine M. Treharne, "The Production and Script of Manuscripts Containing English Religious Texts in the First Half of the Twelfth Century," in *Rewriting Old English in the Twelfth Century*, eds. by Mary Swan and Elaine M. Treharne (Cambridge University Press, 2000), 11-39.

York Minster

- York Minster MS. Add. 1 (York Gospels), were originally written in Canterbury around 990 and brought to York in around 1020 by Archbishop Wulfstan; the manuscript contains the Wulfstan homilies alongside Cnut 1020.[105]

Quadripartitus

- The *Quadripartitus* (*Quad.*) warrants a longer note as it is not a single manuscript held by a lone archive; instead, it is composed of various manuscripts and written during the reign of Henry I in the early twelfth century, the work of an anonymous writer commonly known as Q.[106] The *Quadripartitus* is the largest extant collection of Old English law. Including all the various forms, in total it contains: I-II Cnut, Alfred-Ine, *Blas.*, *Forf.*, *Hu*, I Æthelstan, Æthelstan Alm, II Æthelstan, *Norðl.*, IV Æthelstan, V Æthelstan, III Æthelstan, VI Æthelstan, *Ord.*, the Treaty of Alfred and Guthrum, AGu App., EGu, I-II Edward, I-II Edmund, *Swer.*, *Wif.*, *Wer.*, I Æthelred, III Æthelred, *Pax*, *Wal.*, IV Æthelred, II Æthelred, *Duns.*, VII Æthelred, *Iudex*, II-III Edgar, and III Edmund. The *Quadripartitus* is a critical resource for scholars as the legal texts it contains are in Latin not Old English, including Latin versions of some (presumably Old English) legislation that are no longer extant elsewhere. This compilation, created approximately a century after Cnut was crowned in England and almost four centuries after Ine reigned, reveals how early English legislation built on itself and the enduring interest, even post-Conquest, in the texts themselves.

---

[105] Alger Nicolaus Doane, Sarah Larratt Keefer, and David Rollason, *Anglo-Saxon Manuscripts in Microfiche Facsimile*: *Manuscripts of Durham, Ripon, and York*, Medieval & Renaissance Texts & Studies 14 (Arizona Center for Medieval and Renaissance Studies, 2007). See Ker's *Catalogue*, no. 402.

[106] All of the text of *Quadripartitus* is by a single scribe. See Early English Laws Project: https://earlyenglishlaws.ac.uk/laws/manuscripts/r/ Liebermann dates it to 1140 but Wormald argues for an earlier date of the 1120s based on palaeographical grounds. Felix Liebermann, *Quadripartitus. Ein Englisches Rechtsbuch von 1114* (Halle, 1892); Wormald, *The Making of English Law*, 83-4.

Translating all these legal texts from the vernacular into Latin would have been a massive monetary and time commitment, yet this allowed the Old English codes to reach a wider Latin-literate audience.[107] Although not complete in any single extant manuscript, sections of it survive in a handful of other manuscripts and therefore I have grouped them below.[108] These manuscripts include:

1. British Library, Cotton MS Domitian viii (N), folios 96r-110v. Albeit an incomplete copy, this is the oldest manuscript containing bits of the *Quadripartitus*, and Patrick Wormald dated it to circa the 1120s.[109]

2. Manchester, John Rylands Library MS Lat 420 (P). Dated to the mid-twelfth century, this is also an incomplete work and a sixteenth-century note on the flyleaf indicates that the first 20 folios are lost.[110]

3. British Library, Royal MS 11.B.ii, folios 103r-166v (R). Dated to the third quarter of the twelfth century, this was produced at Worcester.

4. British Library, Add MS 49366 (S). Dated to the third quarter of the twelfth century, this contains law codes, treatises, and a copy of *Quadripartitus*, although it lacks the accompanying prologue.

5. British Library, Cotton MS Titus A.xxvii (T), folios 89r-174v. Dated to somewhere between the late twelfth and early thirteenth centuries, this manuscript also includes the *Instituta Cnuti* and Monmouth's *Historia Regum Britanniae*.

6. Manchester, John Rylands Library, MS Lat 155 (U). Compiled some time in the early thirteenth century, this manuscript also includes the *Leges Anglorum*

---

[107] I discuss these very same translation efforts in Chapter 6.

[108] I summarize below all the partial extant copies of *Quadripartitus*; for more information, see Wormald, *The Making of English Law*, 236-8.

[109] Wormald, "Quadripartitus," 83-4.

[110] Wormald, "Quadripartitus," 84.

Londoniis collectae, and is closely connected to the following manuscripts below.

7. British Library, Add MS 14252 (V). Dated to the first quarter of the thirteenth century, this manuscript contains a collection of legal treatises as well as Glanville's *Tractatus de Legibus,* a prose description based on Henry of Huntingdon's *Historia Anglorum,* and laws related to the London commune; it is the second volume, of which Manchester, John Ryland's Library, MS Lat 155, above, is the first, and is partially written by the same scribe.

8. British Library, Cotton MS Claudius D.ii (W). Dated to the second half of the fourteenth century, this manuscript also contains laws related to the London commune.

9. Cambridge, Corpus College Cambridge, MS 70 (Mb). Dated to the first quarter of the fourteenth century, this was likely created to serve as a private compilation of precedents regarding the City of London; in addition to *Quadripartitus,* it also contains the *Leges Henrici Primi*.

10. Cambridge, Corpus College Cambridge, MS 258 (Ma). Dated to the first quarter of the fourteenth century, this also includes the anonymous law tracts *Speculum justiciarorum* and *Breton*; the manuscript was bound together with Cambridge, Corpus College Cambridge, MS 70, above, at one point.

11. Oxford, Oriel College, MS 46 (Oc). Dated to the fourteenth century, the manuscript is closely related to the other City of London manuscripts above; in addition, it also contains Henry I's coronation charter.

Rochester Cathedral Library

- Rochester Cathedral Library, MS A.3.5 (H). Also known as the *Textus Roffensis*, this

   manuscript is arguably the most important manuscript for early law. "H" contains the

   only extant Kentish law codes, as well as copies of laws from the earliest English

   period spanning until the Norman Conquest.[111] Written in Rochester in the 1120s, the

   scribe copied the manuscript from several exemplars to compose a compendium of

   Old English laws, creating a legal encyclopedia of works ranging from approximately

   600 to 1100; of these texts, many of the exemplars do not survive.[112] The laws of King

   Æthelberht of Kent (r. 589-616) are the oldest, stemming from the early seventh

   century and can only be found in the *Textus Roffensis*. Documented in this manuscript

   are also Abt, Hl, Wi, *Had.*, a West Saxon genealogical king list, Alfred-Ine, *Blas.*,

   Forf. 1, *Ord.*, *Wal.*, II Æthelstan, V(-IV) Æthelstan, *Pax, Swer.*, *Að, Mirc.*, EGu, *Wer.*,

   I-II Edward, I-II Edmund, I Æthelred, III Æthelred, Ordeal rituals, *Instituta Cnuti*,

   papal decretals, VI Æthelstan, *Norðl.*, *Wif.*, and Rochester charts. Clearly there were

   multiple exemplars for this manuscript though, as the scribe is a careful copyist and

   linguistic emendation and orthographic variation continue between law codes; the

   scribe also emends the texts when accidentally modernizing word forms.[113]

Finally, there is no way to know how many other early English rulers composed and

distributed laws, but there were clearly more issued than currently survive. Bede describes

how King Eorcenberht of Kent (r. 640-664) ordered 40 days' observance of Lent and issued

---

[111] Mary P. Richards refers to it as the "single most important manuscript produced at Rochester" in *Texts and Their Traditions in the Medieval Library of Rochester Cathedral Priory* (American Philosophical Society, 1988), x.

[112] A reasonable *terminus ad quem non* for the compilation is 1130; for a fuller discussion, see Liebermann, *Gesetze*, 1:xxvii; Sawyer, *Textus Roffensis*, 18; N.R. Ker, *English Manuscripts in the Century after the Norman Conquest* (Clarendon Press, 1960), 30-1.

[113] Oliver, *The Beginnings of English Law*, 21-22.

heavy punishments for offenders, which Liebermann argues is an indication of a law code missing to us today.[114] King Alfred's *domboc* references Offa's nonextant legal code and that of King Ine of Wessex's (r. 688-726). Ine's law code only survives as an appendix to Alfred's laws despite having been promulgated as many as two centuries beforehand.[115] However, Alfred's *domboc* survives in various forms in ten manuscripts, which range from the tenth to the early thirteenth centuries.[116] This is especially notable as there are only 15 pre-1100 manuscripts, and 17 surviving twelfth-century manuscripts, which contain royal legislation of the early English. The continued copying of royal legislation after the early medieval period testifies to the widespread readership and sustained interest in Old English law.[117]

---

[114] *Gesetze*, 3:17.

[115] Wormald, *The Making of English Law*, 103.

[116] Alfred's laws survive in CCCC 173, CCCC 383, BL Cotton Otho B.xi, BL Cotton Nero A.i, BL Burney MS 277, *Instituta Cnuti* III 1-41, *Quadripartitus* London, *Quadripartitus* revised, *Textus Roffensis*, and most likely Nowell's lost manuscript. For a full list of surviving manuscripts, including those well attested but now missing, see Wormald, 164-5.

[117] The lower number of pre-1100 manuscripts also evidences the loss of the older manuscripts in the following centuries. For a discussion on the existence of archetypes for some of the extant manuscripts, see Simon Keynes, "Royal Government and the Written Word in Late Anglo-Saxon England," in *The Uses of Literacy in Early Medieval Europe,* ed. Rosamond McKitterick (Cambridge University Press, 1990), 232-44; further implications of the twelfth-century manuscripts can be found in Bruce O'Brien, "Pre-Conquest Laws and Legislators in the Twelfth Century," in *The Long Twelfth-Century View of the Anglo-Saxon Past,* eds. Martin Brett and David A. Woodman (Routledge, 2016), 232-3.

Chapter 2: The Prologues of King Æthelberht through King Edmund

Introduction

Most of the royal legislation of the early English contain a prologue, which provides valuable context for the laws themselves, including the name of the person issuing the new legislation and the circumstances of the composition. As other sources of the time, such as the *Anglo-Saxon Chronicle*, often do not include details like the date or promulgation of new laws, these prologues provide invaluable information to scholars, especially with regards to how the issuing of the laws was understood by contemporaries. As the early medieval period spans around 500 years, I have organized the discussion of prologues into two chapters, reflecting the changing social and political contexts in which the medieval law codes were composed. In this and the following, paired chapter, I discuss the tradition of the prologues and argue that they are powerful vehicles for articulating ideas about royal and religious authority. The prologues are necessary to our understanding of these law codes — something that has not historically always been understood. These texts are rarely studied together even though they are a revealing way of approaching the laws themselves and appreciating how they were promulgated. F. L. Attenborough is typical of the scholarly attitude toward the prologues, as he cherry-picked which to include in his edition of the laws.[118] Disappointingly, in his introduction to his edition he announces the omission of "the long Introduction to King Alfred's Laws, which is of purely literary interest and has no bearing on English Law."[119]

---

[118] Those short and convenient to print make it in: the prologues to Æthelberht's law code, as well as of Hloþhere and Eadric, Wihtræd, and Ine are all included. However, Alfred's prologue, which is significantly longer, is mostly excluded. Even though Attenborough denies the importance of the prologue, he remarks on its loss in II Æthelstan and is forced to infer what it said. F. L. Attenborough, *The Laws of the Earliest English Kings* (Russell & Russell, 1963), 112-3.

[119] Attenborough elaborates later in the explanatory notes to the section on the laws of Ine and of Alfred, describing the laws as "preceded by a long introduction" and then picks and chooses what to include. He disregards cap. 1-49, § 8, repeating that "The introduction down to this point has been omitted as having no bearing on Anglo-Saxon law" but then chooses to lift a portion of the prologue, writing that "the next paragraph, however, (cap. 49 § 9), is important: Alfred acknowledges his indebtedness to the laws of Ine, as well as to those

Such an omission hinders the study of the law codes themselves, as the prologues both provide background on the laws and an insight into their making. Susan Irvine has also noted, specifically with regards to Alfred's *domboc*, that the "lengthy opening...has often been treated as peripheral to the law-code itself."[120] This chapter, and the following one, aim to rectify such oversights by complementing recent studies on prefaces to works of literature and canon law, and shows the value of legal prologues as historical sources for our understanding of early medieval authority.[121]

The Old English prologues of the early medieval royal legislation form the centre-point of these two chapters. These law codes range from the seventh to the eleventh centuries and reflect a changing understanding of the role of the king. The kings discussed here span the early medieval period: King Æthelberht I of Kent (r. 589-616), Hloþhere (r. 673-685) and Eadric (r. 685-6) of Kent, Wihtræd of Kent (r. ca. 690-725), Ine of Wessex (r. 688-726), Alfred of Wessex (r. 849-899), Edward the Elder (r. 899-924), King Æthelstan's (r.924-939), Edmund I (r. 939-946), Edgar the Peaceful (r. 959-973), Æthelred II (r. 978-1016), and Cnut the Great (r. 1016-1035).[122] I approach these prologues as law-as-literature.[123] While the legal corpus appeared at a time when writing was limited to the courts and monastic communities, I am interested in the perception of authority and therefore how authority is articulated in the law codes. What was written was used to justify authority to others with power: bishops, priests, and others who might have read or been asked to enforce the document, especially if the codes were sent to monasteries for copying and distribution.[124] The approach I take in considering the elements of the prologue — by

---

of the Mercian king Offa (which are now lost), and those of Æthelberht (of Kent), the first Christian king in England." Attenborough, *Earliest English Kings*, vi and 35.

[120] Irvine, "The Alfredian Prefaces and Epilogues," 145.

[121] See Jonathan Wilcox's edition of *Ælfric's Prefaces, Durham Medieval Texts* 9 (1995); Somerville and Brasington, *Prefaces to Canon Law Book*; and Brasington, "Prologues," 228-42.

[122] See Wormald and Campbell, *The Anglo-Saxons*. Specific historical developments that relate to the law codes will be discussed below.

[123] See Chapter 1 for a full description of my methodology and the branch of law-as-literature.

[124] Kilgour, *Evolution*, 71.

describing the functional, propagandistic, and pragmatic characteristics — allows us to discuss *what* its message aims to fulfill. Just as the legislation needs the prologues for context, so too do these law books need to be situated within their historical and manuscript contexts. The questions of *from* and *to whom* pervade these prologues as those issuing legislations subtly — or otherwise — establish their claims to royal authority. Although it is unwise to take the prologues at face value, as prologues can be disingenuous and their authors full of false modesty, reading the prologues is the most straightforward method of understanding how the creators hoped the legislation would be understood, whether or not that was the reality.[125]

The Prologues to Old English Laws

The role of the legal prologue is to provide the justification for establishing, redefining and promulgating additional laws, while acting as a space for the articulation of authority that the rest of the legal code implements in a different way. However, the king's authority was not always final, as we see in instances like Charter 693, which nullifies the king's legal decision.[126] Furthermore, codes such as *Be blaserum 7 be morðslihtum* and *Be griðe 7 be munde* do not carry the name of a king, the former being an early anonymous work and the latter likely drafted by Archbishop Wulfstan of York.[127] Even when kings' names are attached to law codes, the prologues may not always highlight their contributions, which we will later see with the short preface that begins I Edward.[128] The authority of the law codes depended heavily on the authority of the individuals named, if not a council, or *witan*, that ratified them. The prefatory comment was thus a self-conscious act using rhetorical devices to

---

[125] On the false humility topos, see Ernst Robert Curtius, *European Literature and the Latin Middle Ages*, trans. Willard R. Trask (Princeton University Press, 1990), 83-85, and 407-13.

[126] This was remarked upon in Henry Adams, "The Anglo-Saxon Courts of Law," in *Essays in Anglo-Saxon Law*, ed. Henry Adams (Little, Brown, and Company, 1905), 16.

[127] Wormald, *The Making of English Law*, 367-8.

[128] I Ew Prol.; *Gesetze*, 1:138-40.

explain the purpose behind a new collection while simultaneously showing reverence for tradition.

The royal codes discussed in this chapter, as opposed to the next, paired chapter are: Hloþhere and Eadric; Wihtræd; Ine; Alfred; I-II Edward; I, II, V Æthelstan; and I and II Edmund. Due to manuscript transmission and their placement, prologues are especially susceptible to being removed or omitted as paratextual elements, as both scribes and scholarly editors do not always understand their significance. The laws of Æthelberht and Æthelstan both lack prologues and whether this is due to later removal or because the laws did not originally contain one is difficult to say.[129] Wanley, in his *Catalogus*, refers to Æthelstan's law code as *imperfectus* due to its missing prologue.[130] Manuscript transmission also means that prologues can easily be moved around; the laws of Ine only exist appended to King Alfred's *domboc* and therefore Ine's prologue could have been changed or added to match Alfred's.[131] As these law codes span almost 500 years, they serve to highlight the changing role and increasing personal power of the early medieval king. As we will see below, the development of the prologue over time reflects the concerns of the kings, from the relationship with their councillors to the state of the church.

---

[129] For more on "the distinctive pattern of textual survival" of the prologue, see Wilcox, *Ælfric's Prefaces*, 73. For further thoughts on Æthelberht's missing prologue, cf. footnote 135,

[130] Humphrey Wanley, *Librorum Vett. Septentrionalium, qui in Anglsa Biblioth. Extant, Catalogus Historico-Criticus* (Oxford, 1705), 274.

[131] In a later example, what was originally written as the prologue to the laws of Jutland appears to have doubled as the prologue for the laws of Skåne and Sjælland. Nor does the Jutland prologue always precede those laws, sometimes appending them instead, despite the content remaining the same. See Tamm and Vogt, *The Danish Medieval Laws*.

The Kentish Law Codes: Borrowing Authority
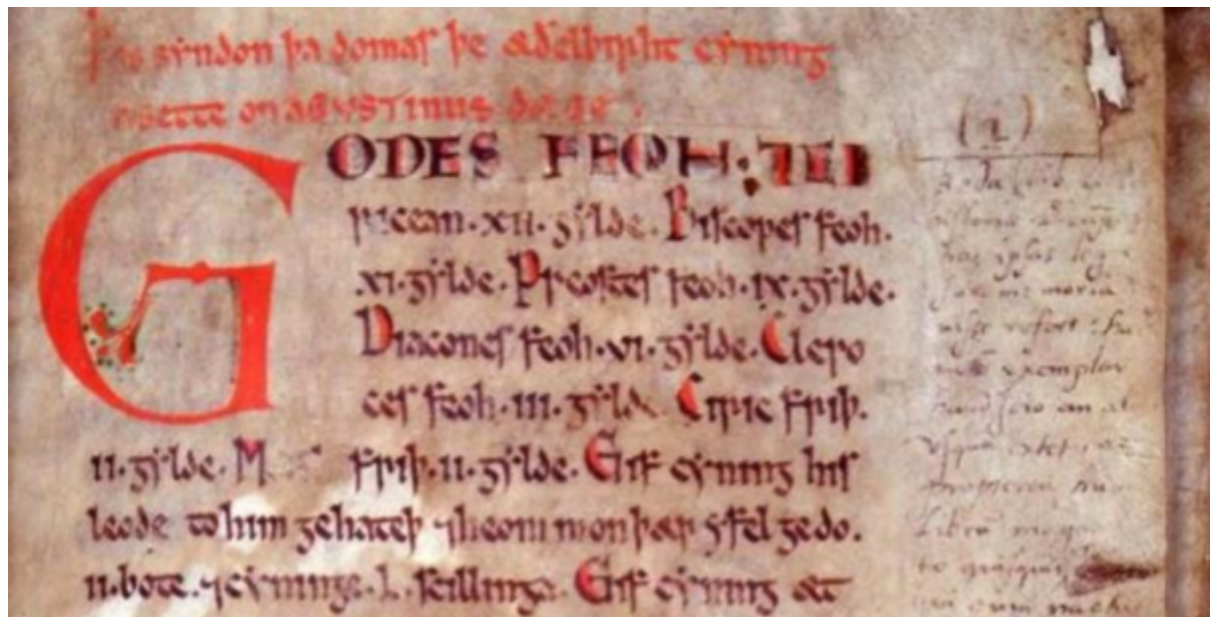
Figure 1: The opening to Æthelberht's law with a rubric in red above and the law code in dark ink below (*Textus Roffensis*, f. 1v)

The three Kentish law codes which survive are the laws of Æthelberht, Hloþhere and Eadric, and Wihtræd. All three of these codes appear in the *Textus Roffensis*; only the latter two contain prologues.[132] The law codes are superficially arranged in much the same way, likely due to the same scribe copying them from exemplars. On the manuscript page seen above in Figure 1, Æthelberht's law code visually begins with: *Þas syndon þa domas þe Æðelbirht cyning asette on Augustinus dæge.* [These are the edicts which King Æthelberht established in the days of Augustine.][133] This introduction is a rubric — not a prologue — and is a strategic move to indicate a new piece of text by the scribe, who appears to also have served as rubricator for this manuscript. A rubric and a prologue differ as the rubric, written in red ink as a visual cue, is often scribal paratext. The rubrics used in the *Textus Roffensis* serve to indicate where one law code ends and a new one begins, but they are not an essential part of the code itself and were also unlikely to have been part of the original text.[134] Lisi Oliver

---

[132] For more on the *Textus Roffensis*, see the manuscript section of Chapter 1.

[133] All translations are my own unless otherwise noted. Oliver, *The Beginnings of English Law*, 83.

[134] In Æthelberht's law code, the rubric is not a part of the legal content and it is only after the rubric that the laws begin with a line break and a large capital *G* extending across five lines, describing compensation for *Godes feoh* [God's property]. The *Textus Roffensis* has been helpfully digitized by Rochester Cathedral Library

argues that while the rubric does not belong to the text proper, it must predate 747 as, by then, Augustine was beatified.[135] There is also manuscript evidence for the rubrics not being part of the law code itself, unlike the prologue. For example, like the previous Kentish laws, Wihtræd's law is preceded by a rubric in red ink which immediately follows the final word of Hloþhere and Eadric's legislation. This is followed by a line break before the prologue, and the prologue leads directly into the individual clauses — the same format Hloþhere and Eadric's text takes following the laws of Æthelberht. The prologues, which serve as a lead-up to the subsequent laws, serve as signposts for why the laws were created. In most cases, these prologues appear to be part of the original text; if not, they still shed light on the perceived authority to promulgate law codes in the early medieval era.

There is a period of almost a century between the reign of Æthelberht and that of Hloþhere, who ascended to the throne in 673 after the sudden death of his brother Egbert. Hloþhere likely indicated Eadric as his heir and possible co-ruler around 679, but it was in 684 that Eadric made a deal with an army in Sussex to invade Kent and overthrow Hloþhere, who subsequently died of his battle wounds.[136] The overlap in their reigns causes for a scribal intervention in the form of a rubrication preceding the prologue, which states: *Þis syndon þa*

---

[135] Oliver, *The Beginnings of English Law*, 83. The 596 *Anglo-Saxon Chronicle* entry records Pope Gregory sending Augustine to England, and the following entry announces his arrival; however, there is no corresponding record in the *Chronicle* on when Æthelberht's laws were distributed. This rubrication is the scribe providing both historical context for a later audience and an attempt to borrow Augustine's authority, whose hagiographical legend was growing in the centuries following his death. Æthelberht's code is the only one of the extant Kentish codes without a prologue, although Liebermann argues that there is evidence of an original prologue in this rubric. See *Anglo-Saxon Chronicle,* 22 [596]. All subsequent citations will be abbreviated *ASC*, and are from Susan Irvine's *The Anglo-Saxon Chronicle MS E* (D.S. Brewer, 2004). For Liebermann's remarks, see *Gesetze*, 3:2.; Bede also describes Æthelberht's law code as being established "with the advice of his counselors," a refrain that we see again in later legal prologues, including Wihtræd's and Alfred's. Betram Colgrace and R.A.B. Mynors, eds., *Bede's Ecclesiastical History of the English People* (Clarendon Press, 1969), 151.

[136] A charter from 679 grants Abbot Beorhtwald land and names Eadric, son of Egbert, and Hloþhere as witnesses, implying that Eadric may already have been named as co-ruler by that point; for the charter, see S 8; for discussion, see Oliver, *The Beginnings of English Law*, 119-20. There is precedent for joint rule in Kent, with one king based in Canterbury and one in Rochester; Barbara Yorke, "Joint Kingship in Kent," *Archaeologia Cantiana* 99 (1983): 1-19.

domas ðe Hloþære 7 Eadric Cantwara cyningas asetton.[137] [These are the edicts which Hloþhere and Eadric, Kings of the Kentish-people, established.] Despite what the rubric claims, these may be the consolidated laws of both the kings' reigns rather than laws issued from the year they both ruled.[138] It is only thereafter that the prologue begins: *Hloþhære 7 Eadric, Cantwara cyningas, ecton þa æ þa ðe heora aldoras ær geworhton ðyssum domum, þe hyr efter sægeþ.*[139] [Hloþhere and Eadric, kings of the Kentish-people, extended the laws, which their ancestors had made before, with these edicts, which are stated hereafter.] Despite the near repetition of the rubric, in the first sentence of the prologue the scribe mistakes *cyningas* for the singular *cyning*, leaving off the ending and showing that the scribe may have been confused by the double-kingship claim of the prologue. The scribe amends this with an insertion mark.[140] Nevertheless, this scribal error implies an understanding of kingship and royal authority as being singular rather than a shared role.

The prologue identifies the promulgators of the law codes, Hloþhere and Eadric, establishes their credentials as *cantwara cyningas*, and then justifies the distribution of the codes. They do not establish (*asettan*) or discover (*afindan*) new codes; instead they simply extend (*gewyrcean*) the codes, and rely on the historical authority of their ancestors to justify them. This is also a striking difference from the language of the rubric which also had the kings establish (*asettan*) their laws. Jurasinski argues that the prologue to Hloþhere and Eadric's laws "suggests that written law was seen as a contentious innovation needing to be couched in a rhetoric of traditionalism in order to seem harmless."[141] Instead, the prologue's diction is both unaggressive and indirect, serving a double purpose: first, the prologue

---

[137] Oliver, *The Beginnings of English Law*, 127.
[138] The *Anglo-Saxon Chronicle* does not record when these laws were made. However, Liebermann argues that the laws are authentic as a forger would have selected better-known or more influential kings; see Lisi Oliver, *The Beginnings of English Law*, 120, and Liebermann, *Gesetze,* 3:17.
[139] Oliver, *The Beginnings of English Law*, 127.
[140] Interestingly, the dot over the *y* in *cyningas* has also been left off, despite the scribe's near-ubiquitous usage elsewhere.
[141] Stefan Jurasinski, *The Old English Penitentials and Anglo-Saxon Law*, Studies in Legal History (Cambridge University Press, 2015): 13.

invokes the ancestral precedent to justify new law codes; while, second, it also uses tradition to extend the old laws instead of explicitly creating new codes. The promulgators of these law codes explicitly evoke and link to memories of their ancestors and predecessors in law in order to justify their own codes and their right to distribute them.[142] Here, the kings are depicted as adding to, or extending, the current laws, and this could be either building upon Æthelberht's law code by inserting new laws amongst the established ones, or extending the laws by adding new conditionals to their usage.[143]

After Eadric's death, the Kentish kingdom dissolved into turmoil over the succession; Wihtræd emerged as king after a four-year struggle which saw Cædwalla and his brother Mul of Wessex lay waste to the land and claim the title. Swæfheard, son of King Sebbi of the East Saxons, ruled briefly, as did Oswine.[144] Late in 695 CE, Wihtræd was secure enough in his title to issue a law code. The prologue to Wihtræd's law code differs significantly from Hloþhere and Eadric's, although the scribe provides a near identical rubric to the prior two law codes: *ðis synd Wihtredes domas Cantwara cyninges*.[145] [These are the edicts of Wihtræd, king of the Kentish-people.] While the rubric in red ink immediately follows the conclusion of Hloþhere and Eadric's law code, there is a fuller prologue after a line break:

---

[142] This is explicitly done with the invocation of the dialectal noun *aldor*, more commonly seen in the West Saxon form *ealdor*. I have here translated the term as "ancestors," as the term has connotations of authority and superiority, especially public authority such as rulers, but also martial authority such as commanders in battle, and domestic authority such as the head of households. The etymology of the term lies in *ealdre* (old), meaning those who have lived a long time; the term *ealdor* thus reflects the platitude that with age comes experience. See IV Eg 10 which uses *hundredes ealdor* (the man in charge of a hundred). There is also the martial authority of Ine 57 and the religious authority of Alfred 1 5.2.

[143] See my discussion in Chapter 1 on the contrast between *æ* [law] and *dom* [edicts], made apparent here. Kings expand upon the *æ* with the individual *dom*, adding edits or judgements into the existing legal tradition. This can be used for either divine or secular law; for examples of divine *ǣ*, see Ælfric's first Old English pastoral letter for Wulfstan (CCCC 190) 8a, or King Alfred's letter to Wærferth 43, which refers either to the Old Testament or specifically to the Heptateuch. For the occurrences across the corpus, see *DOE "ǣ."* A brief discussion of the problems with the term "law" can be found in Patrick Wormald's "*Inter Cetera Bona - Genti Suae:* Law-Making and Peace-Keeping in the Earliest English Kingdoms," *Settimane dello Studio del Centro Italiano di Studi Sull'alto Medioevo* 42 (1995): 963.

[144] *ASC* 34 [694]. See also Whitelock, *EHD*, 168-9. Charter evidence for the battle of succession for this period can be found in S.E. Kelly, ed., *Charters of St. Augustine's Abbey Canterbury and Minster-in-Thanet* (Oxford University Press, 1995), 195-9.

[145] Oliver, *The Beginnings of English Law*, 152.

Ðam mildestan cyninge Cantwara Wihtrede, rixigendum þe fiftan wintra his rices, þy

niguðan gebanne, sextan dæge Rugernes, in þære stowe þy hatte Berghamstyde, ðær

wæs gesamnad eadigra ge[þ]eahtendlic ymcyme. Ðær wæs Birhtwald Bretone

heahbiscop, 7 se ærnæmda cyning; eac þan Hrofesceastre bisceop, se ilca Gybmund

wæs haten, andward wæs; 7 cwæð ælc had ciricean ðære mægðe anmodlice mid þy

hersuman folcy. Ðær ða eadigan fundon mid ealra gemedum ðas domas 7 Cantwara

rihtum þeawum æcton, swa hit hyr efter segeþ 7 cwyþ.[146]

[During the fifth winter of the reign of the most merciful king of the Kentish people,

Wihtræd, in the ninth indiction, sixth day of Rugern, there was gathered a consiliary

assembly of powerful men in that place which is called Berghamstead. There was

Brihtwald, archbishop of Britain, with the aforementioned king, also the bishop of

Rochester, which same was called Gebmund, was present, and each order of the

church of that population spoke with a single mind with the loyal people. There the

blessed men devised, with the consent of all, these edicts, and added to the just

customs of the Kentish people, as it hereafter says and declares.]

The prologues discussed in this chapter all identify the person who issued the laws, and under

whose presumed authority the manuscripts were copied and distributed. However, in contrast

to the rest of the royal law codes, this is the only prologue that includes a mensal and regnal

date.[147] The named witnesses, who through their inclusion receive credit for the laws as well,

are all churchmen. The inclusion of the consiliary assembly indicates this was a binding act

of legislation, authorized by the special authority of the king and council. There is both an

archbishop and bishop explicitly named and invoked, along with other branches of the church

who are implicitly referred to; furthermore, the archbishop is listed before the king in the

---

[146] Oliver, *The Beginnings of English Law,* 152.

[147] 6 September 695. See Wormald, *The Making of Early English Law,* 101-2.

prologue, and both bishops of Kent are present.[148] Brihtwald is part of a long tradition of

archbishops becoming involved in the creation and promulgation of laws in the Middle Ages:

Archbishop Wulfstan of York authored laws on behalf of Æthelred II and Cnut at the

beginning of the eleventh century, Archbishop Eysteinn of Niðaróss was heavily involved in

the passing of the agnatic succession law in the mid-twelfth century, and Archbishop Anders

Sunesen of Lund authored the Latin translation of the Scanian law in the early thirteenth

century.[149] Wihtræd's prologue, with the invoked authority of the bishops and power of the

church, sets up the law code for legislation beneficial to the church and expanding religious

authority.

The language of the prologue, and of the subsequent laws, reflects the political

circumstances of both the time and of the text's subsequent transmission history. In the

prologue, *riht* is used as the adjective modifying *þeaw* [custom], which I have translated as

"just customs," but stresses the legality of the previous legislative tradition.[150] Wihtræd is also

presented by the prologue as a faithful Christian king through the description of him as the

mildestan cyninge cantwara, and the usage of the genitive plural indicates the king's power

over people and not territory. This could also be an affirming move; in 690, Wihtræd is

understood to have had a co-ruler, but by 695, he issued this law code solely under his own

name.[151] Having the church on his side through a succession struggle would have been an

excellent method of power consolidation. These laws might easily have been written after his

solidification of power, in an attempt to affirm his authority and generate a sense of

---

[148] Lisi Oliver argues that this gives the gathering the appearance of a church council. Oliver, *The Beginnings of English Law*, 164.

[149] I discuss Wulfstan at length in Chapter 3. For Sunesen, see Tamm and Vogt, *The Danish Medieval Laws*, 48.

[150] This is in contrast to Æthelberht's code which only uses in term in the compound *rihthamscyld*. Hloþhere and Eadric's laws use *riht* generally to mean "judgement" or a court of law or legal duty (although it does not appear in the prologue). Oliver, *Beginnings of English Law*, 152; Daniela Fruscione, "*Riht* in Earlier Anglo-Saxon Legislation: a Semasiological Approach," *Historical Research* 86 (2013): 498-504. For more on forms of the word "law" and its translations, see Chapter 1. For a list of archaisms, dialectal differences, and modernizations in Wihtræd's law code, see Oliver, *The Beginnings of English Law*, 148-50.

[151] The Saxon Swæfheard appears to have shared power with Wihtræd in Kent in 690, potentially until 694, though in actuality this may have represented a split between East and West Kent; Bede notes that Wihtræd reunited the Kentish kingdom and established himself on the throne. See Yorke, "Joint Kingship," 1-19.

authenticity. The usage of the superlative in *mildestan* elevates Wihtræd above other possible

contenders for the throne, while simultaneously containing religious echoes.[152] We see more

linguistic ways to elevate kings above others in Chapter 4.

This prologue leads us to anticipate what the contents of the law code entail; while

Hloþhere and Eadric's legislation is devoid of religious content, Wihtræd's laws are primarily

ecclesiastical. These laws complement previous legislation in what may have then been an

attempt to add to existing legislation rather than solely issue laws in an attempt to increase

royal authority, although the church's authority is also affirmed and extended. Wihtræd's laws

are explicitly understood to be adding *domas* to *rihtum þeawum æcton*. While Hloþhere and

Eadric add *wergeld,* or compensation for bodily harm, to Æthelberht's final laws, Wihtræd's

code instead covers the status of the church and its protections.[153] As the prologues were an

essential part of the text, they may also have provided clues for how magistrates should apply

the law. Instructed by the most merciful of kings, generosity of spirit may have been

encouraged, in contrast to the much later and harsher tone of Æthelstan's Thunderfield

code.[154]

The *Anglo-Saxon Chronicle* details the legislative context for Wihtræd's law codes. A

later interpolation in the *Chronicle* ascribes more agency to the king, as he ensures the power

of the church and this is also repeated in a charter: *And sona ðas ðe he cing was, he het*

gaderian mycel concilium...ealle to smeagende embe Godes cyrcan bote ða beoð innan

Cent.[155] [And as soon as he was king, he gathered a large concilium… all to consider the

improvement of God's churches in Kent.] Given it is improbable that the *Chronicle*'s

non-contemporaneous record is a faithful rendition of the events that transpired in the

---

[152] For example, *mildestan* is used in Cynewulf's *Juliana*: *þa mildestan þara þe men witen* [the most merciful that men know]. *The Exeter Book,* eds. George Philip Krapp and Elliot Van Kirk Dobbie, ASPR, III (New York, 1936), l. 207.
[153] Wormald, *The Making of Early English Law,* 102.
[154] See IV As 6-6.7; Whitelock, *EHD,* 434-6.
[155] *ASC,* 34 [697] also S 22.

lawmaking process, this instead can be understood as reflecting the outcome — desired or

actual — to which Wihtræd's laws lead. The inclusion of the statement that the new decrees

were given *mid ealra gemedum* underlines the new law code as being issued with the

understanding and unanimous consent of the church and others. The two people named in the

prologue, other than the king, were both influential church figures who held important seats

in early medieval England and both are noteworthy for also being named in the *Anglo-Saxon

Chronicle*.[156] They may have served as witnesses to vouch for the code, and implicitly for the

king. The prologue here functions both as instructional and as a warning. If someone were to

take issue with the new laws, this is an implicit declaration against an archbishop, bishop,

king, and the unanimous voice of the wise church. By relying on the authority of others, the

king is able to justify his law code, but the consistency with which all the Kentish law codes

lean on the approval of the councillors indicates a lower level of personal authority of the

king; this was all to change, however, when Kent lost its autonomy to Mercia and then

Wessex.

The West Saxon Law Codes: Ine and Alfred

     King Ine of Wessex

King Ine's legislation is the earliest West Saxon law code extant. Ine reigned in Wessex from

688-726, expanding the kingdom to the west but subsequently losing the areas of Essex, Kent

and Sussex; his reign was plagued by internal division in the later years, which saw rebellions

by rival æthelings who challenged his authority, until Ine abdicated in 726 to make a

pilgrimage to Rome.[157] Wihtræd died the year before Ine abdicated and this complicated the

already turbulent situation in Wessex, as Wihtræd left three heirs who divided Kent, leaving

the kingdom open to both internal and external pressures. Ine issued his code in 694, just six

---

[156] *ASC*, 34 [692].

[157] D. P. Kirby, *The Earliest English Kings* (Psychology Press, 1991), 110-2.

years into his reign; the laws themselves are prescriptive and reflect the king's religious beliefs. To understand their contents, however, they must be discussed in tandem with Alfred's later codes; though Ine's laws survive in many copies, they survive only as an appendix to Alfred's.[158] Wormald does not believe that Alfred tampered with Ine's text, nor paraphrased it, even if it is not in the exact form that would have been initially distributed.[159] Ine's prologue is as long as Wihtræd's, though not as long as Alfred's itself.

The differences, both in grammar and content, are apparent from the outset of Ine's prologue. *Ic Ine* [I, Ine], the prologue begins, making it the first prologue to be expressed in the first person singular rather than the third person; the effect of this is a more personalized opening to the laws, creating the appearance of coming directly from the king himself. As with the Kentish prologues, Ine justified his issuing of the laws with a reliance on the authority of others. However, for the first time, that authority explicitly included the divine. Ine created the laws *mid Godes gife* [with God's grace].[160] Like its predecessors, however, Ine's prologue also relies on mortal sources of authority:

> *...mid geðeahte 7 mid lare Cenredes mines fæder 7 Heddes mines biscepes 7 Eorcenwoldes mines biscepes, 7 mid eallum minum ealdormonnum 7 þæm ieldstan witum minre ðeode 7 éac micelre gesomnunge Godes ðeowa...*[161]

> [...with the advice and instruction of Cenred, my father, and of Hedde, my bishop, and of Erconwald, my bishop, and with all my ealdormen and the chief councillors of my people, and with a great gathering of the servants of God as well...].

---

[158] For more on the distribution of Ine's law codes in the manuscript sources, see Chapter 1.
[159] Wormald, *The Making of English Law*, 103.
[160] Ine Prol.; *Gesetze*, 1:88.
[161] Ine Prol.; *Gesetze*, 1:88.

The reliance on Cenred, Ine's father and the previous ruler of Wessex, is an invocation of authority past; just like Hloþhere and Eadric extended the laws of their ancestors, so too is Ine implicitly extending the legal rule of his father's reign.

The bishops Hedde and Erconwald are named and described as *mines biscepes* instead of the less possessive construction of Wihtræd's laws, which reference *Birhtwald, Bretone heahbiscop...eac þan Hrofesceastre bisceop*, identifying the religious figures by their diocese and not with regards to a personal relationship to the king. These were influential figures, as the bishop of London and archbishop of Winchester. As the city of London grew in influence, the bishop there became increasingly cited as a witness in charters and other documents; Archbishop Wulfstan, operating at the turn of the millenium, is the culmination of this position in early medieval England.[162] The other people cited as advising or agreeing with the new laws include *mine ealdormenn* [my ealdormen] and the *ieldstan witan minre ðeode* [most experienced councillors of my people] who are also supported by a *micelre gesomnunge Godes ðeowa* [great gathering of the servants of God]. Unlike previous prologues, this one relies heavily on religious authority and shows an increased understanding of the king's role as being tied to issuing new laws. Not only would people be opposing the king but also all the established wisdom and God if they objected to these laws.

Since there is a reliance on religious as well as secular authority, the stakes are suddenly higher; these groups have been consulted by the king as *smeagende be ðaere hælo urra sawla 7 be ðam staþole ures rices* [counsel for the salvation of our souls and the security of our kingdom].[163] The parallel grammatical and syntactical construction of Ine's prologue implies that the security of the subjects' souls goes hand in hand with the security of the kingdom; in disobeying the king's earthly laws, there is now the possible penalty of forfeiting

---

[162] For the growing importance of London during this period, see J.R. Maddicott, "London and Droitwich: c. 650-750: Trade, Industry and the Rise of Mercia," *Anglo-Saxon England* 34 (2005): 7-58. For manuscripts with laws specifically relating to London, see Chapter 1.

[163] Ine Prol.; *Gesetze,* 1:88.

your soul. For the first time in Old English law, the text explicitly demands obedience: *Ærest we bebeodað, þætte Godes ðeowas hiora ryhtregol [gyman 7] on ryht healdan. Æfter þam we bebeodað þætte ealles folces æw 7 domas ðus sien gehealdene.*[164] [First we command that God's servants heed and obey the rightful rule. After this we command that the laws and edicts of all people be heeded as follows]. This change did not go unnoticed; William of Malmsebury later remarked on Ine's *leges ad corrigendos mores in populum latae* [legislation for the correction of the people's behavior].[165]

The language of Ine's prologue and of the subsequent conditional clauses that constitute his law code is more complex than that of earlier codes. According to Wormald, a quarter of the clauses used throughout the law code are relative clauses or directive statements.[166] Wormald also considers Ine's law code as "the least organized post-Roman legal statement" which he attributes to it not being a law code but potentially a series of legislative sessions.[167] This gives the impression that Ine was reacting to specific cases rather than organizing a proactive set of all-inclusive circumstances. The specific diction of the prologue differentiates between the *æw*, *domas* and *cynedomas*, with the former two being used twice and *cynedomas* once.[168] *Cynedomas* is an unusual occurrence, as in both poetic literature and religious prose it is used to denote "sovereignty" or "kingdom."[169] In *Beowulf*, for example, the Geats prevail upon Beowulf to accept the *cynedom* [kingdom], which he refuses to do.[170] In V Æthelred, the code pledges *anu[m] cynedome ænne cristendom* [one

---

[164] *Gesetze*, 1:88. Although this section is, by editorial convention, §1.1, (see, for example, Attenbourough, *The Laws of the Earliest English Kings*, 36) there is no visual difference in the manuscript to mark sections and subsections, and this could just as easily be considered part of the prologue. For the bracketed words, see MS E vs MS B in *Gesetze*, 1:88-9.

[165] *William of Malmesbury, Gesta Regum Anglorum*, eds. and trans. R. A. B. Mynors, R. M. Thomson, and M. Winterbottom, 2 vols (Clarendon Press, 1998-1999), 1:34. All subsequent citations are to this edition.

[166] Wormald, *The Making of English Law*, 104

[167] Wormald, *The Making of English Law*, 104-5.

[168] For the difference between *æw* and *domas*, see Chapter 1.

[169] For more on words containing *cyne*, and their implications, see Chapter 4.

[170] See *Beowulf* ln 2373.

kingdom, one Christendom].[171] However, this meaning does not fit in Ine's prologue and I

have followed Wormald in translating it as "royal judgements." Whether or not Ine coined the

term, the use of this word with this particular definition appears nowhere else in the Old

English glosses, literature, or law. Furthermore, the parallel structure of *ryht æw ond ryhte*

cynedomas [the just laws and just royal judgements] presents a rhetorical dynamic between

the law in its accepted form as well as the newer royal edicts.[172] However, the developing

legal vocabulary is evident through the appearance of all four terms, *æw, domas, ryht* and

cynedomas, especially as there is a clear difference between the usage of *æw* and *domas*; this

continues a trend we saw prior with the Kentish law codes. With *cynedomas* in particular,

there is an apparent increased understanding that the role of the king was to promulgate laws.

King Alfred of Wessex

After Ine's laws there is a legislative silence until Alfred's *domboc*.[173] Following the death of

his brother King Æthelred (r. 865-871), Alfred succeeded to the throne of Wessex.[174] Alfred's

code, Wormald argues, was "designed more for symbolic impact than for practical direction"

as several parts contradict each other, in addition to contradicting Ine's law code which is

appended to Alfred's own.[175] Whether or not the "content of Alfred's code was largely

traditional" as Wormald suggests, this is the impression Alfred's prologue gives as the king

---

[171] V Æthelred 1; *Gesetze*, 1:236. According to the *Dictionary of Old English*, there are approximately 80 occurrences of some form of *cynedomas* (see "cyne-dōm" in the *DOE*). Other texts containing a form of *cynedomas* are: Ælfric's Homilies I, 32; *Old English Orosius* iv; *Old English Bede* ii 16, 146; *The Old English Apollonius of Tyre* 10.11, amongst others. For more on Æthelred's law codes, see Chapter 3; for more on appearances of *cyne-*, see Chapter 4.

[172] For more on *ryht* in all its forms, see Fruscione, "*Ryht*," 501.

[173] The term *domboc* is mainly used in legal texts to denote a book or a code of written laws, and is closely tied to the development of legal language later in the pre-Conquest period. *Domboc* is used in Alfred's prologue (Af El. 49.6) and can also specifically refer to the law codes of Alfred and Ine, as cited in the laws of the later West Saxon kings. Other references to the term *domboc* occur in I Ew 1, II Ew 5.2 and 5, II As 5, II Eg 3 and 5, LS 3 (Chad) 66, and ÆCHom II, 12.1, 114.149, which refers to *Ecclesiastes* as the ecclesiastical law book. See "dōm-bōc" in the *DOE*.

[174]Although his reign was plagued by viking invasions, Alfred established a treaty with their leader Guthrum, requiring him to withdraw from Wessex and return to East Anglia. Known as the Treaty of Alfred and Guthrum, this document was agreed upon at some point between 886-890 and is preserved in CCCC MS 383 as well as the *Quadripartitus*. R. H. C. Davis, "Alfred and Guthrum's Frontier," *The English Historical Review* 97, no. 385 (1982): 803-10; *Gesetze*, 1:126.

[175] Wormald, *The Making of English Law*, 427.

relies on ancestral authority by positioning his own law code as the latest iteration in a long list, beginning with Mosaic law and ending with references to Offa and Ine. Alfred describes in the prologue to his *domboc* how he *togædere gegaderode* [gathered together] the laws of Kentish kings, and of his ancestor Ine, and Offa of the Mercians, in an attempt to create his law code. Recalling how he collected these laws, he describes his active role in formulating the new legal code which would govern his kingdom:

> *Ic ða Ælfred cyning þás togædere gegaderode 7 awritan het, monege þara þe ure foregengan heoldon, ða ðe me licodon; 7 manege þara þe me ne licodon ic áwearp mid minra witena geðeahte, 7 on oðre wisan bebead to healdanne.*[176]

> [Then I, King Alfred, gathered these together and ordered many of these which our ancestors kept — which I liked — to be written down. And many of these which did not please me, I threw out, on the advice of my councillors, and ordered them kept in other ways.]

This active role which Alfred is understood to play in the construction of the *domboc* echoes the prologues of his ancestors while also crediting him with greater agency in the creation of his law code and subsequently granting him more authority than was previously customary in the legal prologues.[177]

      While Alfred's prologue is notable in and of itself, it is also unusual in the tradition of vernacular royal prologues. However much the prologues changed between Wihtræd and Ine, Alfred's prologue is more than ten times longer and increases again in stylistic complexity. Just like Ine's, the law code is written in the first-person singular but has a more

---

[176] Af Prol. 49.9; *Gesetze,* 1:46.

[177] The prologue to the eighth-century Irish Collection of Canons is not as subtle and explicitly states that the current system of synodal texts is more disruptive than constructive. The compiler admits to adding and abbreviating many things, and then disregarding others. Somerville and Brasington, *Prefaces to Canon Law Books,* 58.

self-conscious legislative tone. The prologue echoes Exodus 20:1-2 when it opens with:

Dryhten wæs sprecende ðas word to Moyse 7 þus cwæð: Ic éom dryhten ðin God [The Lord

spoke these words to Moses and thus said: I am the Lord, your God].[178] The invocation of

Mosaic law begins with this statement and then continues with the Ten Commandments, such

as *Ne lufa ðu oþre fremde godas ofer me* [Do not love any foreign gods over me] and *Ne sæge

ðu lease gewitnesse* [Do not give false witness].[179] In Alfred's prologue, the Mosaic law and

Ten Commandments are followed by the letter of the apostles in Acts 15:23-29 translated into

Old English:

> *Þæm halgan Gaste wæs geðuht 7 ús, þæt we nane byrðenne on eow settan noldon ofer
>
> þæt ðe eow nedðearf wæs to healdanne: þæt [is] ðonne, þæt ge forberen, þæt ge
>
> deofolgeld ne weorðien, ne blod ne ðicggen ne asmorod, 7 from diernum geligerum.*[180]

> [This seemed good to the Holy Spirit and to us that we should not set on you any
>
> burden other than that which you needed to keep. That is, that you refrain from
>
> worshipping demons, do not eat blood or strangled animals, and restrain from having
>
> affairs.]

Alfred has moved from an account of verbal law-giving to textual law-giving, and he works

to further legitimize his rule through his distribution of laws.

    The prologue also develops the role of the *witan* and the king's councillors in issuing

these laws. The letter from the apostles is followed by the command that what *ge willen, þæt

oðre men eow ne don, ne doð ge ðæt oþrum monnum* [you want that others do not do to you,

---

[178] Af Prol.; *Gesetze,* 1:26.

[179] Af Prol. 1-2; *Gesetze,* 1:26. The Ten Commandments, though not included in earlier Old English prologues, do occur in the double prologues of the Riustring Codex, the first of the Frisian law compilations. Frisian law prologues are extensively discussed in Brian Murdoch, "Old Frisian Law and Frisian Freedom Ideology," *Amsterdamer Beiträge Zur Älteren Germanistik* 49 (2007): 219. See also Katarzyna Buczek, "Old Frisian and Anglo-Saxon Legal Texts. A Stylistic Comparison," *Academic Journal of Modern Philology* 1 (2012): 7-12.

[180] Af Prol. 49.5; *Gesetze,* 1:44.

you do not do to others].[181] Then the prologue makes its first explicit reference to other law

books:

> *Of ðissum anum dome mon mæg geðencean, þæt he æghwelcne on ryht gedemeð; ne*
>
> *ðearf he nanra domboca oþerra. Geðence he, þæt he nanum men ne deme þæt he*
>
> *nolde ðæt he him demde, gif he ðone dóm ofer hine sohte.*[182]
>
> [From this one judgement one may think that he judges everyone rightly, nor that he
>
> needs no other law-book. Let him take care that he judge no one in a way that he
>
> would not want himself to be judged, if that one sought judgement against him.]

Here Alfred creates a space for his laws; as people are fallible, there is a place for Alfred's

domboc in this tradition. The prologue then details how councils were assembled throughout

the world to write laws, including amongst the English where *halegra biscepa 7 éac oðerra*

geðungenra witena...on monegum senoðum monegra menniscra misdæda bote gesetton, 7 on

monega senoðbéc hie writan, hwær anne dom hwær oþerne [holy bishops and other

distinguished councillors...in many synods set down the restitution for many transgressions of

people and in many synod-books they wrote here one judgement and there another].[183] While

showing the importance of the councillors' and religious community's historical involvement

in creating the legal codes, this construction serves two purposes: first, it justifies the final

line of the prologue in which the king announces: *Ic ða Ælfred Westseaxna cyning eallum*

minum witum þas geeowde, 7 hie ða cwædon, þæt him þæt licode eallum to healdanne.[184]

[Then I, Alfred, King of the West Saxons, showed these to all my councillors, and they said

that it pleased them for all these laws to be kept.] King Alfred claims a much larger

involvement in the creation and issuing of these laws than has been claimed in prior

---

[181] Af Prol. 49.5; *Gesetze,* 1:44.

[182] Af Prol. 49.6; *Gesetze,* 1:44.

[183] Af Prol. 49.7-8; *Gesetze,* 1:44-6.

[184] Af Prol. 49.10; *Gesetze,* 1:46.

prologues — however, this is still done with the gracious consultation of the councillors. This performed humility is an enduring topos in medieval literature but it does play a strategic function in lessening the threat of the king.[185] Just as the West Saxon regnal lists document a king's right to rule, so too are the genealogical links in these prologues part of an overall rhetoric of kingship performed by medieval rulers.

Second, the prologue enlists Christian heritage to set up the importance of the king actively shaping the laws and discarding the useless ones. The authority of the ancestors, as shaped by phrases such as *ure foregengan*, is contrasted to the action of the king in selecting the laws. This shows the historical approach, with its model of authority based on the textuality of the Biblical documents — which makes it all the more striking when it moves directly onward to King Alfred. However, even more strikingly, this moment depicts the self-conscious use of history; Alfred showing us his working process in shaping these laws also highlights the very authority that allows him to do so.

The personal involvement of the king is indicated by the first-person singular, titular identification, and the invocation of the laws which the king himself approved of as being kept; however, when discussing which laws were discarded, this is done on the advice of his advisory committee — even though he ordered them preserved in other ways. Clearly, King Alfred is to receive the laudation for the good choices, for the popular laws, and the blame to be shared if any controversy arises over discarded laws. No prior prologue depicts the explicit discarding or shaping of laws as evidenced by this prologue. The collective authority that Alfred has assembled — ecclesiastical, historical, ancestral — allows him to do so. The prologue continues to reference previous kings to solidify his claim to rule and his right to issue law:

---

[185] David N. Dumville, "The West Saxon Genealogical Regnal List and the Chronology of Early Wessex," *Peritia* 4 (1985): 21-66.

Forðam ic ne dorste geðristlæcan þara minra awuht fela on gewrit settan, forðam me

wæs uncuð, hwæt þæs ðam lician wolde ðe æfter ús 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 forlét.[186]

[Because of this, I did not hastily presume to set down much of my own in writing,

because it was uncertain to me what those who come after us would like. But those

that I found from the days of either Ine, my relative, or Offa, King of the Mercians, or

Æthelbert, who was the first of the English to be baptised, which appeared to me most

just, I gathered them here and left the others.]

Just as Ine invoked the authority of his father Cenred in his prologue, so does Alfred invoke

an authority based on kinship to Ine. While he does not claim Offa or Æthelbert as kindred,

the latter fits nicely into Alfred's continuum of laws stemming from Christian authority. The

allusion to the trinity of lawmakers also creates a pan-kingdom legal identity. As Alfred

unites the disparate kingdoms of the early English, claiming common laws from each of their

own kings is a politically savvy move. From these textually-transmitted laws comes the basis

for Alfred's authorization of his own law; in searching far and wide for the best law codes to

study, Alfred has assembled the most just laws possible. Furthermore, this self-awareness in

the prologue serves as an opening statement of intent. The usage of the *riht* superlative

prompts a perceived righteousness to the laws.[187] Alfred is presented as a cautious king,

looking out for the good of the people, and also careful of how he is remembered in history.

The significance of this line is even greater with the realization that this is the first prologue

to look forward, to consider the future, rather than simply invoking the king's ancestors.

---

[186] Af Prol. 49.9; *Gesetze,* 1:46.

[187] We see a similar treatment with *rihtoste* in Edward the Elder's prologue. See I Ew Prol.; *Gesetze,* 1:138.

Alfred not only places his *domboc* in the legal tradition extending all the way back to Moses, he also places it with a view towards the tradition of moving forward.[188] His *domboc* will be one for future rulers to reference — and they do.[189] Wormald writes of the audience of the law code:

> Whether recited or read, by king, bishop, or newly literate ealdorman, the law-book aimed for an overall impact on the collective unconscious by juxtaposing familiar customs, judgements and decrees with perceptibly similar laws of God.[190]

Alfred separates his *domboc* from those historically created by the other councillors, calling their creations *senoðbéc*, the only reference to a *domboc* coming in Alf. El. 49.6 where he cautions against assuming that one does not need one. The role of the councillors made explicit in the approval of Wihtræd and Ine's laws is an essential part of Alfred's prologue. Although he manages to separate himself from them, the laws are still dependent upon the approval of the *witan*.[191] This is also the development of a new legal vocabulary, something that we see used with confidence throughout Alfred's prologue.

King of Anglo-Saxons: Edward the Elder

Edward the Elder (r. 899-924) gained the throne upon the death of his father, King Alfred, and is referred to throughout his reign by the title first used to refer to his father, *Anglorum*

---

[188] By contrast, the prologue to the Treaty of Alfred and Guthrum also has a forward view as it binds all of the two kings' descendants, both those born and unborn (*gingran ge for geborene ge for ungeborene sylfe*). Although this is in the third-person plural, the treaty that follows is in the first-person plural as it demarcates borders and excludes groups through a discussion of *ure landgemæra* [our borders]. The treaty prologue, although mentioning the *witan* still, places more of the emphasis on the kings. *Gesetze*, 1:126.

[189] Cf footnote 191. See also Levi Roach, *Kingship and Consent in Anglo-Saxon England, 871-978. Assemblies and the State in the Early Middle Ages* (Cambridge University Press, 2013).

[190] Wormald, *The Making of Early English Law*, 427.

[191] Even in Alfred's will, he still cites the authority of God and his councillors, and relies on ancestral authority for claiming the right to his inheritance. See *The Will of King Alfred; Reprinted from the Oxford Edition of 1788. With a Preface, and Additional Notes*, ed. W. Robarts (W. Pickering, 1828).

Saxonum rex [king of the Anglo-Saxons].[192] Edward embarked on an ambitious set of military changes during his reign. He increased the size of the kingdom, reclaiming the eastern Midlands and East Anglia from the Danes in 917; upon his sister Æthelflæd's death in 918, he also became king of the Mercians.

As king, he continued his father's momentum in promulgating new laws, and issued two codes.[193] Edward's codes are essential for an understanding of how royal legislation was issued and distributed, and presents evidence for the continued circulation of previous law codes. His first code is limited in scope and size. It is addressed to his reeves and contains only three legislative topics: 1) witnesses to trades, 2) falsehoods in land suits, and 3) perjurers. It begins:

> *Eadwerd cyning byt ðam gerefum eallum, ðæt ge deman swa rihte domas swa ge rihtoste cunnon, 7 hit on ðære dombec stande. Ne wandiað for nanum ðingum folcriht to geregceanne; 7 ðæt gehwilc spræce habbe andagan, hwænne heo gelæst sy, þæt ge ðonne gereccan.*[194]

> [King Edward commands all his reeves that you pronounce such just judgements as you know to be most just and as it stands in the *domboc*. Not for any cause shall you fail to interpret the customary laws and while doing that it shall be your duty to provide that every case shall have a date fixed for its decision.]

The narrative discourse lacks the first-person singular, but switches to the second person to issue a mandate to the reeves. The onus of legal application lies on the reeves, giving us

---

[192] Simon Keynes, "Edward, King of the Anglo-Saxons," in *Edward the Elder, 899–924*, eds. N. J. Higham and D. H. Hill (Routledge, 2001), 57.

[193] These survive in three copies: Cambridge, Corpus Christi College, MS 383; *Quadripartitus*; and *Textus Roffensis*. According to Wormald, these are a single branch of the textual tradition and all form one closely connected textual family. Wormald, *The Making of Early English Law*, 287. See also Thomas Gobbitt, "Anglo-Saxon Legal Texts in Cambridge, Corpus Christi College, MS. 383," *Historical Research* 86 (2013): 536-549. For more on this, see Chapter 1.

[194] 1 Ew Prol.; *Gesetze*, 1:138.

insight into how the law functioned in practice. The reeve's role at the time was a judicial and administrative one; he ensured justice was dealt, especially in local areas, for the Church and the people. As Chelsea Shields-Más writes, the reeve was "the king's foremost representative in local affairs" and "was a royal official invested with legal power and the power of arbitration."[195] The reeve therefore played an important part in ensuring that the king's will was enacted in the localities and that the royal power was felt throughout the land. If the king understood the reeves to not be fulfilling their function, then this also reflected poorly on royal authority. Through this mandate, Edward outlines the responsibilities of the reeves.[196] The laws executed by the reeves are to be *rihte domas* and this continues the legislative path laid out by Alfred's *domboc*.[197]

The prologue to Edward's second law code, unlike the prologues of Edward's predecessors, reads like an addendum:

> *Eadweard cyning myngode his wytan, þa hy æt Exanceastre wæron, þæt hy smeadon*
>
> *ealle, hu heora frið betere beon mæhte, þonne hit ær ðam wæs; forðam him þuhte,*
>
> *þæt hit mæctor gelæst wære, þonne hit scolde, þæt he ær beboden hæfde.*[198]

---

[195] Chelsea Shields-Más, *The Reeve in Late Anglo-Saxon England (*PhD diss., University of York, 2013), 58 and 61.

[196] Reeves played important roles in *folces gemote* [public assemblies] as well as representing royal authority in towns from early on. The first reference to reeves being present at these gatherings is in Alf 22, where the implication is that accusations made in the reeve's presence incurs formal consequences. The reeves are subsequently cited in Alf 34. Asser's *Life of King Alfred* also notes the reeve's presence at judicial hearings. William Henry Stevenson, *Asser's Life of King Alfred, Together with the Annals of Saint Neots, Erroneously Ascribed to Asser* (Clarendon Press, 1904), 92. Also Shields-Más, *The Reeve*, 74-5.

[197] Reeves were required to hold public assemblies every four weeks in order to air and settle legal grievances. Ann Williams, *Kingship and Government in Pre-Conquest England, c.'500'– 1066* (St Martin's Press, 1999), 109. While we cannot know how this translated in practice, the issuing of such instructions alludes to an increased generosity in legal application with respect to the accused. In Lantfred's late-tenth century *Translatio et Miracula S. Swithuni,* there is an account of a reeve, imbued with judicial authority, who acts as both law-enforcement and an arbitrator of justice. The reeve refuses bribery and has the authority to compel a slave, charged with an unspecified crime, to undergo an ordeal. Michael Lapidge, John Crook, Robert Deshman and Susan Rankin, *The Cult of St Swithun: Winchester Studies 4.ii, The Anglo-Saxon Minster of Winchester* (Clarendon Press, 2003), 236-237.

[198] II Ew Prol.; *Gesetze,* 1:140.

[King Edward admonished his councillors when they were in Exeter that they

consider how the public peace for which they were responsible could be better kept

than it had been, because it seemed to him that his previous orders had not been

carried out as well as they should have been.]

This serves few of the functions that the other prologues perform. Instead, the prologue

reprimands the councillors, rather than lauding the wisdom of the *witan* or stating that the

laws were issued in accordance with their wishes. II Edward is issued in the past tense, unlike

the imperative or present mode of address of the prologues we have seen so far. The phrasing

is that of establishing a legal precedent, with an overhanging threat of further admonishments

if the public peace is further disrupted. For a public document, this is a demonstration of how

far the king's power has already come in the centuries of Old English legislation and this

structure is another way of articulating royal authority. Whereas before the *witan* had

sanctioned the king's authority, here they take the blame. This is a strategy that Alfred had

laid the groundwork for when he had begun to separate his individual authority in lawmaking

from that of his *witan*.

The language used in these two law codes shows a development in a functional legal

vocabulary. *Folcriht* is used as "customary law" in the beginning of I Edward and is attested

in various forms in over 25 instances, the majority of which are legal texts.[199] One of the

earliest instances appears to be *folcryhtre bote* [compensation according to customary law] in

Alfred's law; similarly in Alfred's Will, the desire *folcriht arehton* [to extend the customary

law] appears.[200] In addition to the *folcriht* at the beginning of I Edward, there is later another

use — but only in the Corpus 383 copy: *ac mid folcrihte butan bræde* [but with the benefits

---

[199] *DOE* "*folcriht*."
[200] Af 13; *Gesetze*, 1:30. S 1507.

of law without fraud].[201] The term is used again in Edward's second code: *ðæt ælc man sy folcrihtes wyrðe* [that every man may be worthy of the benefits of customary law].[202] This identical phrase appears in III Edgar 1.1. This is unlikely to be coincidence and shows that the previous laws were being read and the terminology which was being developed continued to be used. After Edward's reign, two instances in II Æthelstan reveal a shift in the usage slightly away from the benefits of law described in Edward's codes towards a sphere of influence whose reach is finite but in which results can reliably be counted.[203] While the term starts off as neutral public, or customary, law in Alfred's time, Edward's codes reflect a positive connotation, and Edward's terminology becomes a formulaic phrase through Edgar's repetition of it. Whether or not the phrase persisted past Edgar's time, Æthelstan's codes reflect a solidification of the positive connotations, invoking justice with the term. We see more about this term in Chapter 6.

Stylistically, Edward's two codes are different from their predecessors. The first code liberally employs *eac, 7,* and *swa* to begin new stanzas; these conjunctions fall out of favor for the second law code with the majority of stanzas beginning without them. Wormald notes that "this may reflect the style of an address to reeves."[204] While this change does not necessarily stay, there is one change that has a resounding impact on future royal legislation: Edward's beginning of his laws with *Ic wille*. The choice of pronoun is as significant as the choice of verb in this context. While the Kentish laws are in the third person, Ine and Alfred both employ a (usually plural) first person in their laws.[205] Rather than a "royal We," this should be taken as a sign of the agreement of a collective, usually the *witan* or other wise

---

[201] I Ew 1.5; *Gesetze*, 1:140. The *Textus Roffensis* copy uses *fulryhte* instead; the later editions of *Quadripartitus* support this with their usage of the Latin *plena rectitudine*. Wormald notes this instance of manuscript deviation, and the preference for the more familiar word *folcrihte,* as well; cf *The Making of Early English Law*, 287.

[202] II Ew 8; *Gesetze*, 1:144.

[203] In II As 2, someone can be brought "within customary law" and II As 8 has the phrase "to lead to justice." Both are methods of bringing a person to justice and within the reach of the law. *Gesetze*, 1:150 and 1:154.

[204] Wormald, *The Making of English Law*, 288.

[205] Ine employs this technique in his prologue, as well as Ine 1 and 13.1; Alfred uses this in Af Int. 49.9-10, 1, 5, 5.5, 42, and 42.5.

councillors, to the promulgation of new laws. Following in Edward's example, Æthelstan and Edmund both use the first-person singular to claim their laws and the power associated with issuing new legislation.[206] This rhetoric, which previous kings had avoided in their legislation, fundamentally changes how legislation is shaped and how the syntactic construction is effected. Wihtræd had relied on the authority of powerful men and invoked change only *mid ealra gemedum* [with the consent of all], Ine leaned on his chief councillors and bishops, and Alfred had cited the approval of the *witan*; however, now, a personal act of royal will becomes enough to justify additional legislation and *willan* suddenly becomes an essential part of legal vocabulary. Finally, the use of *mine* in II Edward 2, as the fines and compensation are paid "to me," is a sudden injection of the king's person into the text and an explicit reminder of the king's authority.

Edward's codes are important evidence for the distribution and continued use — or at least the reading of — previous law codes. There is internal cross-referencing, as II Edward 8 cites an earlier clause in the same law code: *Gif hit hwa oferhebbe, bete swa we ær cwædon* [If he neglects this, so he shall make compensation as we have said].[207] This references II Edward 1.3, which issues a fine of 30 shillings each for the first two offenses, and 120 shillings for a third transgression, thus giving the phrase *ær cwædon* increased resonance. There is also cross-referencing between the two pieces of royal legislation and to previous royal legislation; II Edward 3 refers to Edward's first law code, and II Edward 5 and 5.2 both allude back to Alfred's *domboc*. Those transgressing in II Edward 5 must *bete swa domboc tæce* [pay such compensation as the *domboc* states] and again in II Edward 5.2 where those harboring fugitives *bete swa seo domboc sæcge* [shall pay such compensation as the *domboc* say of him]. From the references to Alfred's *domboc,* we can see that those drafting the laws

---

[206] This technique is used by Edward in I Ew 1, II Ew 4, and 8. The first-person singular is subsequently used in I As 1, 4, 5; V As 1.1; II Em 1.1; III Eg 1; IV Eg 1.6, 2, 3, 12, 13, 14.1; X Atr Prol.; Cn 1020 7, 10; II Cn 1, 69, 80, 82. Cf. Wormald, *The Making of English Law*, 289.

[207] II Ew 8; *Gesetze*, 1:144.

were actively building on and referencing older law codes as still valid instances of historical legislation. Furthermore, we can see that new laws did not supplant the old, but instead supplemented them. There is a link here between legislation and royal image; as the king's role becomes more closely aligned with promulgating legislation, the personal power grows and the diction and syntax of the royal legislation changes with it. A developing legal vocabulary, specific to the Old English legal tradition and separate from the Latin legal tradition, unfolds alongside it.

Æthelstan: King of the English

King Æthelstan (r. 924-939) rose to power in Mercia after the death of his father, King Edward. In Wessex, he encountered resistance to his rule, perhaps due to the influence of his half-brother Ælfweard, who died a few weeks after Edward, but Æthelstan was eventually crowned in 925. He conquered York in 927, uniting the medieval kingdoms and making Æthelstan the first King of the English.[208] He attempted to expand this influence and enlarge the kingdom by invading Northumbria in 934 and securing Constantine II's submission. However, Constantine allied himself with the Owen, King of Strathclyde, and Olaf Guthfrithson, King of Dublin, and launched a counter-invasion in 937; the allied forces were defeated at the battle of Brunanburh in what would become one of Æthelstan's greatest military credits.

Æthelstan was concerned with social order and his legislation reflects a move towards centralizing government, with increased control over charter production. More legal texts survive from Æthelstan's reign than any other tenth-century king, making his legislation an important consideration in any discourse on Old English law.[209] However, the convoluted

---

[208] See Sarah Foot, *Æthelstan: The First King of England* (Yale University Press, 2011).

[209] There are officially six — but in reality seven — law codes from Æthelstan's reign which survive. Their conventional numbering is illogical to the modern scholar and desperately in need of a new editorial practice. For a scathing indictment of this system, see Wormald, *The Making of English Law*, 290-1, fn. 129 and 130. As Liebermann did, I reluctantly follow Schmid's numbering system.

evidence of the laws from this time means that the extant manuscripts are all organized differently. I, II, and V Æthelstan are the most clearly royal law codes, ostensibly authored by the king, while the others are composed and distributed by the reeves and other non-royal figures, and do not merit inclusion in this discussion of royal legislation. I Æthelstan, also known as Æthelstan's tithe edict, discusses payments due to both church and state. The most significant code of Æthelstan's reign is his Grately code (II Æthelstan) yet the manuscript sources are fragmentary.[210]

I Æthelstan is, like I Edward, a restricted address to all the reeves in the various boroughs. This follows the example set by Alfred's prologue, and law follows religious principles. The prologue draws on religious authority, once again expressed in the first-person singular, by first commanding obedience through an exclamation, *eow bidde on Godes naman* [I bid you in God's name], then *7 on ealra his haligra* [and of all his saints], before finally commanding *7 eac be minum freondscipe beode* [and I bid you in my friendship].[211] This is unsurprising as the code deals entirely with ecclesiastical matters such as the payment of tithes.[212] This code is issued *mid geþehte Wulfhelmes [mines] arcebiscop 7 eac minra oðera biscopa* [with the advice of my Archbishop Wulfhelm and also my other bishops].[213] In this manner, a layer of contextual affiliation is established first with the commanding of obedience through religiously-invoked figures, followed by the affirmation that the religious community had been consulted and approved of these laws.

As the Archbishop of Canterbury from 925-941, Wulfhelm was an influential figure in the region and his role in composing the royal legislation is apparent and striking.[214] He is

---

[210] *Quadripartitus* has a prologue and epilogue, whereas Ot, B, and other manuscripts all lack prologues and therefore explicit attribution. The prologues may have been excluded simply due to the precarities of manuscript preservation and transmission. V Æthelstan contains a reprimand to the reeves for not keeping the peace. For more on the manuscripts, see Chapter 1. For the relationship between the various manuscripts, see *Gesetze* 3:96 and 3:98, and Wormald, *The Making of English Law*, 292-3.

[211] I As Prol.; *Gesetze*, 1:146.

[212] See I As 1, 3, 4; *Gesetze*, 1:146.

[213] I As Prol.; *Gesetze*, 1:146. For the bracketed word, see the comparison between MS D and MS Ld in *Gesetze*.

[214] Wormald, *Making of English Law*, 295; also J. Armitage Robinson, *The Saxon Bishops of Wells: A Historical Study in the Tenth Century*, British Academy Supplemental Papers IV (British Academy, 1918).

the most prominent individual, other than the kings themselves, named in the royal codes.

Even though by the prologue's own admission there were other bishops involved in creating

the law code, Wulfhelm is the only named individual; in the main body of the law code itself,

the only other people named are Biblical figures: *Iacob se heahfæder* [Jacob the Patriarch]

and *Moyses* [Moses], and Saint John the Baptist, who is invoked by way of his martyrdom

date. While Alfred had invoked Mosaic and Apostolic law in his prologue, here it is worked

into the body of the main text. In earlier legislation, Wihtræd's prologue notes that Berhtald

and Gefmund were present for the creation of the law code; however, the similarities end

there. In Ine's prologue, Cenred, Hedde, and Erconwald, all important figures to the king, are

invoked for their *geðeaht* [advice]. In both Æthelstan's tithe edict and his charity ordinance,

Wulfhelm is explicitly given an active role and invoked for his advice, *geþeaht.*[215] II

Æthelstan includes an epilogue which also states:

> *Ealle ðis wæs gesetted on ðam miclan synoþ æt Greatanleage; on þam wæs se*
>
> *ærcebisceop Wulfhelme mid eallum þæm æþelum mannum 7 wiotan, ðe Æþelstan*
>
> *cyning [mihte] gegadrian.*[216]

> [All this was established at the great assembly at Grately where Archbishop Wulfhelm
>
> was present, with all the nobles and wise men whom King Æthelstan had assembled.]

That Wulfhelm was intimately involved in the composition of Æthelstan's law seems beyond

doubt. By comparison, Wulfstan, who composed many of Æthelred and Cnut's laws, is only

named in the prologue to one code, where he is indicated as the junior archbishop and then

inserted his name where the scribe had left a blank space.[217] There are no other figures in the

Old English royal codes to be similarly named.

---

[215] See I As and As Alm.
[216] II As Epi.; *Gesetze*, 1:166.
[217] See the prologue to VI Atr (Lat) and 40.2.

V Æthelstan strikingly follows in the format of II Edward and reprimands his audience to better keep the public peace. It begins with a declaration of person, *Ic Æðelstan cyng* [I, King Æthelstan] and declares that the public peace has not been kept according to *me lyste* [my wishes].[218] The prologue references a previous code noting that the public peace has not been kept to the extent of the laws that were previously established at Grately (*æt Greatanlea gecweden wære*). Although it is a strong indictment from the king, and he is issuing this code in his name, he describes his councillors as encouraging him to take action: *7 mina witan secgað þæt ic hit to lange forboren hæbbe* [and my councillors say that I have, for too long, endured this].

What we see with Æthelstan's codes is an eagerness to follow in his father's and grandfather's footsteps with regards to legislative development and structure. Although the syntax changes, particularly with the dependent clauses and the preponderance of *gif* and *þeof*, the ideological underpinnings remain the same.[219] The diction is also typical tenth-century legal language, with *we cwædon* proliferating through Æthelstan's codes, setting up the text as speech and giving agency to the speaker. The most remarkable aspect of Æthelstan's codes may be the discussion of the ideological foundation of the legislation, the frankest discussion that has taken place since Alfred's code. Following in Alfred's example, law is now explicitly created on religious principles.[220]

---

[218] V As Prol.

[219] According to Schwyter, more than a third of the legal occurances of the word *þeof* are in Æthelstan's codes. See *Old English Legal Language*, 43, 48-9, and 111-32.

[220] I As 5; *Gesetze*, 1:148.

King Edmund I
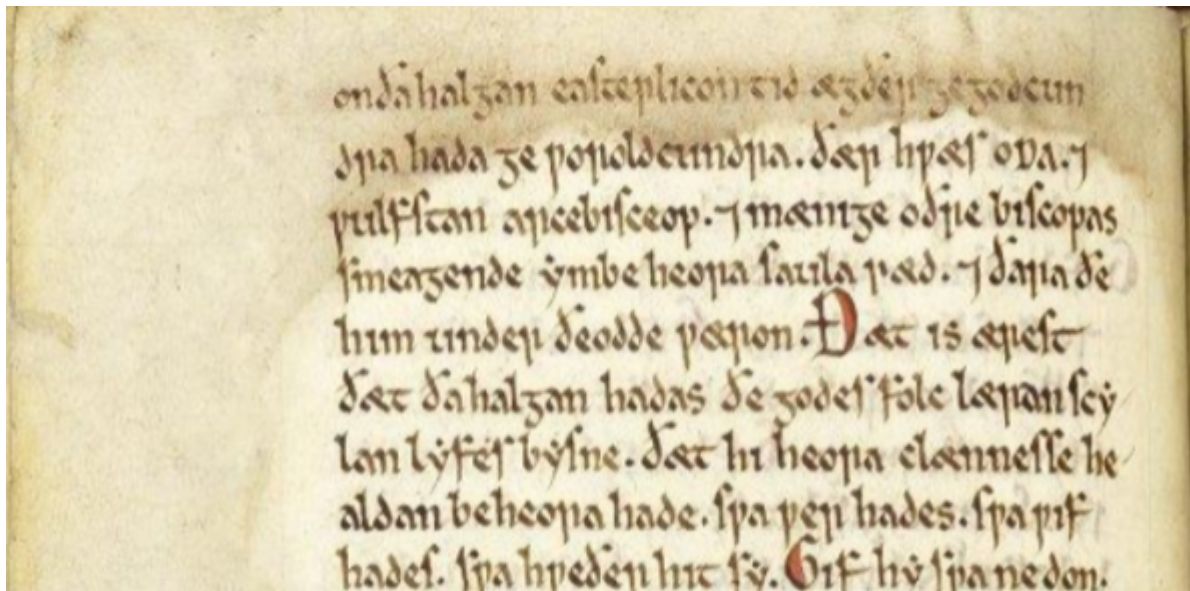
Figure 2: The continuation of I Edmund, including the names of important attendees
(*Textus Roffensis*, f. 44v)

When Æthelstan died childless in 939, his half-brother, Edmund I (r. 939-946), was crowned

king of the English. Edmund's reign was short-lived and filled with military clashes; one of

the fiercest ended with Edmund ceding the much-contested Strathclyde to Malcolm I of

Scotland. While Edmund ruled for only six-and-a-half years, he issued three law codes in that

time; of those three, the first two contain prologues in Old English and will be discussed

presently. The third law code survives only in Latin.

Edmund's first two law codes are both transmitted following Edward the Elder's

codes in three manuscripts.[221] The first code's prologue attributes agency to Edmund for

summoning a council. The king takes an active role as he *gesomnode mycelne sinoð to*

Lundebyrig on ða halgan easterlicon tid ægðer ge godcundra hada ge woroldcundra

[assembled a great council in the city of London during the holy Easter season with both

---

[221] For more on the manuscripts, see Chapter 1 and Appendix A. As Wormald has noted, an error in the script indicates that the manuscripts share a common exemplar. Wormald, *The Making of English Law*, 308-9. Edmund's third code is unusual in that it survives only in *Quad.* and in what Wormald considers to be an earlier draft. As the text of this code is in Latin, a direct linguistic comparison with the former two is impossible. Wormald, *The Making of English Law,* 239-43, and 309.

ecclesiastical and secular people].[222] Among the assembled men *ðær hwæs Oda 7 Wulfstan*

arcebiscop 7 mænige oðre biscopas smeagende ymbe heora saula ræd 7 ðara ðe him

underðeodde wæron [there was Oda and Archbishop Wulfstan and many other bishops

debating the salvation of their souls and of those who were subject to him].[223] The

ecclesiastical representatives meet at the *witan* to discuss salvation, or more literally, the

counsel of their souls (*saula ræd*); by issuing religious legislation to lead the nation, their

own souls' health may follow.[224] The concerns of the first code are therefore ecclesiastical in

nature with the rulings mainly revolving around church matters — including behaviour that

was increasingly causing friction with the beginnings of the Benedictine reform in

England.[225] These rulings included that clergy remain celibate and abstain from sexual

relations with men as well as women. Archbishop Oda of Canterbury (d. 958), in particular,

was an aggressive proponent of a closer relationship between secular and religious

authorities.[226] According to this code, punishment will follow canon law: *on ðam canone*

cwæð [as it says in the canon], a threat that likely references the legatine decree of 786.[227]

Under the threat of excommunication, tithing and other alms fees must now be paid, and a

man that sleeps with a nun loses his right to be buried in sacred ground in the same way a

murderer or adulterer is excluded — unless a fine is also paid. With this legislation,

---

[222] I Em Prol.; *Gesetze* 1:184.

[223] I Em Prol.; *Gesetze*, 1:186. This is Wulfstan I (d. 956), who attested all of Æthelstan's charters from 936-935. See Simon Keynes, "Wulfstan I," in *Blackwell Encyclopedia of Anglo-Saxon England*, eds. Donald Scragg, John Blair, Michael Lapidge, Simon Keynes (Blackwell Publishing, 2001), 492-3.

[224] This phrasing is similar to that in the Froferboc Meters, associated with King Alfred's court, and based on the poetic ideals of Boethius' *Consolation of Philosophy;* for the meditative imagery of *saula rædes*, see Karmen Lenz, *Ræd and Frofer: Christian Poetics in the Old English Froferboc Meters*, Consterus New Series 195 (2012): 103.

[225] For the Benedictine Reform, see Ursula Lenker, "The Monasteries of the Benedictine Reform and the "Winchester School:" Model Cases of Social Networks in Anglo-Saxon England?" *European Journal of English Studies* 4, no. 3 (2000): 225-238; and Alexander R. Rumble, ed. *Leaders of the Anglo-Saxon Church: From Bede to Stigand* (Boydell & Brewer, 2012).

[226] Ben Snook, *The Anglo-Saxon Chancery: The History, Language and Production of Anglo-Saxon Charters from Alfred to Edgar* (Boydell & Brewer, 2015), 148. For more on Oda, see Michael Lapidge, "Oda," in *The Blackwell Encyclopaedia of Anglo-Saxon England*, eds. Michael Lapidge, John Blair, Simon Keynes, Donald Scragg (Blackwell Publishing, 2001), 339-340.

[227] I Em 1; cf. *Alcuin, Epistolae* 3 (xv-xvi), ln 33: *sicut in canone*. For Edmund, see Wormald, *The Making of English Law*, 184. See also Wormald, "Giving God and King their Due," 554-6.

Benedictine reformers gained power and political might which continued to grow through the championing of Edmund's successors.

The influence of Oda, notably present at this meeting of the *witan,* can be seen in the subject matter of the legislation; his work *Constitutiones* addresses similar ecclesiastical concerns.[228] While showing the importance of the councillors' and religious community's historical involvement in creating the legal codes — which we have consistently seen in earlier vernacular codes — the presence of both the secular and ecclesiastical witnesses, and prominent named councillors, serves as the basis for Edmund's authority, which is framed as collective authority. His power is reaffirmed by those present, and to go against his legislation is to counter the will of all the wise (and powerful) councillors. This is the same technique that King Alfred honed in his prologue; although he manages to separate himself from his councillors, the laws are still dependent upon the approval of the *witan*. Alfred's prologue records that his councillors *ða cwædon, þæt him þæt licode eallum to healdanne* [then said that it pleased them for all these laws to be kept], whereas Edmund's prologue does not contain a similar moment of approval. His councillors, though named, are not depicted as active participants.

While the concerns of Edmund's first code were rather mixed — the behavior of the clergy, the obligations of lay people, sexual prohibitions and the paying of *wergeld* — the second code hones in on the disruptive practice of feuding. On the Continent, Charlemagne had previously enacted legislation banning feuding, and the texts could have been accessible to Edmund's court.[229] Edmund's prologue reveals this crucial legislative impulse:

> *Eadmund cyning cyð eallum folce, ge yldrum ge gingrum, ðe on his anwealde synd,*
>
> *ðæt ic smeade mid minra witena geðeahte, ge hadedra ge læwedra, ærest, hu ic*

---

[228] Lapidge, "Oda," 346-7. Oda and Wulfstan played pivotal roles in the truce following Edmund's capture of the Five Boroughs in 942, which is also commemorated in the Old English chronicle poem of the same name.
[229] Wormald, *The Making of English Law*, 217-8.

mæhte Cristendomes mæst aræran. Ðonne ðuhte us ærest mæst ðearf, ðæt we ure

gesibsumnesse 7 geðwærnesse fæstlicost us betweonan heoldan gynd ealne minne

anwald. Me eleð swyðe 7 us eallum ða unrihtlican 7 mænigfealdan gefeoht, ðe betwux

us sylfum syndan; þonne cwæde we...[230]

[King Edmund informs all his people, both the older and the younger, who are in his

realm, that I have deliberated with the advice of my councillors, both ordained and

secular, first how I may most promote Christianity. Then first it seemed to us most

necessary that we should most firmly protect our peace and harmony between

ourselves throughout all my realm. The unlawful and manifold fighting which occurs

between us greatly distresses me and all of us; therefore, we decree...]

In contrast, Edmund's first code secured authority by stating who was responsible in the

shortest form possible. The prologue to the second code goes deeper, skips the time and place

of issue, and instead announces deliberations on how best to promote Christianity itself.

Edmund declares that realm-wide harmony is of the greatest necessity since the many

ongoing feuds disturb everyone. The use of *unrihtlic* [unlawful] to describe the feuding

foreshadows the legislation that follows as one which defines and punishes feuding, instead

of reviewing the claims after the fact. Furthermore, Edmund's legal techniques and

turns-of-phrase affirm his personal authority while simultaneously creating legislation which

syntactically applies to more of his subjects. The phrase *ge yldrum ge gingrum* [to both the

older and the younger] is notable as it appears here for the first time in royal legislation and

subsequently becomes more common in Edgar and then Cnut's legislative writings.[231] It

balances the phrase *ge hadedra ge læwedra* [both ordained and secular] in creating a similar

image of inclusiveness, and works as a blanket address to all the people of Edmund's

---

[230] II Em Prol.; *Gesetze*, 1:186.
[231] See IV Edgar and Cnut's letters to the English.

kingdom.[232] These sweeping phrases are used to include all of Edmund's subjects in the

legislation, and similarly Edmund's laws apply to the subjects throughout *ealne minne*

anwald [all my realm]. Another phrase in Edmund's codes, *ðonne rære man cyninges munde*

[then one might establish the king's peace], is not used so frequently as to be idiomatic.[233]

The continued usages of these phrases imply that those drafting legislation paid close

attention to their legal predecessors and also selectively applied terms that furthered their

respective agendas. This style is reminiscent of Edward's mandate to his reeves — where

Edward reprimands his reeves for a failure in executing his laws — or Æthelstan's

Ordinances with its judgement on thieves.[234] All of these codes are limited in scope and

issued to correct a perceived oversight. Edmund's prologue is important because it

foregrounds the unresolved issue of feuding, highlighting it as the particular concern of the

king. While II Edward and V Æthelstan both contain reprimands to the king's subjects for

their failure to implement the legislation properly, no previous king has as explicitly laid out

their legislative concerns in the prologues like Edmund does.

    In addition to the phrases used, Edmund's second law code is of a more personal, yet

syntactically complex style. The prologue opens with the third-person singular (*Eadmund*

cyning), before switching to the first-person singular (*ic*), then concluding with the

first-person plural (*ðonne cwæde we*). Opening in this way serves the dual purpose of naming

and accrediting the king before switching to the more intimate first-person singular to write

as if in his voice. This also gives him personal, religious-based authority, and a justification

for his legislation, by assigning him the credit for striving to advance Christianity. As we

have seen with Edmund's predecessors, only Alfred is proficient in doing something similar.

In contrast, many of the other kings share credit with the *witan*; for example, Ine's legislation

---

[232] Wormald cites this as evidence of the evolution of "a less formal legislative technique," in *The Making of English Law*, 311.

[233] II Em 7.3; *Gesetze*, 1:190. The phrase can, however, be found in *Wergild 4*. See also Whitelock, *EHD*, 429.

[234] This has been previously discussed in the sections on II Edward and V Æthelstan.

begins with the first-person singular but switches to the second-person plural, seemingly to confer equal credit on his councillors for striving to ensure *hælo urra sawla 7 be ðam staþole ures rices* [the salvation of our souls and the security of our kingdom].[235] While Edmund asserts the religious authority for advancing Christianity, thereafter the prologue switches to the second-person plural as Edmund and his councillors labor to keep peace in the nation. Unlike Ine's prologue, the councillors are excluded from possession of the *anweald*, making II Edmund a notable return to the first-person singular. The conflict described also first distresses the king (*me*) and then the king and his group of councillors (*us eallum*). Although Edmund is singled out first by the syntax, he is also included in the second grouping with his *witan*, meaning that the councillors are never given the textual space to act or exist independently of the king; the reverse does not hold true. By concluding the prologue with the phrase *cwæde we*, Edmund uses an idiom favored by his immediate predecessors but abandoned by his successors.[236] Edmund's law codes are the last to include these types of personal references to the king. As we will see, prefatory detachment becomes the norm under Edgar and Æthelred, and Cnut's prefaces employ techniques to balance depictions of him as an English king with an effort not to be seen as overstepping his authority.

   Finally, Edward's codes are stylistically similar and reflect trends from previous royal legislation. In particular, Edmund's law codes exclude clause divisions, a technique also favored by Edward and Æthelstan.[237] Edmund's first code contains a prologue followed by a mix of relative and conditional clauses, but also contains provisions beginning with *buton* [unless], a more syntactically complex form that is later reflected in Cnut's Winchester Code as well. Edmund's second code contains a prologue directly followed by five conditionals,

---

[235] Ine Prol.; *Gesetze*, 1:189.

[236] Edmund uses this idiom multiple times, and it is favored by Edward the Elder, and Æthelstan as well — for example, II As 11 and II Ew 8. It is also used in the AGu, where it is either used in one clause or two, depending on the version.

[237] I-II Edmund; cf. I-II Edward; I-II and V Æthelstan. These law codes will be further discussed in Chapter 3.

using *gif* [if], as we have seen before.[238] Furthermore, there are also cross-references between the law codes, a trend that at this point has become instrumental in the law-giving process and which I have discussed in earlier sections.[239] A developing legal terminology in Edmund's law codes articulating the king's authority to define and punish crime is, in particular, represented by the use of the terms *mundbrice* [breaking the king's protection], *hamsocn* [forcible entry into a home], and *forsteal* [forcible obstruction of passage]; this law-making vocabulary has a particularly long afterlife and I will discuss its significance in Chapter 6. However, the development of these terms and their continued usage in legal documents reveals the growing need for precise legal terminology as royal legislation becomes increasingly specific. Once these words are used in the legislation, they also begin to appear in other types of vernacular writing, as we will see later.

Edmund's legislation is a demonstration of how far the king's authority has come since the prologues written a century or two before, both in the heightened rhetorical tone, which is accompanied by a less formal style, and in the legislative content itself. Edmund's first code states that killing a Christian contaminates a man so that he cannot be in the king's company until he has paid a fine (*dædbote*) assigned by the bishop. This is expanded in the second code, in which the murderer must also make reparations to the dead man's kin and submit to the legal penalties prescribed by the local bishop. Whereas before, Æthelberht's code demanded double *bote* for crimes committed in the royal presence, now the *manslaga*

---

[238] A puzzling modern editorial choice has affected interpretation of Edmund's second prologue. In Liebermann's edition of II Em, he separates the prologue into three parts, with the first sentence labeled "[*II Em Prolog*]," the second sentence labeled "[*Prol.,* 1]," and the third sentence up to "*we*" labeled as "[*Prol., II*]." Thereafter the sentences are labeled as individual rulings as part of the main text. Whitelock presumably follows Liebermann's example in dividing the prologue into subunits; she does not use marginal notation but instead opts for indentation and a separation into "PROLOGUE," "Prol. 1," and "Prol. 2." The effect of this on the reader is of interpreting the prologue's structure as one of ranking clauses in order of importance. (cf. *Gesetze*, 1:186, and Whitelock, *EHD*, 391.) There is nothing grammatically to indicate that "Prol. 2" should be separate from "Prol. 1" or the initial prologue. The prologue does not indicate a conditional structure — as the main body does with *gif* — which should warrant this, nor are there parallel editorial choices in the other prologues and editors should be dissuaded of this in the future.

[239] I Em 4, II Em 2, III Em 6.

[murderer] is exiled from the king's presence.[240] This is a significant move from the king serving the function as redresser of crimes to actively defining and punishing it. In such a formulation, the king's presence becomes an area of peace.[241] By relying on religious authority, the king occupies the same space as God in the legislation; the peace is the king's and breaking the peace can incur both fines and excommunication. As we see in the following chapter, many of these trends that are prominent in the ninth and early tenth centuries shift to accommodate the political changes in the late tenth and early eleventh centuries.

---

[240] I Em 3 and II Em 4; cf. Abt 2.

[241] William A. Chaney, *The Cult of Kingship in Anglo-Saxon England: The Transition from Paganism to Christianity* (Manchester University Press, 1970), 217.

Chapter 3: The Prologues of King Edgar through King Cnut

Introduction

In the previous chapter, we saw how the prologues claimed authority through historical, ancestral, and Biblical ties. The earliest Old English prologues in the late seventh century constructed a distance in the framing of the prologue through the use of the third-person singular; then the codes pivoted to a more personal sound in the early tenth century. The use of the first-person singular helped to frame the laws as coming directly from the king himself. Between the Benedictine reform, viking invasions, and competing claims to the throne, the political and social changes are reflected in the framing of the codes. This chapter is intended to extend the scope of the previous one in this changing context, as I analyze the later tenth-century and early eleventh-century legal prologues and continue to track the developments therein. My examination continues chronologically, and the royal codes discussed in this chapter are I-IV Edgar; I, III-IV, and X Æthelred; and I-II Cnut, Cnut 1018, and Cnut 1020. I conclude by expanding on themes and developments we have seen throughout these two chapters and what this means for our understanding of these prologues.

King Edgar the Peaceful

John of Worcester, a twelfth-century monk and author of the *Chronicon ex chronicis*, portrays King Edgar (r. 959-975) as the English Charlemagne. John describes Edgar's supposedly extraordinary judicial efforts, declaring that the king traveled throughout his realm every winter and spring affirming that *legum iura et statuta decretorum* [the justice of the laws and the statutes he had decreed] were applied equally to rich and poor.[242] John's interest in Edgar

---

[242] Reginald R. Darlington and P. McGurk (eds.), P. McGurk and Jennifer Bray (trans.), *The Chronicle of John of Worcester: The Annals from 450–1066*, Vol 2. Oxford Medieval Texts (Clarendon Press, 1995), 424-5. All subsequent citations are to this edition.

was enduring; in part, this may have been due to the period of remarkable peace of Edgar's reign and his benevolence to the Church.

Despite John's statements regarding Edgar's legislative efforts, there are only four known law texts ascribed to Edgar's reign; furthermore, unlike Edmund's legislation, the attribution of these texts to Edgar is uncertain, as is their division into separate codes. The first text, sometimes referred to as I Edgar, is the Hundred Ordinance.[243] II and III Edgar appear to be two parts of the same code, which is known in its entirety as the Andover code; here one text describes the ecclesiastical legislation and the other the secular legislation. In this manner, IV Edgar — otherwise known as the *Wihtbordesstan* code — may be regarded as Edgar's second code. Due to this naming confusion, I will refer to Edgar's legislation by location of issue instead of number.

The Andover code was the first of two major legislative triumphs of Edgar's reign and is also one of the best-attested pieces of Old English legislation.[244] Manuscripts "G" and "A" both contain identically worded prologues: *Ðis is seo gerædnes, þe Eadgar cyng mid witan geþeahte gerædde, Gode to lofe 7 him sylfum to cynescype 7 eallum his leodscype to þearfe.*[245] [This is the ordinance which King Edgar decreed with the advice of his councillors, for the glory of God and his own royal dignity and for the benefit of all his people.] "D" contains an inscription preceding the prologue: *Her is Eadgares cynincges gerædnes* [Here is King Edgar's ordinance].[246] For the first time, the prologue refers to the legislation as

---

[243] The Hundred Ordinance only survives in Old English in CCCC MS 383, although the Ordinance additionally survives in Latin in the *Quadripartitus* and in the appendix to *Consiliatio Cnuti*. Both Dorothy Whitelock and Patrick Wormald refer to the Hundred Ordinance as *possibly* authored by Edgar; Whitelock in particular finds the argument for Edgar's authorship weak. Whitelock, *EHD*, 393; Wormald, *The Making of English Law*, 313. As the opening to the text bears more similarities with the short rubrics of the first pre-Conquest English codes, which were introduced in the previous chapter, the Hundred Ordinance will not be further discussed in relation to Edgar's legislation.

[244] While the Andover code itself does not specify the location of its issue, the Wihtbordesstan code cites it as *þe mine witan æt Andeferan geræddon* [what my councillors decreed at Andover]. See IV Eg 1.4.

[245] *Gesetze* 1:194. The law code survives in six manuscripts and Wormald argues that these form two or three transmission groups. For a full discussion of the scribal differences suggesting manuscript relationships, see Wormald, *The Making of English Law*, 313-4. For a complete list of manuscript abbreviations, see Appendix A.

[246] *Gesetze* 1:194.

geræd de, literally meaning "advice" and as a legal term taken here as "an ordinance,"

following Whitelock and Wormald's examples. The noun *ræd* and related forms has a long

life in Old English literature and law, and its derivatives are also used in Latin-Old English

glossaries to translate various forms of the verb *consulere* [to consult]. The Latin terms

consiliarius [councillor] and *jurisperitus* [one skilled in law] are both glossed with *rædbora*

[advice-bearer], and *consiliator* is glossed with *rædgifa* [advice-giver].[247] In later legislation,

Archbishop Wulfstan of York, an early eleventh-century ecclesiastic and the composer of

Æthelred and Cnut's laws, refers to Edmund and his successor as having created laws which

they *ræde geræddon* ["wisely decreed" or literally "advised counsel"].[248] Over time, kings

became more proactive and less reactive with their law-making, and separating a king's

advice and the act of law-giving becomes impossible. Kingship becomes synonymous with

law-making, and the code is issued for the benefit of Edgar's own royal dignity (*cynescipe*),

which I will delve into more in the next chapter. The repeated appearance of *cynescipe* as part

of a legal phrase demonstrates that the concept embedded in the term has become

increasingly significant in the social context that the legislation is addressing. Edgar's code is

the first to articulate the term in this way, speaking to the king's understanding of his own

power and to the increasing complexity of legislative rhetoric in which the kings use terms

both to define and expand their legal reach.

The syntax and diction of the Andover code's prologue are both more constrained

than the prologues of Ine or Alfred, yet they still, for all the brevity of this text, contain the

same basic aspects: Edgar is named with his title (*cyng*), the *witan* is noted as having been

consulted, and a further legislative reasoning for the creation of the laws is given. Unlike

prologues written during the previous century, no specific councillors are recorded by name.

---

[247] This is still reflected in the modern Danish term *rådgiver*. For more on *ræd* and its derivatives, especially in these Latin-Old English glossaries, see Nicholas Howe's "The Cultural Construction of Reading in Anglo-Saxon England," in *Old English Literature: Critical Essays*, ed. R. M. Liuzza (Yale University Press, 2008), 7-8.

[248] VIII Atr 43; *Gesetze*, 1:268. Rabin, *Old English Legal Writings*, 203. Wulfstan will be discussed again later in relation to King Æthelstan and King Cnut's laws, and further in Chapter 4.

The third-person singular with which Edgar claims the ordinances are for *eallum his leodscype to þearfe* [the good of all his people] gives the prologue a remote aspect in comparison with those of Æthelstan and Edmund, with their use of the first-person singular, or with the prologue of II Edward, which has its commands issued in the second-person singular. Nonetheless, the Andover code switches between the third-person singular and the first person, singular and plural. This is particularly notable in the construction of the laws themselves, where *swa we gecweden habbað* [as we have decreed] and *ic wille* [I will] stand out.[249] Additionally, the structure of the legislation itself has changed. Where we have grown accustomed to seeing conditional statements begun by *gif*, Edgar's legislation begins with directives followed by subordinate clauses introduced by adjectival or adverbial phrases, as well as conditional clauses.[250] For example, II Æthelstan relies on a preponderance of *gif* clauses to further the legal clauses regarding treatment of thieves: *Gif he hine þonne werian wille oððe oðfleo, ðonne ne sparige hine mon. Gif mon ðeof on carcerne gebringe...* [If, however, he wishes to defend himself or to flee, then he is not to be spared. If a thief is put in prison...].[251] Edgar's Andover code is full of directives followed by qualifying statements:

> *7 ne gesece nán man þone cyng for nanre spræce, butan he æt ham rihtes wyrðe beon ne mote oððe riht abiddan ne mæge. Gyf þæt riht to hefig sy, sece siþþan ða lihtinge to þam cynge.*[252]

> [And no one may appeal to the king in any suit, unless he would not be entitled to justice or cannot obtain justice at home. If that law is too oppressive, then he is to appeal to the king for relief.]

---

[249] II Eg 3.1, and III Eg 1-1.1; *Gesetze*, 1:196 and 1:200.

[250] For conditional and concessive connectives, see J. R. Schwyter, "Syntax and Style in the Anglo-Saxon Law-Codes," in *Verschriftung und Verschriftlichung: Aspekte des Medienweschsels in Verschiedenen Kulturen und Epochen*, eds. Christine Ehler and Ursula Schaefer (Gunter Narr, 1998), 189-231.

[251] II As 1.2-3; *Gesetze*, 1:150. This text is listed as it is found in *Textus Roffensis*.

[252] III Eg 2-2.1; *Gesetze* 1:200.

As Wormald puts it, "Anglo-Saxon legislative prose had moved from contingency followed by remedy through directive followed by contingency towards unencumbered directive."[253]

Both Edgar's Andover code and his *Wihtbordesstan* code split the religious and secular legislation within the body of the law code itself. Between the ecclesiastical and secular sections of the Andover code, there is a single line that serves as both a prologue to the secular portion and a transition between the ecclesiastical and secular halves of the code: *Þis is ðonne seo worldcunde gerædnes, þe ic wille, þæt man healde.*[254] [This now is the secular ordinance which I wish that one should observe]. This is the first code to take this approach to its ecclesiastical and secular legislation, a trend we will see Edgar's successors follow. The code is syntactically similar to the Andover code, although the ecclesiastical and secular halves are unevenly treated.[255] The opening to the *Wihtbordesstan* code's prologue states:

> *Her is geswutelod on þisum gewrite, hu Eadgar cyncg wæs smeagende, hwæt to bote mihte æt þam færcwealme, þe his leodscype swyðe drehte 7 wanode wide gynd his anweald.*[256]

> [Here it is declared in this treatise how King Edgar considered what could be a remedy to that sudden pestilence which greatly afflicted and diminished his people far and wide throughout his dominion.]

---

[253] Wormald, *The Making of English Law*, 316. This is in contrast to other law codes, such as Frisian law, which contains no justification or explanation, but is rather a catalogue of actions and a cost to those actions.

[254] III Eg 1; *Gesetze*, 1:200.

[255] Unlike the Andover code, which is relatively well attested, the Wihtbordesstan code has a single line of transmission, preserved only in Old English in the manuscripts "F" and "C." This is covered more in Chapter 4. For more on the manuscripts, see Chapter 1 and Appendix A. Liebermann also writes about this transmission of the *Wihtbordesstan* code in *Gesetze* 3:138. Wormald agrees, arguing that "there is no evidence that [the scribe] had a better exemplar for his Latin than for his Old English" and that he was simply careless in executing both Latin and Old English texts in the C text; see Wormald, *The Making of English Law*, 317.

[256] III Eg Prol.; *Gesetze* 1:206.

I consider the two clauses that follow that opening statement also to be critical components of the prologue:

> *Ðæt is þonne ærest, þæt him ðuhte 7 his witum, þæt ðus gerad ungelimp mid synnum 7 mid oferhyrnysse Godes beboda geearnod wære, 7 swyðost mid þam oftige þæs neadgafoles, þe Cristene men Gode gelæstan scoldon on heora teoðingsceattum. He beðohte 7 asmeade þæt godcunde be woruldgewunan…*[257]

> [First of all, that it seemed to him and his councillors that such misfortune was merited through sins and a contempt of God's decrees, and especially with the withholding of the tax, which Christian men ought to pay to God in their tithes. He considered and examined the divinity of God from a secular standpoint...].

Organizing the prologue in this manner allows the statements to operate as a framework for the legislation that follows, giving a greater understanding of why the law code was issued. Neither Liebermann nor Whitelock consider these clauses to be part of the prologue.[258] However, these clauses do not belong to the main body of the code; they do not contain legislative directives but in effect expand on the legislative impetus. Whereas a version of the formula *ðæt is þonne ærest* usually indicates the beginning of the legislative clauses following the prologue, the formula here is used to provide additional justification for Edgar's actions.[259] By including these clauses as part of the prologue, the king's justification for issuing laws with ecclesiastical oversight is made clear; his power to do so is further upheld through later statements: *Ðonne beode ic 7 se ærcebisceop*… [Then I and the

---

[257] IV Eg 1-1a in *Gesetze*, 1:206.

[258] The boundary of the prologue in Wormald's description is unclear. Wormald, *The Making of English Law*, 318. He refers to the line containing *þe mine witan æt Andeferan geræddon* [what my councillors decreed at Andover] as IV Eg 1.4, despite elsewhere including it in a discussion of the prologue; due to the interruption of legislative clauses containing directives prior to this clause, I do not consider IV Eg. 1:4 part of the prologue. Wormald, *The Making of English Law*, 318, and 313, n. 226.

[259] See VI As 1.1, V Atr 1, VIII Atr 1, amongst others.

Archbishop command…].[260] Furthermore, the use of the third-person singular throughout the

prologue makes the clauses read as a cohesive unit. Thereafter, the king appears to speak

solely through the first-person *ic* or *min*. This change in tense is a significant difference

between the Andover and *Wihtbordesstan* codes. These lines also accomplish the minimum

we have come to recognize from the other prologues: the king is named and titled, his

councillors are mentioned, and a reason is given for the issuing of the code. Wormald

describes this as a "drawn-out prologue;" however, this prologue is significantly shorter than

Alfred's prologue and less formulaic than the early prologues — such as Wihtræd's — and

crucially sets the stage for the subsequent legislation.[261]

The opening of the *Wihtbordesstan* code uses the phrase *her is geswutelod on þisum*

gewrite [here it is declared in this treatise], a legal phrase that became common during

Edgar's time. Kathryn Lowe argues the phrase dates to the years 963-75 and is localized to

Winchester, Old Minster.[262] Campbell argues that the phrase is a later variant of the formula

cyðo 7 writan hato [I have said and written], arguing that "such a formula shows the writing

was highly important."[263] Regardless, the phrase connotes a legally binding vow and is

frequently found in wills and charters thereafter.[264] This opening therefore serves as a

documentary indicator of legal importance. The prologue also contains one of the clearest

statements of legislative impetus. With the pestilence striking his kingdom, Edgar — and his

councillors — decide that the cause was due to the people's contempt of God's divine law.[265]

The prologue is an explicit statement of what sort of behavior leads to law-making in the

tenth century and additionally reveals a reactive response to a calamity, while invoking heavy

---

[260] IV Eg 1.4; *Gesetze*, 1:206.

[261] Wormald, *The Making of English Law*, 318.

[262] K. A. Lowe, "*Swutelung/swutelian* and the Dating of an Old English Charter (Sawyer 1524)," *Notes & Queries* 38 (1991): 450-2. For more on words and phrases centered around Winchester in the same time period, see my next chapter.

[263] A. Campbell, "An Old English Will," *JPEG* 37 (1938): 138, n.1.

[264] See V, VII, IX, XII, XV, XVI(2), XVII, XVIII, XXII, XXIV, XXVI, XXVII, XXXII, CCCVII and XXXVIII in Dorothy Whitelock, *Anglo-Saxon Wills* (Cambridge University Press, 1930). For charters, see XXXVII, XXXVIII, etc., in A. J. Robertson, *Anglo-Saxon Charters* (Cambridge University Press, 1939).

[265] IV Eg Prol.; *Gesetze* 1:206.

religious overtones, drawing lordly parallels between the king and God. Otherwise, this code

differs from Edgar's Andover code in that it is more informal, balancing promises and

commands, in the way that it exhorts the king's subjects to obey the legislation.

The diction of Edgar's two codes is remarkably similar. Both use the term *anweald*

[dominion] to refer to Edgar's kingdom and the reach of his laws.[266] This term also appears in

Edmund and Æthelstan's law codes; outside of royal legislation, *anweald* is used in charters,

multiple times in Ælfric's Homilies, and literature such as the *Legend of the Seven*

Sleepers.[267] Both texts also use the term *leodscype* [people] to refer to Edgar's subjects, which

is the first use of that term in royal legislation; the only subsequent usage as such is in

Æthelred's law codes.[268] Finally, this is the only royal law code that includes the word

forgifnes as a legal term for the release from debt or punishment — although the term does

appear elsewhere, and occasionally in Ælfric's *Homilies* as forgiveness from sin, or divine

pardon.[269] This diction suggests a change from previous legislation and the involvement of

new councillors, who subsequently provide consistency with Æthelstan and Cnut's later

legislation.

For the first time in Old English legislation, we are given an insight into the process

of transmission the king mandates for the law code, as this is codified directly in the

legislation itself. King Edgar orders that *write man manega gewrita be ðisum 7 sende ægðer*

ge to Ælfere ealdormen ge to Ægelwine ealdorman, 7 hi gehwyder, þæt ðes ræd cuð sy ægðer

ge earmum ge eadigum [many document copies should be written of this and sent to both

Ealdorman Ælfhere and Ealdorman Æthelwine, and they are to send them in all directions

that this measure may be known to both the poor and the rich].[270] I discuss this more in

---

[266] III Eg 8, IV Eg Prol., 1.6, 2.2. Wormald, *The Making of English Law*, 319.
[267] II Em Prol. 1.0 and 1.1; II As 14; S 779, 1055, 1515, etc.; ÆCHom I, 8 244.93, and ÆCHom II, 21 187.233, etc.; LS 34:319.
[268] II Eg Prol., IV Eg Prol., 2, 2.1a-2, 12.1, II Atr 1, X Atr Prol.
[269] III Eg 1.2; IV Eg 1.1, 1.5, 9; ÆCHom I, 33 463:137; ÆHom 6 217; ÆHomM 7 98; ÆCHom II, 15 152:80.
[270] IV Eg 15.1; *Gesetze* 1:214.

Chapter 4; however, the transmission history suggests that few copies ended up being made as only three manuscripts — deriving from the same exemplar — survive.

Æthelred "unræd"

The political consolidation beginning with Alfred and continuing through Edgar had allowed for a stronger centralized kingship, a strengthened relationship between ecclesiastical and royal authority, and, with the Benedictine Reform, a depiction of the king as the guardian of religious life.[271] This was all threatened in 975 when King Edgar unexpectedly died. The resulting succession crisis between Edgar's underage sons, Edward and Æthelred, nearly caused a civil war.[272] While Edward was eventually crowned king, he reigned for only three years before being assasinated by Æthelred's supporters. When Æthelred (r. 978-1016) assumed the throne, he was politically inexperienced; posterity has, despite his exceptionally long reign, judged him harshly.[273] In addition to his bad start, the main conflict of his reign was with the Danes, who, after decades of peace, resumed their attacks on English lands. Æthelred began paying Danegeld to the Danish king after the Battle of Maldon in 991, and in 1002 he ordered the ill-advised St. Brice Day's massacre of Danish settlers. When King Sveinn Forkbeard invaded in 1013, Æthelred fled England, returning after Sveinn's death on 3 February 1014 to continue to rule until his own death on 23 April 1016 two years later.

During this period of turmoil, Archbishop Wulfstan of York gained power. He had an exemplary and politically central career; he served as bishop of London (996-1002), bishop of Worcester (1002-1016), and finally archbishop of York (1002-1023) until his death.[274]

---

[271] Andrew Rabin, "Holy Bodies, Legal Matters: Reaction and Reform in Ælfric's *Eugenia* and Ely Privilege," *Studies in Philology* 110, no. 2 (2013): 220.

[272] A summary of the events of Æthelred's reign can be found in Levi Roach's *Æthelred: The Unready* (Yale University Press, 2016).

[273] His moniker *unræd* [of poor counsel] began to be wrongly translated as "unready" in later centuries. Rabin, *Political Writings*, 7.

[274] Rabin, *Archbishop Wulfstan,* 2.

Simon Keynes describes Wulfstan as a political theorist "of prodigious abilities."[275] John

Blair calls him "the greatest English ideologue of the age."[276] In addition to his political

writings, he was a fervent public speaker; he described the eventual collapse of Æthelred's

government under viking pressure in a biting commentary on the crimes and ill behavior that

precipitated the event in his most famous homily: *Sermo lupi ad Anglos*. As bishop of

London, Wulfstan was frequently listed as a witness in charters, evidencing his attendance

upon the king and participation in the royal council.[277] While he may have advised on some

early legislation, he actively composed the later codes. As we will see in Chapter 4, his

distinctive homiletic style shines through in the phrasing and diction used in the legislation

itself. Wulfstan became the dominant political theorist of Æthelred's court and when the king

died and Cnut was crowned, Wulfstan weathered the transition with his political prestige

intact, continuing to compose legislation for the new king.
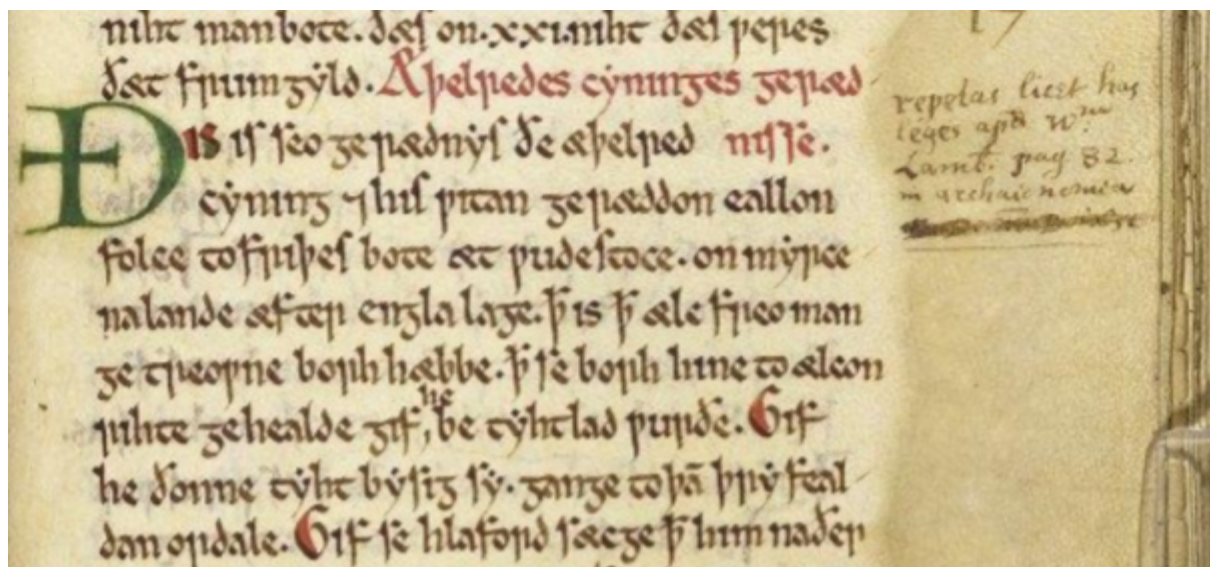
Figure 3: The opening to I Æthelred, also known as Æthelred's Woodstock Code (*Textus Roffensis*, f. 46r)

With the stability of the English kingship in question, the legislative trends of the

previous century were reversed, instead becoming increasingly conservative and less likely to

---

[275] Simon Keynes, *The Diplomas of King Æthelred 'the Unready,' 978-1016* (Cambridge University Press, 1980), 190.
[276] John Blair, *The Church in Anglo-Saxon Society* (Oxford University Press, 2005), 496.
[277] Lawson, "Archbishop Wulfstan and the Homiletic Element," 573-8.

ruffle feathers. Still, Æthelred's reign is significant for the number of law codes issued. His

Woodstock code (I Æthelred) was transmitted in close association with the Hundred

Ordinance, *Be Blaserum*, *Forfang*, and Alfred-Ine, and paired with his Wantage code (III

Æthelred).[278] This last code has a close relationship to the Danelaw's Five Boroughs. IV

Æthelred's issuance pays particular attention to matters concerning London, with regulations

for the port and how the city peace should be kept; however, it is preserved only in later

editions of *Quadripartitus*, where it forms the final clauses of the Wantage code.

Æthelred's prologue to his Woodstock code is reminiscent of Edgar's Andover code.

However, the text is once again brief, with a single sentence encapsulating the prologue:

> *Ðis is seo gerædnys, ðe Æþelred cyning 7 his witan geræddon, eallon folce to friþes*
>
> *bote, æt Wudestoce on Myrcena lande, æfter Engla lage.*[279]

> [This is the ordinance which King Æthelred and his councillors decreed at Woodstock
>
> in Mercian land for all the people for the improvement of the peace according to
>
> English law.]

Using a legal term that was quickly becoming standard, the text identifies itself as a *gerædnys*

[ordinance]. However, the legislation is collectively decreed by Æthelred and his *witan*, who

geræddon, and the active and independent role of the king has vanished. The prologue and

the code that follows are expressed in the third-person singular, with the sole exception of the

concluding statute, couched in the first-person plural, which establishes a fine for a person

who disobeys the king's law: *swa ure ealra cwide is* [as is the decree of us all].[280] As the royal

---

[278] The texts and transmission of Æthelred's codes are anything but straightforward. Liebermann describes ten law codes for Æthelred's reign, despite printing twelve. Liebermann justifies this by identically numbering the Old English and Latin texts of VI and VII; however, he does not apply the same justification to V and VI, which are also interrelated. Previous editors also made choices which have complicated this numbering system; Lambarde, Wilkins, Thorpe and Schmid all added and renumbered texts in the sequence and Liebermann was only adding on top of the confused chronology. *Gesetze*, 3:216-69. For a much fuller transmission history of Æthelred's codes, see Wormald, *The Making of English Law*, 320-3.

[279] I Atr Prol.; *Gesetze* 1:216.

[280] I Atr 4.3; *Gesetze* 1:220.

codes increasingly cover ecclesiastical measures as well, disobeying the king's law also harms the Church. Syntactically, this is also similar to Edgar's Andover code and the secular section of the *Wihtbordesstan* code. The legislation is led by declarations of principle and supported by verbal repetition. The conditional clauses represented by *gif* are still present; however, *þonne* [then] is often used in conjunction, not as a dependent but as deliberately simplifying the flow of the syntax. For example, the clauses *gif he ðonne tyhtbysig sy, gange to þam þryfealdan ordale* [if then he is often accused, he should go to the threefold ordeal], and *gif hy þonne aþ syllan ne durron, gange to þam þryfealdan ordale* [if then they do not dare to give an oath, he should go to the threefold ordeal] both employ the parallel structure to smooth the syntax and advance the legislation.[281] The structure of the Woodstock code evinces a calculation and legislative planning that had not to this point been apparent in English law.[282] Edgar's *Wihtbordesstan* code also uses the term *bote*; however, there it is as a remedy for pestilence, whereas here it connotes a restoration of peace, a use more similar to what we find in Old English charms.[283] This usage is found twice more in Æthelred's codes as a form of improvement; first in the phrase, *cume nu to bote, gif hit God wille* [may they now improve, if it is God's will], and then in a subsequent clause, *and git mæg ðeah bot cuman, wille hit man georne on eornost aginnan* [and improvement may then come, if one will truly attempt it].[284] The restoration of peace in the Woodstock code can also be understood as an improvement of peace upon Mercian land. Consequently, with the location given of the law code's creation, we see Mercia as a subsection of England. Although it was not that long ago that these kingdoms were separate with their own legislation, now the legislation implemented is expansive, including not only Mercia but all of England.

---

[281] I Atr 1.1 and 1.4; *Gesetze*, 1:216 and 1:218. I discuss oath-swearing and oath-breaking at length in Chapter 5.
[282] Wormald breaks the code into Principles and Contingencies, which reveals how dependent each clause is on the ones surrounding it. Although Wormald argues that he would have organized the code differently, this planning is unparalleled in earlier English legislation. Wormald, *The Making of English Law*, 324-5.
[283] We have previously seen *bote* in the laws of Ine and Alfred.
[284] VIII Atr 38-39; *Gesetze*, 1:268.

Æthelred's Woodstock code is closely related to his Wantage code and scholars have suggested with some frequency that "the Woodstock code was aimed at English England and the Wantage code, probably promulgated shortly after Woodstock and betraying Danish influence, at the Danelaw."[285] Much of the language overlaps between Æthelred's prologues: *Ðis syndon þa lága, þe Æðelred cyng 7 his witan gerædd habbað æt Wánetinc to friðes bóte.*[286] [These are the laws which King Æthelred and his councillors have decreed at Wantage for the improvement of the peace.] The phrasing of the Woodstock and Wantage codes are functionally identical apart from the place of issue; however, some subtle differences reveal the influence of Old Scandinavian. We find the first appearance of the Old Norse-derived word *lagu* [law] in a prologue is in the Woodstock code — and subsequently here in the Wantage code.[287] The noun *lagu* replaces the more traditional *gerædnys* as the technical term for the legislation. The Woodstock code is also *æfter Engla lage* [according to English law] — the first time this expression has been used in Old English legislation.[288] While the term *frið* [contractual arrangement of peace] acquires a technical meaning in legislative texts as public law and order, or the absence of disorder, the phrase *friðes bote* [repair of the peace] is first used as a legal phrase in Edgar's *Wihtbordesstan* code. It subsequently finds greater life under Wulfstan, appearing in Æthelred's Woodstock and Wantage codes, and II Cnut.

Wulfstan may have only advised on but not composed the Woodstock and Wantage codes, but he did compose all of Æthelred's later legislation. With one exception, all extant copies of Æthelred's later codes appear only in manuscripts which exhibit Wulfstan's

---

[285] J. R. Schwyter, *Old English Legal Language: The Lexical Field of Theft* (John Benjamins Publishing, 1996), 18. See also *Gesetze*, 3:156; Wormald, "Æthelred the lawmaker," in *Ethelred the Unready*, ed. David Hill (University of Michigan, 1978), 61-2; Keynes, *Diplomas*, 128-9.

[286] III Atr Prol.; *Gesetze* 1:228.

[287] The term had previously appeared in the body of Edgar's *Wihtbordesstan* code referring to laws preferred by the Danes, as well as in a clause of Æthelstan's Tithe Ordinance. III Atr Prol., 3.3, 8.2, 13.3; I As 2 (a Wulfstanian *Godes lage*); IV Eg 2.1, 12, 13.1. The term *utlah* [unlawful] has already made an appearance in the Hundred Ordinance; Hu 3.1.

[288] See also Wulfstan's later use of *Ængla lage* [English law] and *Dena lage* [Danish law] in VI Atr 37 and II Cn 15.1-3, 62, 65. Wormald, *The Making of English Law*, 328.

influence.[289] A notable change now occurs in the prologue: the king in V Æthelred is

unnamed. The prologue states that *Ðis is seo geræednes, þe Engla cyng 7 æegþer ge gehadode

ge læwede witan gecuran and geræddan.*[290] [This is the ordinance which the English king and

the councillors, both ecclesiastical and secular, accepted and decreed.] Wulfstan encourages a

move from the particular to the general in the prologues. All the extant prologues of V

Æthelred are anonymous, despite the multiple manuscripts and transmission paths; only the

Nero text concedes a time and place. VIII Æthelred is similarly oblique. Wulfstan writes that

Þis is an ðara geræednessa, þe Engla cyng gedihte mid his witena geþeahte.[291] [This is one of

the ordinances which the English king composed with the advice of his councillors.]

Wormald argues that the phrase *an ðara geræednessa* indicates that the text had a second-hand

status.[292] However, it could also indicate that Æthelred issued a large number of *geræednessa*.

Of Æthelred's later codes, X Æthelred poses a particular puzzle as it is fragmentary

and disrupts the trend from the specific to the general. The prologue, in its entirety, states:

> *An is ece Godd wealdend 7 wyrhta ealra gesceafta; 7 on þæs naman weorðunge ic,*
>
> *Æðelred cyning æerest smeade, hu ic Cristendom æfre mihte 7 rihtne cynedom fyrmest*
>
> *aræran, 7 hu ic mihte þearflicast me sylfum geræedan for Gode 7 for worolde, 7*
>
> *eallum minum leodscype rihtlicast lagian þa þing to þearfe, þe we scylan healdan.*
>
> *Mearn to gemynde oft 7 gelome, þe godcunde lara 7 wislice woroldlaga Cristendom*
>
> *fyrðriað 7 cynedom micliað, folce gefremiað 7 weorðscypes wealdað, sibbiað 7 sehtað*
>
> *7 sace twæmað 7 þeode þeawas ealle gebetað. Nu wille ic georne æfter þam spyrian,*
>
> *hu we lara 7 laga betst magan healdan 7 æghwylce unlaga swyþost aweorpan. 7 þis is*
>
> *seo geræednes, þe we willað healdan, swa swa we æt Eanham fæste geswæedon.*[293]

---

[289] The one exception is X Æthelred, which I discuss below. Wormald, *The Making of English Law*, 330.

[290] V Atr Prol.; *Gesetze* 1:236. Rabin, *Old English Legal Writings*, 146.

[291] VIII Atr Prol.; *Gesetze* 1:263. Rabin, *Old English Legal Writings*, 190.

[292] Wormald, *The Making of English Law*, 336.

[293] X Atr Prol.; *Gesetze* 1:269-70. Rabin, *Old English Legal Writings*, 208.

[The eternal God alone is the ruler and creator of all Creation, and in reverence for his

name, I, King Æthelred, considered first how I could always best promote Christianity

and just royal judgements, and how I might provide most profitably before both God

and the world, and most justly legislate for all my people those things that we should

retain. It has often and repeatedly preoccupied my mind that divine teachings and

wise secular laws further Christianity and extend kingship, benefit the people, and

command respect, bring about peace and reconciliation, end conflict, and better all

people's conduct. Now I will diligently inquire after that, how we might best uphold

the doctrines of the laws and thoroughly reject every unjust law. And this is the

ordinance that we wish to observe, such as we firmly declared it at Enham.]

As this code survives as a fragment due to the Cotton fire, only the prologue and the first two

clauses are extant, making the prologue longer than what survives of the code itself.

According to Liebermann, the scribe of X Æthelred wrote a marginal invocation of King

Edgar beside the prologue's conclusion, which is a Wulfstanian feature.[294] This is highly

problematic as we know that Wulfstan substantially altered the codes he had access to.[295]

Furthermore, the extant clauses following the prologue are identical to V Æthelred, and

therefore there must be a real possibility that X Æthelred is a copy of V Æthelred.[296] And yet,

the prologue is one of the most robust introductions since Edmund's legislation and therefore

worth analyzing. Unlike previous prologues, God is invoked first and it is only thereafter that

Æthelred is named in the first person, breaking the third-person singular trend of both

---

[294] *Gesetze* 1:269. Ker, however, is reluctant to agree with this; Ker, *Catalogue*, 392. Wormald notes Wulfstan's admiration for Edgar's legislation in *The Making of English Law*, 355.

[295] As Wormald points out "The realization that if all that were left of any of the pieces...were their beginning and end, the two versions of Bath and four of the five recensions of Enham would likewise have been reckoned as separate codes should give pause." Wormald, *The Making of English Law*, 336. Andrew Rabin discusses Wulfstan's emendation of royal codes that he had access to in *Old English Legal Writings,* xiii-xiv.

[296] The clauses are identical to another copy, and, as Wormald notes, "verbally closer than any two out of the three established texts of this code." *The Making of English Law,* 337.

previous and subsequent kings. However, this is a remarkable prologue with clear similarities to II Edmund with its explicit desire to promote Christianity, protect the peace, and decrease strife. While these aspects, and its first-person singular, cause this prologue to fit in this tradition, the reverence for God and preoccupation with extending Christianity show the involvement of an even more religiously-inclined figure. The king's relationship to God, and therefore the country's relationship with God, is of the utmost concern.

Æthelred has a long history of performed public penance, especially as he sought to remake his reign from one of youthful inexperience to that of a mature leader.[297] Several charters foreground his relationship with God and in S 876, Æthelred expresses remorse over his "youthful indiscretions" where he was led astray by ill counsel.[298] These errors are viewed as also having been damaging to the nation. In S 893, issued in 988, Æthelred shows contrition over his previous actions and publicly considers his and his people's relationship to God. Mayke de Jong demonstrates a long history of the effects of penitence in politics, with public penance becoming necessary to right any offenses to the sacred responsibility of kingship in the Carolingian realms of the eighth and ninth centuries.[299] In this light, X Æthelred does not seem out of place. He is able to project an image of a pious ruler, attentive to the needs of God, the Church, and his people's relationship to both. His desire to *sace twæmað* [end conflict] was influenced by the increasing frequency of viking raids. Although he does not issue the code in explicit consultation with advisors, he switches to the first-person plural in the final line authorizing the code. If X Æthelred is a fragment of the 1008 decrees, as Wormald suggests, then this prologue is consistent with the penitential zeitgeist of the Æthelred's reign and consistent with the time period. The prologue implicitly

---

[297] Catherine Cubitt, "The Politics of Remorse: Penance and Royal Piety in the Reign of Æthelred the Unready," *Historical Research* 85 (2011): 179-92.

[298] Keynes, *Diplomas*, 176-87.

[299] Mayke de Jong, *The Penitential State: Authority and Atonement in the Age of Louis the Pious, 814–840* (Cambridge University Press, 2009), 270; also, "What Was Public About Public Penance? *Paenitentia Publica* and Justice in the Carolingian World," in *La Giustizia Nell'alto Medioevo* (secoli IX–XI) (Settimane di Studio del Centro italiano di Studi sull'alto Medioevo, 2 vols., 1997), 2:863-902.

connects the phrases *godcunde lara* [divine teachings] and *folce geremiað* [benefit the people] in order to draw a parallel between the two. This was both a politically and religiously savvy move. The following year, in response to these raids, Æthelred initiated nation-wide penance, commanding that all Christians fast and go to confession.[300]

Æthelred's prologues turn increasingly formulaic, with the exception of X Æthelred. We know, basing this knowledge on the sentiment, style, and script of these codes, that Wulfstan was involved in later transmitting Edgar's legislation and that this effort exceeded simple copying.[301] With an enduring interest in previous legislative texts, Wulfstan added clauses to previous legislation and changed the meaning of some entirely; this included adding a penalty for undercharging (*undeoror sylle*) rather than overcharging.[302] He lauded Æthelstan, Edmund, and Edgar as law makers who *God weorðodon 7 Godes lage heoldon 7 Godes gafel læstan, þa hwile þe hi leofodon* [honored God and kept God's law and paid God's tribute as long as they lived].[303] While the use of the king's name was changing at the turn of the eleventh century, the memory of the kings and their relationship to God remained important. As Wulfstan drafted royal laws for Æthelred and Cnut, he also edited past laws to fit his agenda. However, he never amended any of the prologues of Æthelstan, Edmund, or Edgar, leaving the voice of the kings to provide the legislative context and justification, and confining himself to changing various clauses in the text.

Cnut's Codes: King of All England

The viking raids on England turned into a campaign of conquest. Led by Sveinn Forkbeard, the raiders conquered great swaths of England. As Sveinn's son and with dynastic interests,

---

[300] Cubitt, "The Politics of Remorse," 191.
[301] Wormald, *The Making of English Law*, 314.
[302] III Eg 8.3; for other interventions in Edgar's law codes, see the days of worship, fasting, and the standardization of weights and measurements established in II Eg 2.3, 5.1-3, and III Eg 8.1-3. Rabin also includes an appendix of Wulfstan's revisions; see *Old English Legal Writings*, 342-359.
[303] VIII Atr 43; *Gesetze* 1:268. Rabin, *Old English Legal Writings,* 202.

Cnut (r. 1016-1035) rose to power, taking advantage of Æthelred's death and subsequent

unpopularity of his heir, Edmund Ironside, to become king of England. He later became king

of Denmark, Norway, and parts of Sweden, founding a North Sea empire.[304] Cnut was

politically astute in maintaining a grip on England as an outsider. He wielded his law codes

and formal letters as crafty tools, creating an identity for himself as an English king partly

through written laws, ordinances, and communications. During his reign, the writings issued

in his name were an especially potent type of propaganda to affirm his rule.[305] However, as a

foreign invader-king of England, Cnut was careful to not be seen instituting massive political

changes. His legitimacy and royal authority were tied to his showing a continuity of

government.

By promoting himself as a successor rather than a usurper, Cnut ensured that the

legitimacy of his legislation could be tied to that of previous early medieval kings. Cnut thus

placed himself in an Insular Saxon tradition of government as he attempted to identify with

the English (rather than the Danes).[306] To achieve the former, Cnut married Emma, widow of

King Æthelred, creating a personal connection with English rule. He also employed Wulfstan,

who had survived the transition from Æthelred to Cnut politically unscathed, to continue to

compose royal legislation. This gave Cnut's codes an aura of continuance with the political

tradition, rather than imposition, as Wulfstan employed the same political techniques in

writing Cnut's codes as he had in Æthelred's. Therefore, the language and style of the royal

codes are strikingly similar between the two rulers.

---

[304] For background on Cnut's North Sea empire, see Bolton, *Cnut the Great*; also Lawson, *Cnut: England's Viking King.*

[305] Praise-poetry in Cnut's honor, such as *Knútsdrápur* and related sequences, accomplish a similar goal from the Scandinavian side, and they exhibit a marked Old English influence on them. See Matthew Townend, *Contextualising the Knútsdrápur: Skaldic Praise-Poetry at the Court of Cnut, Anglo-Saxon England* 30 (2001): 145-179.

[306] Cnut literally placed himself in this tradition by issuing coins with his name but Æthelred's profile. These were minted in Denmark but used dies produced in England, and the coins followed the same type as Æthelred's final "Last Small Cross" type. M. Blackburn, "English Dies Used in the Scandinavian Imitative Coinages," *Hikuin* 11 (1985): 101-24.

Cnut issued three texts in Old English: 1) I-II Cnut, his royal Winchester code; 2)

Cnut 1018, his royal Oxford code, dealing with agreements; and 3) Cnut 1020, his first letter

to the English. Cnut issued his second letter to the English a few years later.[307] Then there are

three texts associated with his reign that do not seem to have been issued by the king himself.

The first is *Consiliatio Cnuti*, a twelfth-century translation of the combined texts of Cnut's

Winchester Code, the Hundred Ordinance, *Be Blaserum*, *Forfang*, and sections of VIII

Æthelred; these texts appear interspersed amongst the manuscripts we saw in Chapter 1.[308]

The translator added a new prologue in *Consiliatio Cnuti* identifying Cnut as the Norwegian

king and stating that the code was issued to unify the kingdom's laws. The second imposture

text is the *Instituta de Legibus Regum Anglorum*, which is a Latin translation of Cnut's

Winchester Code, as well as sections of Alfred, Edgar, and Æthelred's codes. Apparently

uninterested in a direct translation, the translator loosely adapted the source material, casually

adding, omitting, and rearranging sections. Bruce O'Brien writes that, instead, "the Old

English becomes the core source for a composite text."[309] The *Instituta* in turn becomes the

basis for Pseudo-Cnut's *Constitutiones de Foresta*, the final imposture text. This fabricated

text, a forgery created during the later twelfth century and revolving around forest law,

employs some of the content and much of the language of the *Instituta*. None of these

imposture texts are contemporary of Cnut's reign and none are vernacular codes. I discuss the

Consiliatio Cnuti and *Instituta Cnuti* — and the efforts of their respective translators — at

greater length in Chapter 6.

The first Old English text issued, Cnut's Oxford code of 1018, is a departure from

previous royal codes as it is not issued primarily in the king's name. Instead, the *Anglo-Saxon*

---

[307] As an original does not survive to modern scholars, it is difficult to say whether it was originally written, or merely preserved, in Latin. The Latin text is transmitted by two twelfth-century historians, John of Worcester and William of Malmesbury. See "Early English Laws Project." Early English Laws: Cnut's second letter to the English, 1027 (Cn 1027). Accessed February 20, 2018. http://www.earlyenglishlaws.ac.uk/laws/texts/cn-1027/.

[308] Felix Liebermann, *Consiliatio Cnuti, eine Übertragung Angelsächsischer Gesetze aus dem Zwölften Jahrhundert* (Halle, 1893).

[309] O'Brien, "Pre-Conquest Laws," 238.

Chronicle records that the English and Danes *wurdon sammæle* [reached agreement] in 1018 at Oxford.[310] The prologue records the reaching of peace between the English and the Danes:

> *Ðis is seo gerædnes þe witan geræddon 7 be manegum godum bisnum asmeadon and þæt wæs geworden sona swa cnút cyngc mid his witena geþeahte frið 7 freondscipe betweox denum 7 englum fullice gefæstnode 7 heora ærran saca ealle getwæmde.*[311]

> [This is the ordinance which the councillors determined and decreed in consideration of the many good precedents. And that took place as soon as King Cnut, with the advice of his councillors, completely established peace and friendship between the Danes and the English, and resolved all their former conflicts.]

The most remarkable change with this text is that it presents the *witan* as having crafted and presented it, instead of the king; this is more similar to the Treaty of Alfred and Guthrum than to other royal legislation.[312] Cnut's name is still invoked and his title given, not for the creation of the law code but instead for the act of peacemaking between the Danes and English — which is still understood as being at the councillors' urging. There is good reason for this: the code was presented as a consensual agreement and accepted in Oxford. It was early in Cnut's reign and advantageous to present the law code as the result of an understanding between the Danish and the English.

The theme of continuation is emphasized throughout the short text. Right from the beginning of the prologue, the many good precedents of the implied previous English law codes are cited; furthermore, the councillors explicitly determine that they would *eadgares lagan geornlice folgian* [diligently follow Edgar's laws].[313] Wormald claims that "The

---

[310] *ASC* [1018].
[311] Kennedy, "Cnut's Law Code of 1018," 57-81; Rabin, *Old English Legal Writings,* 210. The wording is strikingly similar to Edgar's Andover code.
[312] Agu; see *Gesetze* 1:126.
[313] Cn 1018 1; Kennedy, "Cnut's Law Code of 1018," 72; Rabin, *Old English Legal Writings,* 210.

relevance of 'Edgar's law' was not so much (yet) what the king had actually decreed. Instead, it stood for a time of prosperity and harmony which both parties in 1018 could recall positively."[314] By deemphasizing Æthelred's reign and aligning himself with Edgar, Cnut works to legitimize his own power, for Edgar was a stronger English predecessor. Therefore, the 1018 code not only harkens back to a time half a century before, but more importantly creates an illusion of continuation from that time. This is also supported by the focus on unity in the text, as the councillors *mid godes filste* [with the support of God] should investigate *swa hi betst mihton* [as they best might].[315] Religious tones permeate the piece, starting with the Latin invocation and ending with a declaration to *ænne god rihtlice lufian 7 wurðian 7 ænne cristendom anrædlice healdan 7 ælcne hæðendom georne forbugan* [rightly love and honor one God and resolutely hold one Christian faith and diligently avoid heathendom].[316] The enemies in the prologue are not the Danes, with whom the English have a treaty, but rather heathens in general, for the English and Danes are now united against heathens under the Christian kingship of Cnut.

The prologue begins in the third-person plural with the councillors as the subject, but changes to the first-person plural in statements using *we* and *ure*.[317] The text returns to the third person and then to the first person in the legal clauses. However, there is an additional emphasis on the councillors, with multiple clauses opening with *And witena gerædnes…* [and the councillors decreed...].[318] Whereas, in the early tenth century, the role of the king was promoted more than the councillors in the prologue, here we witness a reversal. The use of the first-person plural is strategic as an inclusive address. The code was created to promote unity among two groups, the English and the Danes. Accordingly, the language was chosen to create the perception that the treaty was authored and promoted by the councillors rather than

---

[314] Wormald, *The Making of English Law*, 347.
[315] Cn 1018 1.1; Kennedy, "Cnut's Law Code of 1018," 72. Rabin, *Old English Legal Writings*, 210.
[316] Cn 1018 1.3; Kennedy, "Cnut's Law Code of 1018," 72. Rabin, *Old English Legal Writings*, 210.
[317] Cn 1018 1.2-3; Kennedy, "Cnut's Law Code of 1018," 72. Rabin, *Old English Legal Writings*, 210.
[318] Cn 1018 3-8, 11; Kennedy, "Cnut's Law Code of 1018," 73-75. Rabin, *Old English Legal Writings*, 210-214.

the implementation of a foreign king's will on the English.[319] This is also consistent with the

ruling style in Scandinavia, where kings gave their earls, or councillors, free reign.[320]

Cnut's letter of 1020 is addressed to Earl Thorkel, regent of England in Cnut's

absence.[321] The opening of the epistle is a *salutatio*; this is followed by the *captatio*

benevolentiae. As the highest-ranked individual included in the letter, Cnut identifies himself

first and then the recipients to his letter:

> *Cnut cyning gret his arcebiscopas 7 his leodbiscopas 7 Þurcyl eorl and ealle his*
>
> *eorlas 7 ealne his þeodscype, twelfhynde 7 twyhynde, gehadode 7 læwede, on*
>
> *Englalande freondlice*.[322]
>
> [King Cnut greets with friendship his archbishops and his diocesan bishops, and Earl
>
> Thorkel, and all his earls, and all his people, twelve-hundred men and two-hundred
>
> men, ecclesiastical and lay, in England.]

The greeting conveys heavy political overtones. Although considerably friendlier than

Edmund's scolding address to his reeves, the opening address is similar. The letter format

implies a less formal mode of communication than the issuing of a royal law code. This is

also reminiscent of canon law codes, many of which were issued in epistolary form.

The rest of Cnut's epistle is written in the first person and paints a successful picture

of the king defending English interests against the Danish — despite being the king of the

Danes himself. He writes, *And þa for Ic me sylf...into Denmearcon þe eow mæst heorm of*

com [And then I myself traveled...into Denmark where the most harm came to you].[323] The

---

[319] For Wulfstan's authorship of this code, see Whitelock, "Wulfstan and the Laws of Cnut," 433-52; also Kennedy, "Cnut's Law Code of 1018," 57-81.

[320] Timothy Bolton, *The Empire of Cnut the Great: Conquest and the Consolidation of Power in Northern Europe in the Early Eleventh Century* (Brill, 2009).

[321] Simon Keynes, "Cnut's Earls," in *The Reign of Cnut, King of England, Denmark and Norway,* ed. Alexander Rumble (Leicester University Press, 1994), 43-88.

[322] Cn 1020; *Gesetze* 1:273. Rabin, *Old English Legal Writings,* 226.

[323] Cn 1020 5; *Gesetze* 1:273. Rabin, *Old English Legal Writings,* 226.

emphasis on *ic* with the use of the reflexive *sylf* contrasts all the more strongly with *eow*.

Cnut casts himself as coming into harm's way to protect the English.[324] This alignment with

the English continues through Cnut's other political writings, which we will see with I-II

Cnut below.
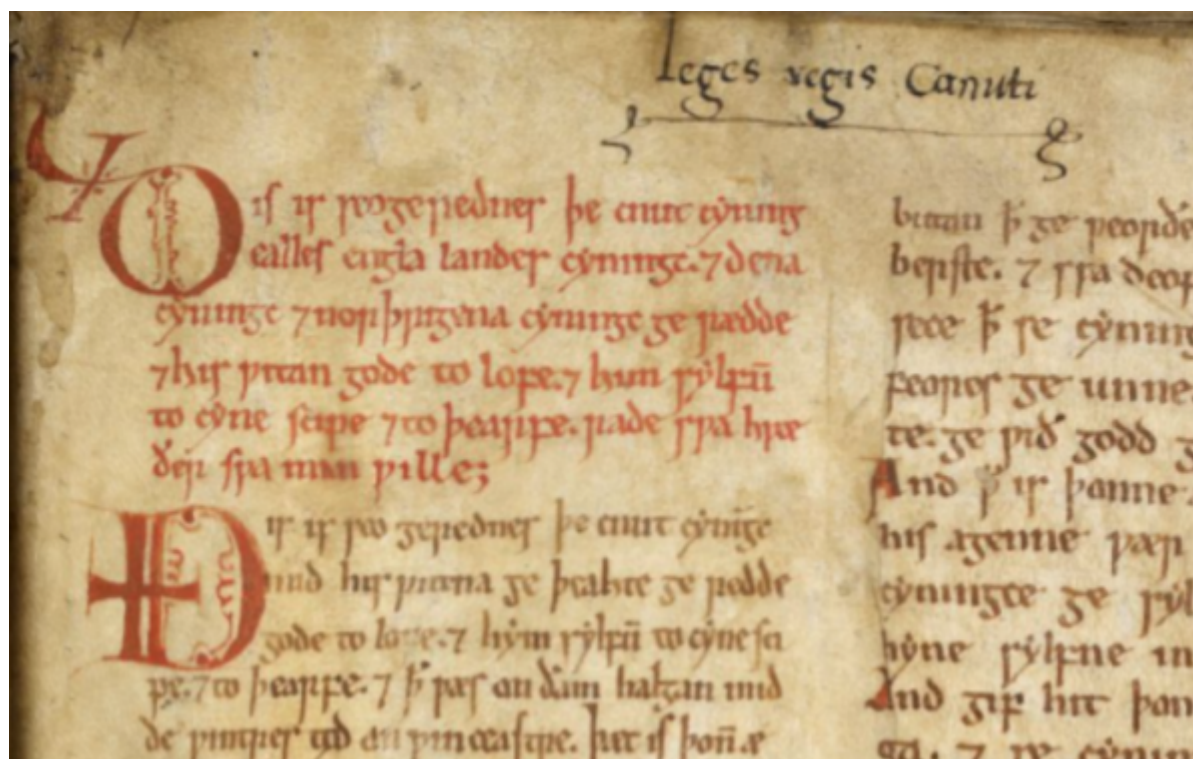
Figure 4: The opening to I Cnut with a prologue not present in other manuscript copies
(British Library, MS Harley 55, f. 5r)

Cnut's Winchester code (c. 1020) is the last surviving code issued in the name of a

pre-Conquest king.[325] However, it is in total the longest of the Old English law codes and is

divided into two parts, a trend begun earlier by Edmund. The first part, commonly referred to

as I Cnut, is the ecclesiastical code, and the second, II Cnut, is the secular code. The

Winchester code is largely a codification of earlier legislation and the text borrows heavily

from the laws of Edgar and Æthelred. As Wulfstan's style is noticeable in the phrasing of the

content, it must have been written before his death in 1023.[326] The text itself varies according

---

[324] He likely would not have been alone in that. The taking of hostages was common in this period and it is possible that Cnut took members of important English families, and English forces, abroad with him to guarantee a rebellion-free England in his absence. Lawson, *Cnut: England's Viking King*, 150-1.

[325] See Pauline Stafford, "The Laws of Cnut and the History of Anglo-Saxon Royal Promises," *Anglo-Saxon England* 10 (1981): 173-190.

[326] See Whitelock, "Wulfstan and the Laws of Cnut," 433-52; and *EHD*, 419.

to its manuscript transmission, which is detailed in Chapter 1.[327] The "A" manuscript contains

a prologue missing from other copies, as well as the following, later inscription preceding the

prologue:

> *Ðis is seo gerednes, þe Cnut cyning, ealles Englalandes cycningc 7 Dena cyningc 7*
>
> *Norþrigena cyninge, gerædde, 7 his witan, Gode to lofe 7 him sylfum to cynescipe 7 to*
>
> *þearfe, rade swa hwæðer swa man wille.*[328]

> [This is the ordinance which King Cnut, king of the land of the English and king of
>
> the Danes and king of the Norwegians, decreed, and his councillors, for the glory of
>
> God and for his own royal dignity and benefit, so let one counsel as one will.]

When contrasted with the original prologue extant in the "A" manuscript, the similarities

stand out:

> *Ðis is seo gerednes, þe Cnut cyningc mid his witena geþeahte geredde, Gode to lofe 7*
>
> *hym sylfum to cynescipe 7 to þearfe; 7 þæt wæs on ðam halgan middewintres tid on*
>
> *Winceastre.*[329]

> [This is the ordinance which King Cnut decreed with the advice of his councillors, for
>
> the glory of God and for his own royal dignity and benefit, and that was in the holy
>
> midwinter season in Winchester.]

The main difference between the two redactions is *Norþrigena cyninge* in the elongated title

given in the later inscription, which is ambitious as Cnut was not directly ruling over any part

of Norway by 1023, and the description of the code's circumstances of issuance given by the

---

[327] The textual variance in the extant manuscripts makes it challenging to create a stemma of I-II Cnut. Liebermann did create an incomplete one, identifying distinct groups, but this overlooked large portions of various readings; see *Gesetze* 3:192.

[328] I Cnut Prol.; *Gesetze* 1:278. As Whitelock notes, this last clause is "rather cryptic" and only included in one manuscript version; *EHD*, 419.

[329] I Cnut Prol.; *Gesetze* 1:278.

original prologue. The prologue also credits Cnut with deciding on the code *mid* his

councillors, and in its syntax it places both Cnut and the *witan* before the verb. In the

inscription, the stress is on Cnut, and his long title, who *gerednes* [decreed] the legislation,

which afterward is also credited to *7 his witan* [and his councillors]; however, the *witan*

appear as an afterthought to Cnut and his long iteration of kingdoms he rules over. This can

also be compared to the prologue to II Cnut, which states: *Ðis is þonne seo worldcunde*

gerednes, þe ic wille mid minan witenan ræde, þæt man healde ofer eall Englaland.[330] [This

is now the secular ordinance, which I, with my councillors' advice, wish that one may

observe all over England.] Unlike the ecclesiastical ordinance, this identically worded

prologue is extant in three manuscripts, as noted in Chapter 1. The secular prologue returns to

the conservative phrasing of the laws decreed after consulting the councillors. Although Cnut

is well on his way to assembling his North Sea empire by this point, the law is only explicitly

applicable in England.[331]
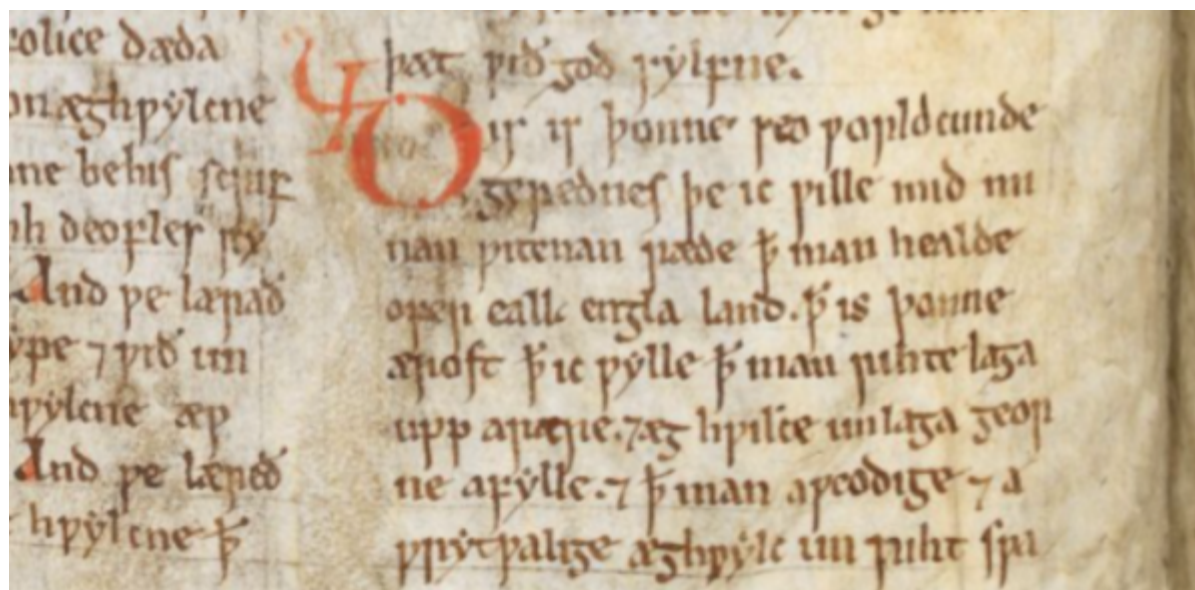
Figure 5: The scribe recognizes the opening of II Cnut as a separate prologue, as indicated by the
red initial (British Library, Harley MS 55, f. 7v)

---

[330] II Cn Prol; *Gesetze* 1:308. Rabin, *Old English Legal Writings*, 254.

[331] Furthermore, the phrase *ealles Englalandes cycningc* appears for the first time here in the Winchester code,
which shifts the focus of rule from one over a people to one over a territory. See Jay Paul Gates, "*Ealles
Englalandes Cyningc*: Cnut's Territorial Kingship and Wulfstan's Paronomastic Play," *The Heroic Age* 14
(2012), n.p. www.heroicage.org/issues/14/toca.php.

Cnut's prologues remain in the tradition of prologues preceding his reign. Unlike some of his immediate predecessors, who take more flexibility in the prologue format and explain their reasons and expand on their authority there, Cnut's authority stems from his conservative attitude and desire to be seen as a continuation of English rule. Politically, he needed to be seen as an English, and not Danish, king in order to maintain his power. His prologue lifts phrases such as *Gode to lofe 7 him sylfum to cynescype* from Edgar's Andover Code, and uses the legal terminology, such as *gerednes* and *cynescipe*, which had rapidly developed over the previous century. Modern historians may thank him for listing the time and place of the code's issue, but this too comes from a long prologue tradition: Edmund's London code has both the season and location, with his prologue attributing even more explicit authority to the king than Cnut's prologue. Even as far back as Wihtræd of Kent at the turn of the eighth century, the location is an important aspect of the prologue (though not every code lists it) and Wihtræd's code is far more precise by comparison, describing the legislation as being given in the fifth winter of the king's reign, in the ninth indiction, sixth day of Rugern. As we have seen, the reason for localizing the legislation is both a matter of authority and veracity. Exeter and Winchester were important cities and the centers of much law making and manuscript copying in early medieval England; by the time London is cited in legislation, it too has been developing in importance. The place of issue for Cnut was then both a matter of record, to distinguish legislation, and also a reflection of the changing power of the place in medieval England.

Conclusion

A spectrum of approaches may be seen through the law codes of Hloþhere and Eadric, Wihtræd, Ine, Alfred, Edward the Elder, Edmund I, Edgar the Peaceful, Æthelred II, and Cnut. The textual paratext of the prologue provides an avenue for interpreting how the royal

legislation was intended by its promulgators to be understood. There are only a small number

of royal law codes without prologues; the majority provide a prologue of anything from a

single line to multiple folios' worth of context and description for the laws accompanying it.

The development of an Old English legal vocabulary, independent from a Latin legal

vocabulary, is traceable through these texts. Beginning with the Kentish prologue's

invocation of ancestral authority to justify its existence, or creating goodwill with the church

by increasing its power, there is a tradition of continuity in these paratexts. Each of these law

codes claims to exist alongside the previous legislation, thereby not superseding but instead

extending the authority of their subject. This is shown through the multiple cross-references,

both to statements within the text itself, as well as previous legal texts, and the statements that

law will be applied as it is *on ðære dombec* [in the law books].[332] The continuation of the

legal practices and laws are clearly seen as an important part of the justification for the law

codes following the prologue. The very existence of cross-references confirms that the

legislative promulgators were familiar with prior law codes and other royal legislation. The

prologues not only introduce, in various ways, a legal tradition that begins with King

Æthelberht and continues through Cnut's law codes, but they also represent different

approaches to legal interpretation.

The prologues hint at the ongoing struggle through the Middle Ages between the king

and his secular power, on the one hand, and the Church's attempt to maintain and expand its

position, on the other.[333] Behind their diction, couched in terms of traditionalism and

historical authority, lies the promotion of new secular and ecclesiastical laws which expanded

the influence and power of the early medieval king. All the royal prologues suggest a

common intention, namely, to show who the promulgator of the law is, to whom and through

whom it is conferred, and the purpose of the law or why the code should be accepted. The

---

[332] 1 Ew Prol.; *Gesetze*, 1:138.

[333] Blair's *The Church in Anglo-Saxon Society* and Sarah Foot's *Monastic Life in Anglo-Saxon England, c. 600-900* (Cambridge University Press, 2009), both cover the developing role of the Church during this period.

evidence above shows that previous work on the prologues does not fully capture the complexities of these texts and their engagement with these concepts. For example, Michael Treschow characterizes the prologues as all "[having] a standard opening that is both direct and short. An inscription would identify the king promulgating the law code; then in a short preface the king would authorize the law code in the first person, state that the law code arises out of due consultation, and explain, if necessary, what conditions led to its issuance."[334] Based on the law code prologues we have seen, this is a mischaracterization. The king does not reliably authorize the law code in the first person nor always mention a consultation; instead, this is a trend of the prologues in the middle of the period. In contrast, the very early and very late legal prologues of the period are written in the third-person singular. The law codes of Hloþhere and Eadric, and of Wihtræd, emphasize the wisdom of others, whether these be their ancestors or the *witan*, in law-making which the royal codes then promulgate. It is only then that Ine, Alfred, Æthelstan, and Edmund all author their prologues in the first-person singular, bringing a personal style and simultaneously stressing the individual authority of the king. After Edmund, prefatory detachment and the use of the third person regains popularity, with Edgar, Æthelred, and Cnut nearly all issuing prologues in the third-person singular; even later codes, such as William I's in French and Henry I's in Latin, are written in the third-person singular.

Nor is the mention of consultation included in all the royal texts; the extraordinary I-II Edward, written in epistolary form, is a reprimand to his reeves and has therefore no mention of the laws being in consultation with a *witan* or other group of councillors. The emphasis on the *witan*, or others consulted on the legislation, is tied to how much personal authority the king exhibits in the prologue. The more emphasis on the king, with a greater number of *ic* or *mine* statements, the less emphasis on the input of others. The prologues therefore vary in

---

[334] Michael Treschow, "The Prologue to Alfred's Law Code: Instruction in the Spirit of Mercy," *Florilegium* 13 (1994): 80.

format from the concise, informative entry to a longer, more self-conscious, descriptive text

drawing on a common dossier of sources. Alfred is noteworthy for his use of authorities,

preeminently Mosaic law but also Biblical sources, particularly Exodus, Matthew, and Acts

of the Apostles, and for the explicit indication of Alfred's personal involvement in the

creation of the *domboc.* His grandson, Æthelstan I, incorporates Mosaic law into the body of

the law code itself. As the medieval period progresses, the invocation of past legal authority

in the prologues changes with it. While Alfred cites Mosaic law, I Edward instead cites

Alfred's law. Particularly in the tenth and eleventh centuries, the English kings look back to

their own law rather than Biblical or Continental models.

Previous scholars have not identified the various characteristics of prologues in the

vernacular law codes. These are: first, the naming of the ruler under whom the code is

promulgated (in the case of all non-anonymous legislation) with a frequent and separate

furnishing of a title; second, noting how the laws were changed; third, leaning on traditional

authority, be it an entirely new law code or "extending" a previous code; and fourth,

justifying the code by invoking the authority of another person or source. The Old English

legal prologues can be categorized accordingly. Many (but not all) of these prologues also

include details of the time and place of issue. However, these introductions are not *pro forma*

but valuable sources for the particulars of the law and frequent indicators of the content of the

law code that follows. They contain rhetorical devices which are found in prologues of all

genres, including an invocation of and reverence for tradition, even as some prologues invert

that with explicit declarations of change in the accompanying law book.[335] Hloþhere and

Eadric's rubric and prologue in the *Textus Roffensis* illustrate this tension between

establishing and extending the current laws. King Alfred does the same, although he

distributes blame to his councillors for any faults in the changes. Edward likewise uses the

---

[335] For functions and development of prologues, see Dearnley, *Translators and Their Prologues;* also, Minnis, *Medieval Theory of Authorship.*

prologue to lambast his reeves for failing to carry out his laws. All of these prologues are an important part of the transmission history of the law codes and they all make use of this paratextual frame structure to justify and authorize their texts. The use of a prologue indicates that a wide audience is expected; the use of the first person is a particularly strong way of signalling royal authority and identity. The invocation of historical and religious sources creates an implicit parallel between the kings and whomever they allude to; King Alfred implicitly becomes Moses's earthly successor, imbued with all his authority. Ine and Æthelstan claim religious authority with their invocations of God. Edmund uses his prologue to explicitly issue legislation to promote Christianity. Beginning with Ine, and with the notable exception of the epistolary prologues of I-II Edward, it becomes common to invoke God through the prologue. This is especially prominent in X Æthelred. Tying royal power to the spread of religion in England, through the use of religious justifications for kingship, is evident through the prominence of phrases such as *Gode to lofe 7 him sylfum to cynescype*. The king's peace becomes God's peace.

In this way, my study of the prologues to these royal texts sheds light not only on the development of English legal culture between 600 and 1021, but also on the increased personal authority of the king. Whereas the Kentish law codes rely heavily on the authority of the councillors, and solely justify their existence through the councillors' approval, the later law codes provide a mix of sources to justify their promulgation. By no longer leaning as heavily on the authority of the *witan* or individual archbishops, the king increased his own power. This is not to say that religious leaders, such as the archbishops of Rochester or London, were ever divested of input into the new law codes. However, through the later invocations of God, the kings could rely on a religious obligation to save people's souls through ensuring obedience to their codes. After the unification of the disparate kingdoms, the development of a single king of early medieval England, and the creation of a title that

could be claimed with that, the prologues assert more royal authority and their format reflects that change. The promulgation of these royal law codes creates a single, authoritative source of law, solidifying and centralizing royal power. No longer as constricted by tradition as the earlier kings, Alfred is free to lay claim, and Edward to decry, various parts of the law codes. This trend is halted by the arrival of Wulfstan as the author of Æthelred and Cnut's legislation. The prologues lose their personalization and become perfunctory, no longer expanding the kings' authority but simply becoming records of the place and circumstances of their issue — with a note for the legislative impetus. Wulfstan was uninterested in highlighting the role of the king, and instead shared the law-making credit with the *witan*. Again, the exception to this is X Æthelred, where the king's humility is a method of expanding Christianity.

The law codes develop in complexity, both in syntax and content, over the early medieval period and the prologues provide crucial insight into these changes. While the codes initially combine all aspects of law into one text, Edgar is the first king to combine ecclesiastical and secular codes into a two-part text, a trend that Æthelred follows. While the first part of such legislation may receive a more detailed prologue, the second section also receives a brief explanatory note. This indicates an understanding of the prologue as a space for details not necessarily contained within the legislative text itself and a greater flexibility to the prologue itself. By harnessing this space, the ecclesiastical and secular codes are separated, yet remain in a single legislative document. Whereas early codes include all the clauses intermingled, Edgar's law codes begin to establish an order and a separation between the ecclesiastical and secular is established. This evinces a degree of thought, hitherto unseen, which is at that point being placed in the structure of the legislation. Legal words and phrases develop to accommodate the expansion of vernacular law, and specifically that of the king's

authority. When the Danes invade, we see the influence of their language on the Old English

prologues. As we will see shortly, this language permeated the legislative body as well.

Chapter 4: *Cynescipe* and *Cynehlaford* as the Language of Kingship

The prologues to the vernacular law codes display an ambitious view of kingship and law-making that is, at times, hypothetical or opportunistic. By examining the prologues as a genre we have seen the entire developmental scope of this type of writing in the extant manuscripts. This has given us an expansive view and demonstrated significant trends in law-writing, including the use of literary techniques to further political aims. Let us now further examine the textual development of law by taking a specific look at individual words related to kingship and their developments across both legal and nonlegal texts. In this chapter, I track the prefixoid *cyne*, which gives us a large pool of related words present in both literature and law. This allows us to scrutinize some of the recurring words we saw in the prologues, and analyze their development by seeing how writers like Æthelwold, Ælfric, and Wulfstan employed them. In particular, I will demonstrate how tracing the occurrences of the term *cynescipe* [royal dignity] in the extant texts reveals Bishop Æthelwold's prominent role in the promulgation of legal vocabulary.

The choice of *cyne* is in some ways an obvious one: the term has an explicit connection to kingship, as it literally means "kingly" or "royal," and is the first element of many words describing and delineating kingship.[336] Furthermore, it is an allomorph of *cyning* [king]. The term functions as a demarcation of power and serves to emphasize royal right. Moreover, *cyne* and its related forms sit at the juncture of what we consider legal and what we consider literary. The term occurs throughout Old English literature emphasizing legal rights, and yet is used to provide literary flourishes in law codes as well. This chapter mixes qualitative and quantitative analysis to assess the form and function of *cyne* as a morpheme, in order to illustrate the intersection of legal and literary terminology.

---

[336] *DOE* "*cyne*," see also *cyneboren*, *cynedom*, *cynegeld* (all contained in Appendix B) for examples of a linguistic delineation of kingship, in addition to *cynescipe* and *cynehlaford*, which I will discuss in great detail below.

Cyne- as an Prefixoid

I follow the example of the editors of the *Dictionary of Old English* in treating *cyne* as an

element in compound words despite it not existing independently as an adjective.[337] Instead,

cyne is an affix, specifically a prefixoid, as it is "no longer a free lexical item" but is still used

to create new words.[338] However, it is functionally treated as a compound by both medieval

and modern scholars. Compounds are a unique linguistic feature which offers unparalleled

insight into culture via language. As Jonathan Davis-Secord wrote in his seminal book on Old

English compounds, "No other Old English linguistic feature bridges the supposed divides

between basic word formation, rhetorical traditions, and cultural practices."[339] By combining

two words, compounds function similarly to kennings.[340] However, as Don Chapman

remarked in his study of Wulfstan's vocabulary, "neither Wulfstan nor his contemporaries

would have likely distinguished between compounds and words formed by affixes on the

basis of whether or not the morphemes were independent."[341] While scholarly studies of

compounds typically focus on broad overviews, or their relationship to specific works like

Beowulf or *Andreas*, I focus on the single element, *cyne,* and its different uses in compound

words across writers and works.[342] By tracking these words, we can uncover how authority

was discussed and demanded across a variety of texts and time periods. The following

discussion examines the occurrences of *cyne* as a prefixoid before narrowing in on two

---

[337] *DOE "cyne."* The discussion of *cyne* as an element in place names is outside the scope of this chapter and excluded from all analysis and calculations.

[338] Geert Booij and Matthias Hüning "Affixoids and Constructional Idioms," in *Extending the Scope of Construction Grammar,* eds. Ronny Boogaart, Timothy Colleman, Gijsbert Rutten, Cognitive Linguistics Research 94 (Walter de Gruyter, 2014), 91.

[339] Jonathan Davis-Secord, *Joinings: Compound Words in Old English Literature* (University of Toronto Press, 2016), 4.

[340] This connection has long been recognized and Brodeur called them "the richest and most meaningful content words." Arthur Gilchrist Brodeur, *The Art of Beowulf* (University of California Press, 1959), 8.

[341] Don Chapman, "Stylistic Use of Nominal Compounds in Wulfstan's Sermons" (PhD diss., University of Toronto, 1995), 29.

[342] For instance, Lee Charles Overholser, "A Comparative Study of the Compound Use of *Andreas* and *Beowulf*" (PhD diss., University of Michigan, 1971). See also John D. Niles, "Compound Diction and the Style of Beowulf," *English Studies* 62, no. 6 (1981): 489-503; and David Maddock, "The Composite Nature of *Andreas,*" *Humanities* 8 (2019): 1-23.

specific uses: *cynescipe* and *cynehlaford*. With its relationship to "king" and "royal," *cyne* serves as a linguistic indicator of power and evokes the cultural context of royal ambition.

By focusing on a single term, we can see how it operates in several different words and across the works of multiple writers. *Cyne* is primarily used as the first element of compound words, and less commonly used in intensifiers.[343] Only four of these words, functioning as adjectival compounds, are used as intensifiers across the corpus; I have listed them below, and they are also listed in Appendix B in descending order by number of occurrences:

> *cynegod* [very good]
>
> *cynerof* [very brave]
>
> *cynebeald* [very bold]
>
> *cynesacerdlic* [very priestly]

In each of these, the first element, *cyne,* acts as a basis of comparison for the second element, the adjective.[344] As intensifiers, they are used to emphasize their kingly qualities; for instance, while *cynebeald* means "very bold," it does so in a way that emphasizes the person is "bold like a king." With the exception of *cynesacerdlic*, a hapax legomenon, these are all poetic examples. The word *cynegod* is used in poetry as an alliterative compound and frequently bears a primary stress. For instance, in *Genesis A*, the compound is used to emphasize the noble characteristics of Abraham and Lot: *Him þa cynegode on Carran / æðelinga bearn eard genamon, / weras mid wifum.*[345] [The very good sons of noblemen seized land in Carron, men with wives.] Already positioned as sons of noblemen, their nobility is reiterated with

---

[343] Ursula Lenker, "Booster Prefixes in Old English – An Alternative View of the Roots of ME *forsooth*," *English Language and Linguistics* 12, no. 2 (2008): 245-265.

[344] As intensifiers, these are the first type of compound that Don Chapman and Ryan Christensen discuss in their examination of compounds as poetic types. Don Chapman and Ryan Christensen, "Noun-Adjective Compounds as a Poetic Type in Old English," *English Studies* 88, no. 4 (2007): 451.

[345] *Genesis A* l. 1590. Other examples include *Daniel* ll. 196 and 431, *Genesis A* ll. 1588 and 1736, and *Widsith* l. 54.

cynegod, stressing that they are as good or as noble as kings. The next intensifying

compound, *cynerof*, is also used in *Andreas* and *Judith* as a stress-bearing alliterative

compound.[346] Alliteration holds the poetry together through a process of linking discrete

elements into a cohesive whole; or, as the author of the Third Grammatical Treatise describes

it, like nails in planks hold a ship together.[347] Dais-Secord writes that "Compounds are...key

to several of the most important aspects of traditional style: metre, alliteration, repetition,

variation, epithets, and the linkage to the cultural context of the tradition."[348] *Cyne* adds

additional social intensity to the completed words. Why modify the secondary adjective in the

first place? After all, the word *cynegod* means "good" regardless of whether or not it is as

good as a king. Don Chapman and Ryan Christensen argue that "since there is less reason to

coin adjective compounds, the adjectives that are formed by compounding are more likely to

be formed for poetic or stylistic effect."[349] What we are seeing here is compound creation in

poetry as linguistic adornment. These compound forms also provide opportunities for poets to

alliterate with other words where simplexes would not fit in the Old English meter.[350] There is

a symbiotic relationship between alliteration and compound forms. In the Latin poetic

tradition, alliteration is considered a linguistic adornment; in vernacular poetry, alliteration is

a fundamental element.[351]

However, not all forms of *cyne* are adjectival compounds, or this straightforward. The

following compounds are hapax legomena, and include those listed as intensifiers above:

cynebeald [very bold], *cynebend* [royal crown], *cynegyld* [king's compensation], *cynehof*

[royal dwelling], *cyneleofe* [beloved lord], *cynelicnes* [kingliness], *cynemearc* [mark

---

[346] See *Judith* ll. 200b and 311b, and *Andreas* 483a and 584a. Several other *cyne* compounds appear in *Andreas*, including *cynebearn*, l. 566a, *cynestole*, l. 666b, *cyneþrym*, l. 1322a, and *cynebeald*, l. 167a. I will return to the subject of alliteration in Chapter 5, with the word *berstan*.

[347] Björn Magnússon Ólsen, *Den Tredje og Fjærde Grammatiske Afhandling i Snorres Edda* (Fr. G. Knudtzon, 1884), 96-7.

[348] Davis-Secord, *Joinings*, 24.

[349] Chapman and Christensen, "Noun-Adjective Compounds," 456.

[350] Geoffrey Russom, *Old English Meter and Linguistic Theory* (Cambridge University Press, 1987), 91-4.

[351] Davis-Secord, *Joinings*, 19.

indicating royalty], *cyneriht* [royal right], *cynesacerdlic* [very priestly], *cyneseld* [royal hall], *cynestræt* [king's highway], *cyneþrymlic* [glorious as a king], *cynegewædum* [royal robe], *cyneword* [royal word], and *cynewurðe* [majestic]. Included in this list are also absolute hapaxes, unique formations that appear in only a single text in the entire Old English corpus. *Cynestræt* is a gloss of the Latin *publicum* "public place," and seems to be a condensed form of *cyninga herestræt* [king's highway].[352] We see this in the translation of Gregory the Great's *Pastoral Care*; *herestræt* is frequently seen elsewhere in charter bounds. Many of these nonce words are glosses to Latin. In looking for the right words to convey Latin terms, the Old English translators coined new ones; we will see more of this same strategy, but in reverse, in Chapter 6 with how Latin translators chose to deal with vernacular terminology. With the nonce words above, affixing the first component, *cyne*, changes the meaning of the second component from a general to a specific meaning. This type of semanticization of lexical forms allows for more exact meaning. But how frequently did early medieval writers actually take advantage of this?

I have collated all the compound forms of *cyne* in Appendix B and listed them by descending frequency of occurrences. I have calculated that nouns make up 74.3% of occurrences, followed by adjectives at 23.1%, with adverbs and verbs trailing far behind at 2% and 0.61% respectively.[353] The distribution heavily favors nouns and disfavors verbs. This behavior shows a preference for certain syntactic categories but also shows that *cyne* has no prerequisite for affixation as the first part of these complex words. Writers attached *cyne* to multiple parts of speech to clarify or expand on their meaning. By using Baayen and Lieber's Index of Productivity, we can calculate the productivity of the nonce words resulting in a

---

[352] W. G. Stryker, "The Latin-Old English Glossary in MS Cotton Cleopatra A.III" (PhD diss., Stanford University, 1951).

[353] I have calculated this number by tallying the total individual occurrences of each *cyne* compound included in the lists above, then separating each occurrence out by part of speech, and finally dividing the summed part of speech by the total individual occurrences. To calculate these figures, I have used the *DOE*'s collation of related compound words, including several additions that I have found myself in the course of this study, including *cyneleofe* and *cynewynne*.

score of 0.0214.[354] This is the rate at which we expect new types, or affixations with *cyne*, to

appear when we sample a certain number of words. The score shows us that as an affix, *cyne*

can be easily used to coin new forms, making the productivity index high. If instead, we saw

that the prefix had a high frequency but low productivity index, we would expect it to be used

frequently on stable words but rarely to coin new words. This affixation permitted glossators,

translators, and prose writers to be more precise in their writing as they layered the base word

with a secondary meaning. Because of this, and as we have seen above, *cyne* therefore takes a

number of forms.

In this chapter, I address two examples that illustrate what will turn out to be

particularly poignant crossovers between legal and nonlegal texts. First, I will discuss

cynescipe [royal dignity] and what the term shows us about how diction is localized and

transmitted. Then, I will analyze *cynehlaford* [royal lord] as the word form with the highest

usage in legal writing (including charters). This is important as Bishop Æthelwold, one of the

major figures in tenth-century England, was involved with the creation of many of these

charters, and is a prominent figure in the spread of both *cynescipe* and *cynehlaford*. I will

conclude with a discussion of what these terms tell us about how kingship was envisioned

and how individual terms spread in early medieval England.

Cynescipe

The word *cynescipe*, or "royal dignity," demonstrates how a term spreads from law to

literature. Succinct analysis of the term is feasible because, according to the *DOE*, there are

17 appearances of the word in the Old English corpus, the majority of which are in legal

---

[354] *P=n1/N*, where *P* is productivity, *n1* is the quotient of nonce words, and *N* is the number of total occurrences. Harald Baayen and Rochelle Lieber, "Productivity and English derivation: A Corpus-based Study," *Linguistics* 29 (1991): 809. Compare this figure to the low productivity index of *-sian* or *-nian* suffixed verbs, 0.001772 and 0.002361 respectively, as calculated by Roberto Torre Alonso and Gema Maíz Villalta, "Hapax Legomena and the Productivity of the Old English Weak Verb Suffixes," *Nordic Journal of English Studies* 13, no. 3 (2014): 199.

contexts. The first appearance of the term *cynescipe* is in the mid-tenth century during the

reign of King Edgar the Peaceful. This word appears throughout Edgar's legislation, first in

the Andover Code, and then the *Wihtbordesstan* Code. After this, we see the appearance of

the word in two charters, one during Edgar's reign and one after, followed by its use in

literature, and then reappearing in Cnut's law codes in the early eleventh century. In total,

these occurrences span about 60 years. Although historically scholars have talked about it as

if it were a popular term, I show below that all the uses of *cynescipe* are instead connected to

Bishop Æthelwold of Winchester and his circle — with one exception. Therefore, I begin

with a discussion of Bishop Æthelwold's relevant background to allow us to analyze his role

in connection with *cynescipe* in early law and then Old English literature.

Æthelwold was one of the leaders of the tenth-century monastic reform movement in

England. Originally from Winchester, he was involved with the royal courts from a young

age, later teaching the future King Edgar and backing Edgar's succession to the throne.[355]

Edgar was crowned in 959 and, from 960 to 963, Æthelwold was in the king's personal

service.[356] Simon Keynes describes their close relationship, writing: "There can be no doubt,

in other words, that Æthelwold enjoyed special standing in the early years of Edgar's reign at

meetings of the king and his councillors, which at this stage makes him unique among heads

of religious houses."[357] In late 963, Edgar appointed Æthelwold Bishop of Winchester, a

position Æthewold remained in until his death in 984. In 960, while Æthelwold was in the

personal service of Edgar, the king issued his Andover code containing the earliest

appearance of the term *cynescipe*. The Andover code was the first major legislative triumph

of Edgar's reign and is also one of the best-attested pieces of early English legislation.[358] As

[355] Julia Barrow, "The Ideology of the Tenth-Century English Benedictine 'Reform,'" in *Challenging the Boundaries of Medieval History: The Legacy of Timothy Reuter*, ed. Patricia Skinner (Brepols, 2009), 145.

[356] Barbara Yorke, "Æthelwold [St Æthelwold, Ethelwold] (904x9–984), abbot of Abingdon and bishop of Winchester," Oxford Dictionary of National Biography (23 Sep. 2004), accessed 12 Mar. 2020.

[357] Simon Keynes, "Edgar, *Rex Admirabilis*," in *Edgar, King of the English, 959-975: New Interpretations*, ed. Donald Scragg (Boydell & Brewer, 2014), 29.

[358] While the Andover code itself does not specify the location of its issue, the *Wihtbordesstan* code cites it as *þe mine witan æt Andeferan geræddon* [what my councillors decreed at Andover]. See IV Eg 1:4; *Gesetze* 1:198.

we saw in Chapter 3, two of the manuscripts contain identically-worded prologues, which state: *Ðis is seo gerædnes, þe Eadgar cyng mid witan geþeahte gerædde, Gode to lofe 7 him sylfum to cynescype 7 eallum his leodscype to þearfe.* [This is the ordinance which King Edgar decreed with the advice of his councillors, for the glory of God and his own royal dignity and for the benefit of all his people.][359] The term *cynescipe* should be understood as connoting royal power — with a particular focus here in Edgar's laws on his rank as king. When the Andover Code was translated into Latin, the term *cynescipe* was expanded in the accusative as *regiam dignitatem,* also meaning royal dignity.[360] While we frequently see glossators using several words to gloss a single Latin lemma in Old English, here we have the translator recognizing the two critical elements of the compound and using several words to convey the full meaning of *cynescipe*.[361] This strategy is used with words that are not derived from Latin but instead of English invention, something I expand upon in Chapter 6.

Only three years after Edgar issued the Andover code, and while Æthelwold was still in his service, the king promulgated the *Wihtbordesstan* code. Once again, the prologue uses the same language to refer to the king:

Woruldgerihta ic wille þæt standen on ælcum leodscipe swa gode swa hy mon betste aredian mæge, Gode to gecwemnysse 7 me to fullum cynescipe... 7 to ælcere byrig 7 on ælcere scire hæbbe ic mines cynescipes gerihta, swa min fæder hæfde.[362]

[I will that secular rights be in force amongst all my people as well as they can best be devised, to the satisfaction of God and for my full royal dignity... and in every

---

The law code survives in six manuscripts and Wormald argues that these form two or three transmission groups. For a full discussion of the scribal differences suggesting manuscript relationships, see Wormald, *The Making of English Law*, 313-4.

[359] II-III Eg Prol.; *Gesetze* 1:194.

[360] From *Quad*: *deo ad gloriam et sibi ad regiam dignitatem*; see *Gesetze* 1:195.

[361] For the use of complex words as translation tools, see Davis-Secord's *Joinings*, 37-70.

[362] IV Eg 2-2a Prol.; *Gesetze* 1:208.

borough and in every shire I have the rights belonging to my complete royal dignity,

just as my father had].

Cynescipe is used twice in short succession in the passage above to drive home Edgar's royal

authority as stemming from both traditional authority and from divine will. We have seen

cyne as the first part of many compounds, and here it is combined with *scipe* as the second

element. As a word, Bosworth-Toller takes *scipe* to mean "state, condition, dignity, office"

and it is used to form many nouns.[363] Patrick Wormald translated this word as "kingship,"

encompassing the same idea — that a king's authority and kingship are explicitly linked.

Over time, kings became more proactive and less reactive with their law-making, and

separating a king's advice and the act of law-giving became impossible.

Dorothy Whitelock noted that, thanks to the content and the homiletic style of the

Wihtbordesstan code, "It is tempting to connect [the code] with one of the great churchmen

who surrounded King Edgar."[364] My research demonstrates that we can take this further: I

propose that Æthelwold was involved in the creation of these codes.[365] Provided that the

dating of the code is accurate to 963, which is consistent with the pestilence mentioned in the

prologue, then Æthelwold is serving directly under King Edgar and could easily have been

involved with any creation of a legal code.[366] After all, not only was Æthelwold intricately

involved with the goings-on of Edgar's court, he was also linked to legal writings his entire

life. As Barbara Yorke observes, there is a strong possibility that he is the same Æthelwold

who appeared as a witness in charters in the years 932 and 934.[367] We do know that

---

[363] Bosworth Toller, "*scipe.*"

[364] Dorothy Whitelock, *EHD*, 398.

[365] Moreover, we have precedent for churchmen helping with the construction of royal codes, as thirty years earlier, Archbishop Wulfhem had been involved in the composition of King Athelstan's laws. *Gesetze* 1:146.

[366] Dorothy Whitelock places the date of the *Wihtbordesstan* code at c. 963 while Patrick Wormald places it later in Edgar's reign. I prefer the date of 963 as the pestilence mentioned at the time in the *ASC* entry fits with the prologue to the code. While Wormald raises the question of Earl Oslac's presence in the northern recension of *ASC* — which has him appointed in 966 — it is redacted in the later tenth or early eleventh century; furthermore, Oslac already attests a diploma in 963 (see S 716) so a c.963 date for the code is entirely possible. See also Whitelock's *EHD* and Wormald's *The Making of English Law* for their respective arguments.

[367] S 417 and S 425. See Yorke, "Æthelwold."

Æthelwold is the scribe known as "Edgar A," responsible for a large number of the charters that survive from the first four years of the king's reign.[368] Æthelwold is also listed as a witness in many of the charters of the time, often the only religious figure to be included.[369] He continues to be linked to legal writings after he is consecrated as Bishop of Winchester. When the synod in Winchester was held sometime between 970 and 973, the attendees decided that all monastic communities in England would follow a common rule; this was the creation of the *Regularis concordia*, the customary adopted and written by Æthelwold himself.[370] As Yorke writes, "His pupil Ælfric identifies Æthelwold as the author in a composition he wrote for his own monks at Eynsham and there are also verbal links with other works attributed to Æthelwold."[371] Edgar's *Wihtbordesstan* code reflects many of the sentiments consistent with Edgar and Æthelwold's religious and political aims, and is very much aligned with their promotion of the Benedictine order. I contend that Æthelwold must have been involved.

If *cynescipe* were a widespread legal term, then we would expect to see the word used outside of Æthelwold's immediate circle, particularly since Edgar's *Wihtbordesstan* code includes a provision that multiple copies should be made and sent out "in all directions" so that the law may be known by rich and poor alike.[372] Assuming these manuscripts were indeed sent out and copies made, it is feasible that the term would catch on and begin to appear in other texts, legal or otherwise. However, as we saw in Chapter 3, in stark contrast to Edgar's Andover code, his *Wihtbordesstan* code is poorly attested and only survives in two manuscripts. Liebermann noted that these manuscripts share a textual kinship and Wormald

---

[368] York, "Æthelwold."

[369] Simon Keynes, *An Atlas of Attestations in Anglo-Saxon Charters, c. 670-1066* (University of Cambridge, 1998).

[370] homas Symons, ed. and trans., *Regularis Concordia Anglicae Nationis Monachorum Sanctimonialiumque / The Monastic Agreement of the Monks and Nuns of the English Nation* (Thomas Nelson, 1953). Also, Dorothy Whitelock, Martin Brett, and Christopher N. L. Brooke, eds., *Councils and Synods with Other Documents Relating to the English Church, 871–1204*, 2 vols. (Clarendon Press, 1981).

[371] York, "Æthelwold."

[372] Wormald, *The Making of English Law*, 317.

argued that they "represent no more than a single line of transmission."[373] As such, we see no immediate evidence of the term spreading outside of Edgar's court.

Chronologically, the next time the term *cynescipe* is attested is in the opening to Ælfgifu's will when she leaves land to the Old Minster, Winchester, frees her slaves and grants possessions to her relatives.[374] She opens the will with the statement: *þis ys Ælfgyfæ gegurning to hiræ cinehlafordæ; þæt is þæt heo hyne bitt for Godæs lufun and for cynescypæ þæt heo mote beon hyre cwydes wyrðæ.*[375] [This is Ælfgifu's request of her royal lord, which is that she asks him on account of the love of God and on account of his royal dignity, that she may be entitled to make her will.] This opening connects the king's royal dignity with his role as *cynehlaford*, or royal lord, a term that will be discussed later in this chapter. The pressing question here becomes: how does *cynescipe* come to be in this will when it has only been attested in Edgar's law codes so far? The answer lies with Bishop Æthelwold. By 966, Edgar had appointed Æthelwold to the vacant see of Winchester, and the newly consecrated bishop expelled the clerics of the Old and New Minsters and replaced them with monks. Æthelwold's influence extended to Nunnaminster as well; Yorke describes how "Nunnaminster in Winchester and probably other nunneries in the Winchester diocese were also affected by Æthelwold's zeal" as they were "enclosed by walls at this time."[376] Alongside Ælfgifu's land grant, she makes a personal grant and plea to Æthelwold, writing: *And ic ann Æþelwoldæ bisceopæ þæs landæs æt Tæafersceat. And bidde hinæ þæt hæ symlie þingiæ for minæ modor an for me.*[377] [I grant to Bishop Æthelwold the estate at Tæafersceat and ask him that he will always intercede for my mother and me.] She also grants land to the Old Minster, New Minster, and Nunnaminster — all places Æthelwold had a personal interest in. A strong

---

[373] Wormald, *The Making of English Law*, 317.

[374] S 1484, dated to 966x975. Ælfgifu has not been positively identified. See Richard Marsden, "The Will of Ælfgifu," in *The Old English Reader*, 2nd ed. (Cambridge University Press, 2015), 128-131.

[375] S 1484.

[376] Yorke, "Æthelwold."

[377] S 1484.

possibility is that Æthelwold himself may have brought the term with him back to Winchester and influenced the phrasing of the will. To further underline this, we know that Æthelwold was highly involved with the scriptorium at Winchester as he commissioned manuscripts and the Winchester school of manuscript illumination reached its peak while he was bishop. One manuscript, the Benedictional of Saint Æthelwold, even includes a Latin inscription describing how Bishop Æthelwold commissioned its creation.[378]

In 984, Bishop Æthelwold died. But at some point after 987, one of the king's followers, a different Æthelwold, had his will recorded, where he directed his possessions to his wife with reversion to New Minster, upon her death. The will opens with the statement:

> *Ðis is Aþelwoldis cwyde. þæt is ærest þæt he bitt his cynehlaford for Godes lufon 7 for his cynescipe þæt his cwyde standen mote on þæm þingon þe he æt þe gegearnod hæfþ 7 æt þinum foregengan.*[379]

> [This is Æthelwold's will, which is first that he asks of his royal lord on account of God's love and on account of his royal dignity that his will relating to those things which he has acquired from you and your predecessors may stand.]

Both Ælfgifu and Æthelwold's wills open with quasi-formulaic requests that the king support them; and in making their requests, they both make reference to God's love, the king's royal dignity, and refer to the king as *cynehlaford*. The phrasing of these two requests is too close to be coincidental, and yet there are no other wills containing this exact language. Outside of Winchester, wills contain similar openings but with different diction: *ic bidde minne leouan hlaford for godes lufun. þæt min cwyde standan mote* [I ask my dear lord on account of God's love that my will may stand].[380] This does not include a reference to *cynescipe* nor would we

---

[378] London, British Library, Additional MS 49598.
[379] S 1505.
[380] S 1494.

expect it to since the charter has no connection with Winchester. The use of *cynescipe* in this way, both at Winchester, Æthelwold's seat, cannot be a coincidence.

Yet this is the last time we see the word *cynescipe* in a purely legal context. Next time we meet the term, it has moved from the legal to the nonlegal realm. In the late 990s, Ælfric writes his *Catholic Homilies*, wherein he states: *Ne mæg eorðlic cyning cynelic lybban. Buton he hæbbe ðegenas 7 swa gelogodne hired swa his cynescipe gerisan mæge*.[381] [No worldly king may live royally unless he has retainers and a household regulated in such a way as may befit his royal dignity.] Consistent with its use in legal writing, the term *cynescipe* appears as part of a possessive. Here a king's royal power derives from his *cynescipe*.[382] The connection between Æthelwold and Ælfric is well known, as the bishop was one of Ælfric's teachers at Winchester. Yorke describes Æthelwold's literary legacy, saying "His vernacular writings show a concern with clarity and with defining a precise Old English vocabulary which is believed to have played an important role in the development of Standard Old English."[383] Ælfric followed in his mentor's footsteps: "[Ælfric] continued Æthelwold's concern with grammatical correctness in Old English and with the translation of Latin texts into the vernacular."[384] He went on to become one of the most prolific Old English writers. I argue that Ælfric would have been exposed to the term during his time at Winchester and influenced by Æthelwold's usage of it.

Ælfric uses *cynescipe* a number of times in his literary writings, developing it in subtle ways beyond its strictly legal role. In his *Book of Kings*, Ælfric wields it as a double-edged sword, writing of a sinful king:

---

[381] Ælfric's *Homilies* I, 8 [App]: 533.3.1562, *Third Sunday after Epiphany*. This could be like the Old Norse where a king cannot be a king without a household that includes a royal guard (*hirð*) to act as his emissaries, enforcers, and staff. For more on this, see Chapter 5.

[382] Carola Trips, *Lexical Semantics and Diachronic Morphology: The Development of -hood, -dom and -ship in the History of English, Linguistische Arbeiten* 527 (Walter de Gruyter, 2009), 174.

[383] Yorke, "Æthelwold."

[384] Yorke, "Æthelwold."

þa asende him God to swyðlice steore, swa þæt him comon to ða Chaldeiscan leoda

and hine gebundenne geleddon to Babiloniscre byrig, and on cwearterne bescufon to

sceame his kynescipe.[385]

[Then God sent him a severe punishment, so that the Chaldean people came to him

and brought him bound to the city of Babylon, and threw him in prison to shame his

royal dignity.]

The link between kingship and divine will is maintained as it is God who sends the king a

punishment resulting in him understanding how his royal dignity is connected to good deeds

and the divine; in the passage that follows this one, the king repents of his sins, performs

penance, and God restores him to his kingdom, and his *cynescipe* is presumably once more

intact. Ælfric also uses the term as an opportunity for emphasis through alliteration. This is

the first time we find the term in a negative context, and this is highlighted through the

alliterative connection between *cwearterne* and *kynescipe*. This is only possible in a nonlegal

text, as no law code includes a negative connotation for royal power.

By contrast, in Ælfric's summary of the Biblical story of Esther, the king's mercy is

shown through his great *cynescipe*. Ælfric wrote the Old English version sometime around

the turn of the first millenium.[386] In the story, the king's chief minister, Haman, attempts to

massacre the Jews throughout the empire; through an intervention by Esther, the king's new

wife, the king is convinced to belay the command. In a passage after the king thwarts

Haman's plan to hang the Jewish courtier Mordecai, Esther's cousin, the king announces: *þæt*

þa Iudeiscan moston for his micclan cynescipe beon ealle on friðe 7 unforhte [that the Jews

might all — because of his great royal dignity — be peaceful and unafraid.][387] In Ælfric's

---

[385] Ælfric's *Book of Kings*, 437.

[386] Katrina M. Wilkins, "On Esther," *Journal of Languages, Texts, and Society* 2 (2018): 130.

[387] Wilkins, "On Esther," 150; line 244 in Stuart D. Lee, (ed.), *Ælfric's Homilies on 'Judith', 'Esther' and 'The Maccabees'* (1999). http://users.ox.ac.uk/~stuart/kings All subsequent citations to *Esther* are from this edition.

writings, *cynescipe* then carries a more explicit obligation, one that allows for a king's royal

dignity to remain intact as long as his will is in line with God's will. Sinning, such as the

example in Ælfric's *Book of Kings*, carries a forfeit of the king's *cynescipe*, without which he

is stripped of his kingship and thrown in jail. By repenting and again aligning his will with

God's will, the king's *cynescipe* is restored. In both these examples, which are Biblical in

nature, Ælfric is more concerned with emphasizing how kingship is beholden to divine will,

rather than flaunting kingship as rationale for passing royal legislation.

All the instances of *cynescipe* up to this point have originated from Æthelwold and his

circle — yet there exists a curious outlier with the use of the term in the Old English version

of the *Legend of the Seven Sleepers*. The story goes back to the early Church and the motif

survives in European folktales such as the German Peter Klaus story (re-written in

Washington Irving's Rip van Winkle story): A group of men refuse to cease worshiping God

despite the Roman Emperor's orders. In order to escape the emperor, they hide in a cave and

God puts them to sleep for 372 years. When they awaken, they are hailed as resurrected

martyrs in a thoroughly Christianized society.[388] The author for the Old English version is

anonymous — although writers in the eleventh and twelfth centuries attributed the work to

Ælfric — and this leaves us with contradictory evidence.[389] The first use of the term

cynescipe is in a description of emperor Decius' legacy: *feala oðra casera æfter him rixodon*

ælc æfter oðrum on heora cynescipes wuldre, and on heora anwealdes myrhþe [many other

emperors ruled after him, each after the others with glory in their royal dignity, and joy in

---

[388] Eileen Joy, "The Old English Seven Sleepers, Eros, and the Unincorporable Infinite of the Human Person," in *Anonymous Interpolations in Ælfric's Lives of Saints*, ed. Robin Norris (Medieval Institute Publications, 2011), 71-96.

[389] Traditionally the Old English version of the *Legend of the Seven Sleepers* has been attributed to Ælfric, and the work appears interpolated with Ælfric's *Lives of Saints* in the manuscript; however, the prevailing view has shifted in the past two decades, and I follow Hugh Magennis in considering the work to be by an anonymous author. For the full argument, see Hugh Magennis, *The Anonymous Old English Legend of the Seven Sleepers and its Latin Source*, Durham Medieval Texts 7 (1994), 33-57. Ælfric is certainly aware of the *Seven Sleepers* and references it elsewhere. See Hugh Magennis, "The Old English Legend of the Seven Sleepers and its Latin Source," *Leeds Studies in English* 22 (1991): 43-56.

their authority].[390] There are four appearances of the term in the *Seven Sleepers*; however, the

use above is most consistent with the Winchester wills and Ælfric's literary uses in his *Lives*

of Saints. This changes notably in the next three uses, where *cynescipe* has a very different

meaning. First, we have the line: *ealra manna hlaford geond þas widan worulde, we biddað*

þinne cynescipe þæt þu nan ðingc ne beo dreorig oððe sarig for ðan geongan cnihton…

[Lord of all men throughout this wide world, we ask your royal majesty that you are not cruel

or hurtful to the young warrior…].[391] Here, *cynescipe* translates more closely as "royal

majesty" rather than "royal dignity."[392] The term follows "*þinne,*" the second-person singular

possessive, as well as the predicate "*biddað,*" where its usage has changed to instead form a

title involving direct address. As Carola Trips notes, "this is a metonymic shift arising from

the salient meaning of *-scipe* [as] 'dignity.'"[393] It is this meaning of *cynescipe* that is prevalent

throughout the *Seven Sleepers,* which we can see in the speech a few lines later: *...gyf ðin*

cynescipe swa cwyð, hit geworden bið sona þæt man heora magas gelangie, and hi man

stiðlice ðreatige. [...if your royal majesty says so, it will straightaway happen that their

kinsmen will be sent for and they will be severely threatened].[394] Again, the word *cynescipe*

stands in as a title and a term of respect in direct address, rather than simply a quality

associated with kingship. Towards the end of the *Seven Sleepers*, that trend has crystalized: *ic*

grete þe, leof, eadmodlice, and ic bidde þinne þrymfullan cynescype, þæt þu to us cume swa

þu raþost mæge.[395] [I greet you, Sir, humbly, and I ask your glorious royal majesty that you

come to us as quickly as you can]. The inclusion of "*leof,*" which is also used as a form of

direct address, emphasizes the focus on *cynescipe* in this speech through the flowery

references to the king; the adjective "*þrymfullan*" further modifies the title, thus highlighting

---

[390] *Seven Sleepers*, 319. For the text, see Magennis, *The Anonymous Old English Legend*, 33-57. Ælfric's *Homily I,* 8, 533.3 and *Book of Kings,* 437.

[391] *Seven Sleepers*, 256.

[392] Here the *DOE* inputs a new meaning of *cynescipe* as "(your) majesty." I use "royal majesty" instead to maintain the focus on the *cyne* component.

[393] Trips, *Lexical Semantics and Diachronic Morphology*, 174.

[394] *Seven Sleepers*, 265.

[395] *Seven Sleepers,* 728.

the status of the *cynescipe*. The anonymous author plays with the term, adjusting the meaning to fit the dialogue. In the legal uses of *cynescipe*, there is a clear pattern of use by Æthelwold's circle; literary uses also show a strong connection with Æthelwold's circle, with only the *Seven Sleepers* having no apparent connection to it.

The final occurrences of the word *cynescipe* appear in the writings of Archbishop Wulfstan, who was the other major vernacular writer in early eleventh-century England. In his *Institutes of Polity*, Wulfstan depicts the bishop as a pillar of society and teacher of God's law, yet he balances the bishop's role with that of the king's, with whom earthly power rests.[396] In the incipit, he uses the term that we have come to associate with Æthelwold and his Winchester circle:

> *Bisceopum gebyrað þæt hi mid geþylde geþolian þæt hi sylfe gebetan ne magan, oð þæt hit þam cyncge gecyþed weorðe; 7 bete he syððan Godes æbylhþe þær bisceop ne mæge, gif he Godes willan rihte wylle wyrcean 7 his agene cynescype rihtlice aræran.*[397]

> [It is fitting for bishops that they tolerate with patience what they themselves cannot amend, until it is reported to the king, and he is afterwards to amend the offence against God where the bishop cannot, if he wishes to do God's will and rightly to elevate his own royal dignity].

Wulfstan relies on the original use of *cynescipe* as a characteristic of kingship here, and further tied the king's power and his royal dignity to God's will. As we will see later,

---

[396] Rabin, *Political Writings*; Rabin, *Archbishop Wulfstan of York.* Jost, *Institutes of Polity*, 62; see also the mention of Wulfstan in Dominik Wassenhoven, "The Role of the Bishop in Anglo-Saxon Succession Struggles," in *Leaders of the Anglo-Saxon Church: From Bede to Stigand,* ed. Alexander R. Rumble (Boydell Press, 2012), 107.

[397] See Whitelock, *Councils & Synods,* no. 54, pp. 412-13. Also, Jost, *Institutes of Polity*, 210-16.

Wulfstan's traditional use of both *cynescipe* and *cynehlaford* allows his audience to anticipate his narrative and thereby familiarize themselves with the basic tenets of his sermons.

Wulfstan was heavily involved in composing Cnut's laws, and therefore I argue that we should attribute the appearance of the term in those codes to the archbishop. First, the term appears in the opening to the prologue to Cnut's Winchester code, where it states:

> *Ðis is seo gerednes, þe Cnut cyning, ealles Englalandes cycningc 7 Dena cyningc 7 Norþrigena cyninge, gerædde, 7 his witan, Gode to lofe 7 him sylfum to cynescipe 7 to þearfe, rade swa hwæðer swa man wille.*[398]

> [This is the ordinance which King Cnut, king of the land of the English and king of the Danes and king of the Norwegians, decreed, and his councillors, for the glory of God and for his own royal dignity and benefit.]

This is nearly identical to the phrase in Edgar's code. Cnut's Winchester code survives in three Old English manuscripts, in addition to later, post-Conquest Latin codes. Even accounting for the manuscript variance, and the significantly different prologues between the manuscripts, the term *cynescipe* persists in them all. Similarly, Cnut's Letter of 1020 is a statement on law-giving for both ecclesiastical and secular people, wherein the term *cynescipe* is used twice in short succession:

> *...eac minum ealdormannum ic beode, þæt hy fylstan þam biscopum to Godes gerihtum 7 to minum kynescype 7 to ealles folces þearfe. Gif hwa swa dyrstig sy, gehadod oððe læwede, Denisc oððe Englisc, þæt ongean Godes lage ga 7 ongean minne cynescype oððe ongean woroldriht, 7 nelle betan 7 geswican æfter minra*

---

[398] I Cn Prol.; *Gesetze* 1:278; Rabin, *Old English Legal Writings*, 232.

biscopa tæcinge, þonne bidde ic Þurcyl eorl 7 eac beode, þæt he ðæne unrihtwisan to

rihte gebige, gyf he mæge.[399]

[I also command my ealdormen that they help the bishops in furthering God's rights

and my royal dignity and the benefit to all the people. If there is anyone, ecclesiastical

or lay, Danish or English, so rash as to go against God's law and against my royal

dignity or against the secular law, and will not reform and cease according to the

teaching of my bishops, then I pray and command Earl Thorkell, if he can, that he

cause the unrighteous to do right].

The tying together of earthly and divine power is made explicit in phrases with parallel

structure such as these. As we saw in Chapter 3, Cnut's law codes borrow heavily from

Edgar's codes, and we know that Wulfstan relied upon and annotated the manuscripts

containing Edgar's laws.[400] In drafting the Winchester code and Cnut's Letter of 1020, along

with his *Institute of Polity*, Wulfstan reused the term that I have shown to be closely

associated with Bishop Æthelwold. This shows the enduring influence of early medieval

literary and legal circles, and of Bishop Æthelwold in particular.

In the course of this section, we have seen the term *cynescipe* used in Edgar's law

codes, two wills, a homily by Ælfric, along with his *Lives of Saints*, and the anonymous

Legend of the Seven Sleepers; finally, we saw the term in Wulfstan's *Institutes of Polity*, and

---

[399] Cn 1020: 9; *Gesetze* 1:274; Cn 1020: 3-4 in Rabin, *Old English Legal Writings*, 228.

[400] Moreover, both Whitelock and Knowles have previously laid out the possibility that Wulfstan himself studied at Winchester, and he could therefore have been directly influenced by Bishop Æthelwold. Dorothy Whitelock, "Archbishop Wulfstan, Homilist and Statesman," *Transactions of the Royal Historical Society, Fourth Series* 24 (1942): 35. David Knowles, *The Monastic Order in England: A History of its Development from the Times of St. Dunstan to the Fourth Lateran Council, 940–1216,* 2nd reprint ed. (Cambridge University Press, 1976), 64. However, Rabin disagrees with this outlook in his *Old English Legal Writings,* x-xii, as does Richard Dance in "Sound, Fury, and Signifiers," in *Wulfstan, Archbishop of York: The Proceedings of the Second Alcuin Conference,* ed. Matthew Townend (Brepols, 2004), 29-61. Although Wulfstan may have encountered the term during this time in Winchester, he could also have been influenced by texts that he admired. For the effect of Edgar's codes on Wulfstan, see Stephen Baxter, "Archbishop Wulfstan and the Administration of God's Property," in *Wulfstan, Archbishop of York: the Proceedings of the Second Alcuin Conference,* ed. Matthew Townend (Brepols, 2004), 161-205.

returned to its legal context in Cnut's Winchester code and Letter of 1020. These occurrences span no more than 60 years and, instead of a popular Old English term for kingship, the evidence suggests the word had a limited range of influence with Bishop Æthelwold serving as an important point of connection. As mentioned, Æthelwold was involved in the royal court and in Edgar's personal service during the creation of the Andover and *Wihtbordesstan* codes. Then, sometime after he returned to Winchester, Ælfgifu issued her will there, using the term and explicitly referencing Æthelwold in the course of the text. The next attestation of the term in a will was also written in Winchester; although this occurrence is after Æthelwold's death, one of his pupils could have influenced the text. We see his pupil, Ælfric, continuing to use the term in his writings, and also, for the first time, using it outside of its legal context in his hagiography and homilies. Moreover, in using the term in the *Seven Sleepers*, the anonymous author expanded on its meaning, turning it into a form of direct address. When Wulfstan wrote his *Institutes* and drafted legislation, he was also influenced by Edgar's codes and the terminology therein, and used the term in his legal writings and homilies. By tracing these uses and the efforts of these writers, I have revealed how a term, used initially only in legal writings, developed and spread into nonlegal texts around the turn of the millennium.

Cynehlaford

By tracking *cynehlaford* [royal lord], we can compare the spread of a term related in meaning but with clear functional differences. As a word, *cynehlaford* is on the surface similar to *cynescipe*. With the affixation of *cyne,* both terms emphasize the kingly qualities of their second components. As seen with *cynescipe,* that emphasis is placed on its salient meaning of *-scipe* as "dignity," making *cynescipe* tied to the individual dignity of the king and therefore used most often in legal writing that appears from the king's perspective, i.e., law codes and

especially prologues. However, with *cynehlaford*, the combination of *hlaford*, meaning "lord" or "master" creates a double emphasis on the kingly aspects of the person (lit. "king-lord") and is therefore more often used by outsiders writing about or addressing a king, rather than legal writers writing from the point-of-view of the king. Due to this shift, the majority of appearances of *cynehlaford* are in wills and charters referencing the king, rather than in the royal law codes that are often in the first person and positioned from the king's perspective. Therefore, while the two terms appear to be close in meaning, they are functionally different as distinct words are needed to express separate concepts of kingship.

The term *cynehlaford* frequently appears in legal texts and charters from around the mid-tenth century onward.[401] Once again, the figure of Bishop Æthelwold looms large. The majority of the charters are associated with Winchester in one way or another, either as land grants or with people who lived in the city. In total, 13 charters and five royal laws mention the term *cynehlaford*, many of them multiple times. In Figure 6 below, I have depicted the generally accepted date span for each of the legal texts that *cynehlaford* appears in.

Distribution of Cynehlaford in Legal Texts

---
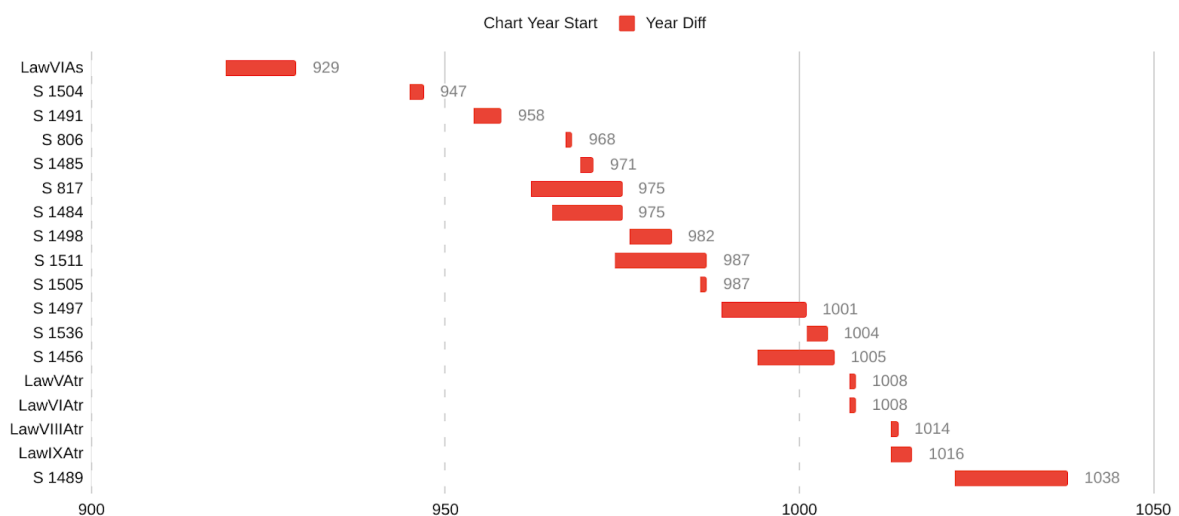
[401] Along with the term's appearances in law, *cynehlaford* is used about half the time in nonlegal texts, if we count each occurrence separately. If we look at the spread across individual texts, then *cynehlaford* is used more widely in law. However, prose writers like Ælfric have a tendency to use the term more than once in a single text, increasing the concentration of occurrences.

The use of the term *cynehlaford* is concentrated in the 960s and 970s, with a second grouping around the turn of the millennium. Half the occurrences are all or partly in Bishop Æthelwold's lifetime. Of those that are not, the majority are either still associated with Winchester, or are Wulfstanian compositions on behalf of the king. After Edgar's death in 975, the writing of wills associated with Æthelwold and Winchester pauses while the royal succession is figured out. Bishop Æthelwold supported Æthelred's succession while Archbishop Dunstan supported Edward.[402] This initiated a period of fraught political turmoil: Edward assumed the throne in 975 and was murdered in May 978. Æthelred was then crowned shortly thereafter. After this, charters from Winchester resume using the term *cynehlaford*.[403]

Unlike with the term *cynescipe,* it is infeasible for us to examine every occurrence of *cynehlaford,* as there are 55 appearances spread across the corpus. Instead, we will look at the most prominent examples, starting with the appearances in legal writings. As *cynehlaford* is the *cyne* term with the highest occurrences in charters, I include a substantial discussion of these works in my analysis of legal texts.[404] Thereafter, I address the occurrences in nonlegal texts showing how Æthelwold's pupils, comfortable with the term, use it consistently in their own prose writings. I conclude by showing how Wulfstan remains a traditionalist in his usage, but Ælfric adjusts the meaning of the term to suit his purposes. Both of these strategies reflect the type of writing favored by these two medieval authors.

Between approximately 946 and 988, nine charters included the term *cynehlaford.* Throughout these, the term is used as one of flattery but also, intriguingly, to separate the current king from his predecessors. In the 960s, Bishop Æthelwold would have recently made

---

[402] Pauline Stafford, *Unification and Conquest: A Political and Social History of England in the Tenth and Eleventh Centuries* (Routledge, 1989).

[403] The dating for S 1489 is from the Electronic Sawyer's entry and is based on Ælfric being ordained as bishop in 1023 and his death in 1038. However, Harold Harefoot was crowned in 1035, and therefore we should be able to narrow this date range to 1035x1038. See https://esawyer.lib.cam.ac.uk/charter/1489.html.

[404] For more on when I include charters, see my Methodology in Chapter 1.

the transition from being a member of Edgar's court to being the king's appointed bishop for the Winchester diocese. Thereafter, King Edgar renewed the privileges of Chilcomb, and the charter text overtly promotes the two men and their relationship:

> *Her is geswutelod on þisum gewrite hu Aþelwold bisceop begeat æt his leofan cynehlaforde Eadgare cyninge þæt he mid geþeahte his witana geniwode Ciltancumbes freols þære halgan þrynnesse 7 sancte Petre 7 sancte Paule into Wintanceastre þan hirede on ealdan mynstre ealswa his yldran hit ær gefreodon, ærest Cynegils cyning 7 his sunu Cynewald cyning þe on angynne cristendomes hit sealdan ealswa hit lið on ælche healfe þæs portes into þære halgan stowe 7 syððan ealle heora æftergengen, þæt wæs Egcbirt cynincg and Aþulf cyning 7 ælfred cynincg 7 Eadweard cynincg.*[405]

> [Here, in this writing, it is made known how Bishop Æthelwold received from his beloved royal lord, King Edgar, that he — with the counsel of his witan — renewed the liberty of Chilcomb to the Holy Trinity and Saint Peter and Saint Paul at Winchester, for the brotherhood of the Old Minster, as his predecessors had freed it before: first King Cynegils, and his son King Cynewald, who in the beginning of Christianity gave it as it lies on each side of the town next to that holy place; and, afterwards, all their successors, that is, King Ecgberht, and King Athulf, and King Ælfred, and King Eadward.]

H. P. R. Finberg wrote that the charter was likely drafted at Winchester with Edgar's knowledge, but may not have been formally promulgated.[406] It is likely that Æthelwold influenced the creation of this charter if he was not directly involved with it himself. The Chilcomb charter includes a telling use of the term *cynehlaford*; it mentions seven kings by

---

[405] S 817, with the date range of 963x975.

[406] H. P. R. Finberg, *The Early Charters of Wessex* (Leicester University Press, 1964), 237-41.

name but only deems one a *cynehlaford*: King Edgar is declared the *leofan cynehlaforde Eadgare cyninge* [beloved royal lord, King Edgar] gaining the same title as his predecessors with an additional elevation above them. Edgar is described as the current iteration in a long line of illustrious rulers who have been involved with Christianity and concerned with this holy place since its foundation. Obviously this is more political fiction than reality. While this is flattery on the part of the bishop, it is also a keenly political move. Through this diction, Edgar becomes the culmination of all the early medieval kings. This invocation of *cynehlaford* became common in Winchester-based charters hereafter.

Cynehlaford may serve to elevate the king above others, both royal and nonroyal alike, but it is also a flattering term when used outside those contexts. Ælfgifu's will, which we saw earlier, combines a plea to the *cynehlaford* to let the will stand for his love of God and because of his great *cynescipe*.[407] However, it also refers to the king as a *cynehlaford* in a laudatory turn as it requests protection for her men:

> *And ic ann bæ minæs hlafordæs geþafiungæ þæs landæs æt Mundingwillæ and æt Beorhþanstædæ ælfwerdæ and æþelwærdæ and ælfwaræ him to gemanan hira dæg and ofær hira dæg into ealdan mynstær for minnæ cynehlaforð and for mæ….And ic biddæ minnæ cinelaford for Godæs lufum þæt næ forlæte minæ mænn þe hinæ gesæcen and him wyrðæ syn.*[408]

> [And I, with my lord's permission, grant the estates at Mongewell and Berkhampstead to Ælfweard and Æthelweard and Ælfwaru in common for their lifetimes, and after their death to the Old Minister for my royal lord and for me….And I ask my royal lord for the love of God, that he will not desert my men who seek his protection and are worthy of him.]

---

[407] S 1484. Authentic, according to Finberg and Gelling. See Finberg, *The Early Charters of Wessex*, no. 610; and Margaret Gelling, *The Early Charters of the Thames Valley* (Leicester University Press, 1979), no. 152.

[408] S 1484.

The blatant plea is a clear textual effort to defend the contents of the will after her death, first

through the invocation of the king's *cynescipe*, then through the reference to the king's love

of God. It is particularly resonant in this will, which grants so much land and money to

religious institutions. Indeed, as we saw earlier, Ælfgifu grants land to Æthelwold as well as

funds to repair the minster. The will combines the two words that we are seeing increasingly

associated with Winchester, and Bishop Æthelwold in particular.

Bishop Æthelwold was involved in the creation and witnessing of many of the

charters that employ the term *cynehlaford*. The legal use and ties with Winchester decreased

after Æthelwold's death, but until then, the references in diplomas remain strong. For

example, Ælfhead's will — which has been broadly dated to sometime between 968x981,

firmly within the timespan of Æthelwold's time at Winchester — opens with a declarative

statement linking the permanence of the will to the consent of his *cynehlaford:*

> *Her is geswutelod an ðis gewrite hu ælfheah ealdorman his cwidæ gecwæðen hæfð be*
>
> *his cynehlafordæs geþafuncge...And he gean his cynehlafordæ þæra hundtwæntiga*
>
> *hida æt Wyrðæ.*[409]

> [Here in this document it is declared how the ealdorman Ælfhead has declared his will
>
> with his royal lord's consent...And he grants to his royal lord the 120 hides at Worth.]

He also gives the king further land, in addition to 300 mancuses of gold, a drinking cup, and a

sword, and then grants the queen property as well. The charter is witnessed by the queen and

Bishop Æthelwold, among others. We see similar grants in several other charters, such as S

1498 and S 1505, although the witness lists are not as eminent. S 1484 and S 1485 both

transfer land to the Old Minster, Winchester and grant similar amounts of property to the

---

[409] S 1485.

royal family, explicitly referencing Bishop Æthelwold as a witness to either the current or previous transactions. S 1505 leaves property to the New Minster, Winchester. These wills are part of a tradition of leaving money and property to the king in an effort to have the will stand after the grantor's death. If one part of the will was overturned, so was the rest. However, it is striking that these wills are all localized to Winchester, and the majority of them allude to Bishop Æthelwold's influence. After Æthelwold's death, we stop seeing similarly structured wills with this pattern of grants to the Winchester minsters and simultaneous grants of land and property to the king. However, use of the term *cynehlaford* persists.

After 988, four charters include references to *cynehlaford*.[410] Of these, Æthelgifu's will, which we saw earlier with its references to *cynescipe*, contains a remarkable propensity towards *cyne* compounds. In addition to *cynescipe*, there appear references to *cynehlaford*, *cyneleofe* [beloved lord], and *cynewynne* [best of lords], and this appears to be the charter with the highest number of occurrences of *cyne*. This is the only occurrence of *cyneleofe* in the corpus and only one of two occurrences of *cynewynne*, making it even likelier that the affixation of *cyne* was a stylistic choice for the sake of repetition and emphasis.[411] The charter opens with a fairly standard declaration: *Æþelgifu cyð hire cwide hire cynehlaforde, 7 hire hlæfdian, 7 hire freondon, hwæt hio gode wile don, hwæt hire hlaforde, hwæt hire freondon.*[412] [Æthelgifu declares her will to her royal lord and to her lady and to her friends, what she wills to God, what to her lord, and what to her friends.] Following the declaration, she lists people in descending order of societal importance: first, her *cynehlaford*, then her lady and her friends. Then what she has bestowed upon whom is also listed in descending order of

---

[410] S 1497, Æthelgifu's will (990x1001) involving land in St. Albans and London; S 1456 (995x1005) with Bishop Godwine of Rochester involving land in Kent; S 1536 (1002x1004) involving land in York, Burton Abbey, and Tamworth; and S 1489 (1023x1038) with Bishop Ælfric of Elmham for lands in Suffolk, Norfolk, and London, amongst others.
[411] This is according to both a Simple and Boolean search of the *DOE*.
[412] S 1497.

importance; here, God appears first, then her *hlaford*, lady, and friends.[413] This demotion in diction from *cynehlaford* to *hlaford* in the latter part is a critical moment, as she places God at the top of the second list. Describing the king in a term that literally amounts to king-lord, without making clear God's superiority would amount to sacrilege. The style of writing, and alliteration on the *c-* and *h*-sounds, further emphasizes the diction being used. Later in the will, when she has returned to only discussing the king separately, the language once more becomes elevated: *7 heo bit hire cynehlaford him to ælmissan for his cynescipe for godes lufan 7 for Sancte Marigan þæt git ne læton nænne monnan, mid feo hire cwide awendan.*[414] [And she begs her royal lord as alms, for his royal dignity, for the love of God and of St. Mary, that you allow no men to change her will for money.] He can be described here as a royal lord as he is still clearly beholden to God, and she begs the king to keep her will intact for the love of God. The combination of *cynehlaford* and *cynescipe* is one of flattery, while simultaneously reminding him of his royal duties and responsibilities. As we saw earlier, a king's *cynescipe* is tied to God's will as well. The final reference notes:

> *Heo ne anbit na hyre cynehlaforde ne hire hlæfdian, ac gif hwa bidde þæt ðes cwide standan ne mote, wurðe he aworpen on þa wynstran hand þonne se hælend his dom deme 7 he wurðe gode swa lað swa iudas wæs þy hyne selfne aheng 7 þa ne lybben þe hit nu becweden ys.*[415]

> [She does not expect it of her royal lord nor her lady, but if anyone ask that this will may not be allowed to stand, may he be cast on the left hand when the Savior pronounces his judgement and may he be as hateful to God as Judas was, who hanged

---

[413] We see this careful listing of subjects again in Byrhtferth's *Enchiridion*, where he discusses logic and different grammatical constructions. As an example of polysyndeton, he writes: *God me geunne þæt ic mote his willan gewyrcan and ealra his halgena and mines kynehlafordes and ealra minra broðra.* [God grant me that I work his will and that of his saints and of my royal lord and of all my brothers.] *Byrhtferth's Enchiridion*, eds. Peter Baker and Michael Lapidge, EETS (Oxford University Press, 1995), 168.

[414] S 1497.

[415] S 1497.

himself, unless she herself change it hereafter, and those be not alive to whom it is

now bequeathed.]

The flattery inherent in *cynehlaford*, who — because of his position as lord over all other

lords — has the power to make the will stand, is tied in with the threat that any changes to the

document will result in God spurning the offender.[416] Æthelgifu has invoked two powerful

figures — the earthly king and divine king — to ensure the success and staying power of her

will.

In addition to the charters, five royal law codes use the term: VI Æthelstan, V

Æthelred, VI Æthelred, VIII Æthelred, and IX Æthelred. VI Æthelstan is the first occurrence

of the term overall, and is from the ordinance of the bishops and reeves in London; therein,

the law states: *Ðonne gelyfe we to Gode 7 to urum cynehlaforde, gif we hit eall þus gelæstan*

willað, þæt ealles folces þing byð þe betere æt þam þyfðum þonne hit ær wære.[417] [Then we

trust to God and our royal lord, that if we are willing to do all those things, the condition of

all the nation will be better as regards to theft than it was before.] While this is the earliest

appearance of the term by about two decades, the code itself is preserved in the

twelfth-century *Textus Roffensis,* leaving us with two possible suggestions: first, this

occurrence is reflecting oral usage of *cynehlaford* from the first third of the tenth century; or,

second, that this term reflects the long tail of influence from the successful campaign to

standardize Old English and was input into the manuscript when it was copied in the twelfth

century. Both options are possible and we will likely never know which it is.

The rest of the law codes where *cynehlaford* appears are indicative of Wulfstan's

direct influence. In V Æthelred, which uses frequent religious language to compel the

legitimacy of the laws, the royal code concludes by tying the king, the kingdom, and God

---

[416] We see a similar threat in S 1536, Wulfric's will (1002x1004), which includes multiple bequests of land
listing beneficiaries such as Archbishop Ælfric, Morcar, Burton Abbey, and the community at Tamworth.
[417] VI As 8.9; *Gesetze* 1:181.

together: *7 utan ænne cynehlaford holdlice healdan 7 lif 7 land samod ealle werian, swa wel swa we betst magan, 7 God ealmihtigne inwerdre heortan fultumes biddan* [and let us support one royal lord and all together defend our lives and our land, as well as we best can, and pray to God Almighty from our innermost heart for help].[418] The call to support a sole ruler — and connecting that support to both God and the health of the land — is a call to arms in politically turbulent times. Employing the term *cynehlaford* here at the end gives this clause extra emphasis; while the king has previously been referred to as a lord or king throughout the code, the repetition inherent in this affixation accentuates his lordly role. The language included in VI Æthelred echoes these same sentiments, with calls to obey God in all things and remain faithful to the one king:

> *7 þæt is þonne ærest þæra biscpa frumræd, þæt we ealle fram synnum georne gecyrran, þæs þe we don magan, 7 ure misdæda andettan georne 7 geornlice betan, 7 ænne God rihtlice lufian 7 weorðian 7 ænne Christendom anrædlice healdan 7 ælcne hæþendom georne forbugan, 7 gebedrædene aræran georne us betweonan, 7 sibbe 7 some lufian georne, 7 anum cynehlaforde holdlice hyran 7 georne hine healdan mid rihtan getrywðan.*[419]

> [And that is then the first and primary ordinance of bishops that we all diligently avoid sin, as we can, and carefully confess our misdeeds and dutifully atone, and rightly love and honor the one God and resolutely hold to one Christendom and carefully avoid any heathendom, and devoutly lift prayers among us, and rejoice, and eagerly love peace, and loyally obey our one royal lord and eagerly adhere to him with rightful fidelity.]

---

[418] V Atr 35; *Gesetze* 1:246. Rabin, *Old English Legal Writings*, 159. This is based on the Old English text of C.C.C.C. MS 201. Dorothy Whitelock notes that the other two copies of this text, both in British Library MS Cotton Nero A.i, end with "The Lord's name be blessed" in Latin. *EHD*, 409, fn 3. The vernacular texts are all connected to Wulfstan and they each have variations, some of which are in Wulfstan's own hand.

[419] VI Atr 3; *Gesetze* 1:248. 6 Atr 1 in Rabin, *Old English Legal Writings*, 161.

This code opens with legal doublets intended to clarify through expansiveness.[420] While loyally obeying the king has echoes of phrases in past laws, the sentiment is reiterated with the expression of adhering to him *mid rihtan getrywðan*. Wulfstan works to elevate Æthelred through this diction as the enemy of the vikings, if not explicitly then through the bishops' careful shunning of heathendom. There are strong territorial implications implicit in the terms *christendom* and *hæþendom*; we see this in Latin also where *Christianitas* [Christendom] evokes a connection of the Christian community to a specific space. Despite the viking raids, and any land they have gained, Æthelred is still *cynehlaford*, or the highest lord.

Wulfstan, in composing the laws of Æthelred, uses the term repeatedly. In VIII Æthelred, he calls for recognition and support of the king, echoing the phrasing that concluded V Æthelred: *And uton ænne cynehlaford holdlice healdan 7 freonda gehwilc mid rihtan getriwðan oðerne lufige 7 healde mid rihte.*[421] [And let us loyally support one royal lord, and let each of our friends love the other with true fidelity and support him rightly.] This code is notable for its invocation of former kings such as Edgar, as authoritative legislators, and decreeing that as Christ's laws have waned so have the king's laws dwindled.[422] This makes it all the more obvious that — just like the Chilcomb charter — only the currently ruling king, Æthelred, is granted the *cynehlaford* title.[423] This final phrase has become a favorite set phrase of Wulfstan's used to describe the mandate to obey the earthly king, and

---

[420] In classical rhetoric, Cicero lauded the use of *pluribus verbis* for rhetorical effect; see Frederick M. Rener, *Interpretatio: Language and Translation from Cicero to Tyler* (Rodopi B.V., 1989), 108. For the doublet's function in Old English, see Robert D. Fulk, "Pragmatic and Stylistic Functions of Binomials in Old English," in *Binomials in the History of English: Fixed and Flexible*, eds. Joanna Kopaczyk and Hans Sauer (Cambridge University Press, 2017), 30.

[421] VIII Atr 44.1; *Gesetze* 1:268. Rabin, *Old English Legal Writings*, 205.

[422] VIII Atr 37; *Gesetze* 1:267. Rabin, *Old English Legal Writings*, 203.

[423] This code is overwhelmingly ecclesiastical in focus. The preceding clauses discuss the necessity of loving God and heeding God's laws; however, this final clause of the code pivots to obeying Æthelred. The divine king and earthly king are connected numerous times throughout the code and this shift is nothing new. However, this final clause is one that has tripped up scholars since it does not explicitly name Æthelred, leading some scholars to mistake "loyally supporting one royal lord" as meaning the divine lord. For instance, Thomas Kohnen noted in his article on "Directives in Old English" that *uton*-constructions in the laws are typically connected with requests to love and obey God after using this as one of the examples. Thomas Kohnen, "Directives in Old English," in *Speech Acts in the History of English,* eds. Andreas H. Jucker and Irma Taavitsainen (John Benjamins Publishing, 2008), 37.

we see it again in IX Æthelred: *An uton ænne God lufian and þeorðian and ænne Cristendom ealle healde 7 ælcne hæþendom mid ealle aþeorpan. Uton ænne cynehlaford holdliche…* [And let us love and worship one God and and all hold to one Christendom, and reject each aspect of heathendom entirely. And let us loyally support one royal lord...].[424] He never uses the phrase to mean the divine king.

He carries this context over to his homiletic writing as well. In the *Institutes of Polity*, we see the same phrasing reworked again:

> *Ealle we scylan aenne God lufian 7 weordian 7 ælcne haeódendom mid ealle aweorpan. And utan ænne cynehlaford holdlice healdan, and freonda gehwylc oðerne healde mid rihtan getrywðan.*[425]

> [We must all love and honor one God and eagerly preserve one Christendom and reject every false religion with all our power. And let us faithfully support one royal lord, and let each friend support the other with true loyalty.]

Wulfstan is not subtle in using either the codes or his homilies as a chance to weigh in on the role of the king in society — and society's obligation to its king.[426] Clare Lees succinctly describes this strategy: "Repetition maintains dogma."[427] Being exposed to the same ideas over and over again, with the same memorable phrasing, gives it a new life in each of Wulfstan's compositions. The thin veneer of difference allows it to fit into each of the new texts, but a closer look shows it to be the same ideas and, often, wording. Throughout all of

---

[424] IX Atr 4; *Gesetze* 1:269. Rabin, *Old English Legal Writings*, 207.

[425] *WPol* 2.31 in Rabin, *Old English Legal Writing*, 94-96; *WPol* 2.1.1 in Jost, *"Institutes of Polity,"* 221-222.

[426] In an early eleventh-century manuscript held by the British Library that contains the *Institutes of Polity*, it is Wulfstan's hand that has written sections of the text, as well as adding annotations and corrections. There the *Institutes of Polity* sits alongside V, VI, VIII, and X Æthelred, composed by Wulfstan with notes in his hand. London, British Library, Cotton Nero A.i (I); see also Joyce Tally Lionarons, *The Homiletic Writings of Archbishop Wulfstan,* Anglo-Saxon Studies 14 (D. S. Brewer, 2010), 15.

[427] Clare Lees, *Tradition and Belief: Religious Writings in Late Anglo-Saxon England* (University of Minnesota Press, 1999), 56.

these examples, Wulfstan uses the term *cynehlaford* as a way to show the king's elevated

position in society; because he is the "kingly lord," all other *hlafordas* must support him as

well. First, though, Wulfstan espouses worship to God, and, as with the other times he uses

this phrase, faithfully supporting the king is secondary. Joyce Tally Lionarons describes the

purpose behind these efforts: "Wulfstan's homilies construct the faith of his congregation and

in doing so binds them together into a single political-religious community."[428] Wulfstan is

not unthinkingly repeating old, used terms. Instead, he is layering meaning by recalling all

their previous, associated occurrences from law codes and his other writings. He is encoding

these terms with cultural meaning as he layers grammar and style, and reminding his

audience of this through his traditional phraseology. This repetition gave the ideas familiarity

to Wulfstan's audience.

Wulfstan repeatedly preaches on the relationship between subjects and their king in

both his legal and nonlegal writing. Similarly, running throughout Ælfric's sermons is a lode

of moral instruction surrounded by doctrinal explanation. For instance, he uses the

prescriptive tone of his sermon on the Third Sunday of Lent to promote obedience and

expand upon the mutual obligation the *cynehlaford* has to his people, and that the people, in

return, have to their king, drawing on ideas from the *Promissio regis*, the surviving text of

which was written by Wulfstan.[429] In this way, Ælfric crafts a purposeful combination of

scriptural truths and moral instruction to give the laity the means for salvation through a life

well lived on earth. However, he is also the writer most likely to play with the context and use

of the term *cynehlaford*. In Ælfric's *Book of Kings*, he describes how the king and queen of

---

[428] Lionarons, *Archbishop Wulfstan*, 12.
[429] *ÆHom 4*, l. 101. For the Third Sunday of Lent, see Robert K. Upchurch, "Catechetic Homiletics: Ælfric's Preaching and Teaching During Lent," in *A Companion to Ælfric*, eds. Hugh Magennis and Mary Swan (Brill, 2009), 219. For the *Promissio regis*, a coronation vow made by kings in the tenth and eleventh centuries, see Katherin McCann, *Anglo-Saxon Kingship and Political Power: Rex gratia Dei* (University of Wales Press, 2018), 132; and Mary Clayton, "The Old English Promissio Regis," *Anglo-Saxon England* 37 (2008): 91-150.

Jezreel plot to steal the vineyard of their neighbor, Naboth. The queen sends a letter to

Naboth's neighbors with a proclamation:

> *Habbað eow gemot and tomiddes settað Naboð eowerne nehgebur; biddað lease*
>
> *gewitan þæt hi hine forsecgan on eowere gesamnunge ðus; Naboð wyrigde on ure*
>
> *gewitnysse God and his cynehlaford, acwellað hine siððan…*[430]
>
> [Hold a meeting and put Naboth, your neighbor, in the middle; bid false witness and
>
> accuse him in your meeting thus: "According to our testimony, Naboth has cursed
>
> God and his royal lord," and kill him afterwards...]

The purposeful elevation of the king to *cynehlaford* makes the idea of plotting against him

especially abhorrent, which Ælfric drives home with the alliteration of *cynehlaford* and

acwellað. As we saw with the term *cynescipe*, the king's will is tied to God's will, and this

would have been familiar to Ælfric's audience. But here, the king and queen are pagans and

have routinely tried to thwart the prophets of Jahve. Yet, their plan is a success and the

neighbors *fundon ða lease gewitan þe forlugon Naboð, þæt he sceolde wyrigan wælhreowlice*

God, and his cynehlaford; and acwealdan hine mid stanum [found the false witnesses who

perjured Naboth, saying that he had impiously cursed God and his royal lord, and killed him

with stones.][431] Initially, both these instances look consistent with previous examples of

cynehlaford; it appears that Ælfric is condemning those who disobey God and their royal

lords, and is tying once more the power of one to the other. In fact, Ælfric is using

cynehlaford to throw into contrast the illegitimacy of this ruler's power and the unjustness of

their land grab. The power of the *cynehlaford* is indeed tied to divine power; however, Ælfric

has spent line after line describing the rulers' faith in the pagan god Baal, and the prophet

Elijah disproving that Baal has any power. Shortly hereafter, Elijah prophesizes Ahab and

---

[430] Ælfric's *Book of Kings*, in W. W. Skeat's *Ælfric's Lives of Saints*, *EETS* (N. Trübner, 1881), 394 and 396.
[431] Ælfric's *Book of Kings,* 396.

Jezebel's deaths and the end of their family line. This royal family is as illegitimate as their

god.

However, the highest frequency of the term *cynehlaford* appears in Ælfric retelling of

Esther, where the use of the term drives home Queen Vasthi's refusal of her husband's

commands. Ælfric tweaks his translation of the Vulgate in order to make this refusal more

clearly contemptible.[432] King Assuerus's councillors come to him with a complaint about the

queen's behavior and a worry that her example will incite similar female disobedience across

the kingdom:

> *Ðonne ure wif geaxiað be þisum wordum æt ham, hu seo cwen forseah hire*
>
> *cynehlaford, þonne willað hi eac us eallswa forseon; þonne beoð ealle Medas*
>
> *micclum forsewene and þa Pærsican leoda, swa us na ne licað.*[433]
>
> [When our wives at home hear of these words, how the queen refused her royal lord,
>
> then they will also want to refuse all of us; then all the Medians, and the Persian
>
> people, will be greatly despised, which is not at all pleasing to us.]

This returns once more to the idea that the king's shame is the nation's shame, but here that

shame spreads specifically through the men. The term *cynehlaford* is not so much a flattering

use by the councillors as it is intended to emphasize the king's rank over the queen's.

Through the contrast in the terms used, *cwen* and *hire cynehlaford*, we are keenly aware of

the elevation of status. The queen is an example for all women (as the councillors are

worried), but she is specifically disobeying *hire cynehlaford* or "her royal lord." Furthermore,

---

[432] Compare to the Vulgate, 1:16-18. For more on Ælfric's translation efforts, see Andrew Eichel's "Patristic Precedent and Vernacular Innovation: The Practice and Theory of Anglo-Saxon Translation" (PhD diss., University of Tennessee, Knoxville, 2016): https://trace.tennessee.edu/cgi/viewcontent.cgi?article=5206&context=utk_graddiss.
[433] *Esther*, ll. 46-9.

the use of the possessive pronoun puts into contrast that relationship specifically between the two royals. The queen has obligations to her husband, who is also her royal lord.

Soon after Esther becomes queen, replacing Vashti, two retainers begin to plot against the king's life: *Hit gelamp þa siððan æfter litlum firste, þæt twegen his burðena mid bealuwe afyllede woldon beræddan swiðe unrihtlice heora cynehlaford and hine acwellan.*[434] [It happened then after a little bit that two of his chamberlains, filled with evil, wanted very unjustly to betray their royal lord and to kill him.] Here, Ælfric shows the righteousness of the king, through his elevation as *cynehlaford,* and underlines it with an emphasis on the immorality of the plotters. He uses the same alliteration as in the Naboth example above to underline this connection. We see this again when Ælfric reveals Esther's background to her husband: *Þa cydde seo cwen eall be hire cynne hire cynehlaforde, hwanon heo cumen wæs, and be Mardocheo, hu he hire mæg wæs.*[435] [Then the queen told her royal lord all about her people, from where she came, and about Mordecai, how he was her relative.] He connects the king to Esther's people through her revelation. Ælfric also shows the elevation of the king, and the righteousness of his rule, in these moments of conflict or tension. Esther's revelation is a dramatic one, but, due to her intervention, her people are saved:

> *Seo cwen þa aleat to þæs cyninges fotum mid agotenum tearum, mid godes ege*
>
> *onbryrd, and bæd hire cynehlaford, þæt he lete awritan oðre gewritu to eallum þam*
>
> *scirum, þe þa Iudeiscan on eardedon, togeanes þam gewritum, þe Aman ær awrat,*
>
> *þæt þa Iudeiscan moston for his micclan cynescipe beon ealle on friðe and unforhte to*
>
> *þam dæge, þe Aman him gecwæþ to heora agenum slege.*[436]
>
> [Then the queen knelt at the king's feet with profuse tears, inspired by the awe of
>
> God, and bade her royal lord that he might have other writings written to all the

---

[434] *Esther,* ll. 90-3.
[435] *Esther,* ll. 242-4.
[436] *Esther,* ll. 248-55.

provinces where the Jews lived, against the writings that Haman previously had

written, that the Jews might all — because of his great royal dignity — be peaceful

and unafraid on that day on which Haman had commanded their slaughter.]

Ælfric again uses *cynehlaford* to show the king's power over the nation, and specifically his

elevation here over the queen. This scene is in sharp contrast with the earlier scene depicting

the king and his queen, then Queen Vasthi. Whereas Vasthi had disregarded her *cynehlaford*,

here Esther is kneeling, begging a boon from him. Ælfric shows her obedience against

Vasthi's former disobedience. Moreover, Esther's request for the king to gainsay Haman's

command is shown to be good and right; the *cynehlaford* can ensure the Jews' freedom, and

we know he will do it due to his *micclan cynescipe*. As we have seen earlier, when a king

does God's will, his *cynescipe* is restored. Esther recognizes God working through the king,

and Ælfric depicts her kneeling in awe of God.

Ælfric uses the term *cynehlaford* a final three times in *Esther* in dialogue as a form of

direct address. All three occurrences are in direct conversation with the king: *Seo cwen cwæð*

þa to him: Leof cynehlaford, ic wille, þæt þu beo æt minum gebeorscipe, þu, leof, and Aman

to þinum wurðscipe, þæt ic þe mage secgan minne willan.[437] [The queen then said to him:

"Beloved royal lord, I wish that you should be at my feast, you sire, and Haman, in your

honor, that I may tell you my request."] After the queen uses the term as a title in direct

address, Ælfric has the king's attendants follow suit: *His cnihtas him andwyrdon and cwædon*

him þus to: Leof cynehlaford, ne com him nan þing to þance, þæt he swa getreowlice þæt þe

geopenode.[438] [His attendants answered him and said to him thus: "Beloved royal lord,

nothing came to him as thanks that he thus faithfully disclosed that to you."] Then at the

conclusion of the story, as they are debating what to do with Haman, one of the servants

offers a suggestion: *Þa cwæð an þara burcnihta to þam cyninge þus: La leof cynehlaford, an*

---

[437] *Esther,* ll. 154-6.
[438] *Esther,* ll. 182-5.

lang gealga stǽnt æt Amanes inne, þe he gemynt hæfde Mardocheo þinum þegene, þe þe

hyldo gedyde.[439] [Then said one of the chamberlains to the king thus: "O beloved royal lord, a

tall gallows stands by Haman's chambers, which he intended for Mordecai, your servant, who

protected you."] The term *cynehlaford* is always used from someone else's perspective rather

than by the narrator. Here an attendant speaks to his royal lord; earlier the queen begged a

request from her royal lord. The king is never described as a *cynehlaford* in replying to their

questions, when his dialogue begins. Instead, the term *cynehlaford* is always used to refer to

the king and show him elevated from one of his subject's point of view. Ælfric is the only

writer who uses *cynehlaford* as a term of direct address, and he does so as to play up the

king's elevated role and the respect due to him from the speaker.

Wulfstan and Ælfric are responsible for the majority of the nonlegal occurrences of

cynehlaford; however, the term also appears seven times in the *Anglo-Saxon Chronicle*.

While the seven occurrences are across four manuscripts, there is a large overlap between

them. For instance, the *C, D, E* and *F* manuscripts each highlight Eadric's treachery as a

turncoat through an emphasis on his betrayal of King Edmund Ironside, his *cynehlaford*. The

entry for 1016 states: *Þa dyde Eadric ealdorman swa swa he ær oftor dyde: astealde þæne*

fleam ǽrest mid Magesæton 7 aswac swa his cynehlaforde 7 ealre Angelcynnes þeode.[440]

[Then ealdorman Eadric did as he had done before: he first started the flight with the

Magonsatae and so betrayed his royal lord and all the English people.] In changing sides,

Eadric has broken the bonds of lordship — emphasized by the double kingly aspects of

cynehlaford rather than *cyning* — and, in doing so, has also severed his relationship with all

the English people. In disobeying his royal lord, he has betrayed all the English.[441] These

---

[439] *Esther*, ll. 233-7.

[440] Katherine O'Brien O'Keeffe, *Anglo-Saxon Chronicle 5: MS C* (D.S. Brewer, 2001), entry for 1016.

[441] Chronicles *E* and *F* leave off the English descriptor at the end and simply state that Eadric betrayed his royal lord and the nation. Irvine, *MS E*, entry for 1016, line 70; Peter Baker, *Anglo-Saxon Chronicle 8: MS F* (D.S. Brewer, 2004), entry for 1016, line 24.

bonds underpinned medieval society and casually disregarding them would have thrown the society into chaos.

Every time *cynehlaford* is used in the *ASC*, it contrasts with how someone had committed an act of treason and betrayed their rightful lord. We see this when Earl Godwin of Wessex refuses to punish the people of Dover for their riotous behavior, and again when the earl is prevented from going to the king and explaining himself, and the king and his council must decide their fate.[442] Although the chronicler paints Godwin and his sons in a sympathetic light — they were not intentionally inciting rebellion but instead properly appreciative of their royal lord's power over them and reluctant to act in any way against him — each of these references ties betrayal of the king to that of the nation as a whole. As we saw with *cynescipe*, what reflects poorly on the king reflects poorly on the nation. In 1076, when plotters foment rebellion against King William, the term highlights the king's rightful rule:

> *Ðær wæs Rogcer eorl 7 Walþeof eorl 7 biscopas 7 abbodas, 7 ræddon þær þæt hi woldon heora kynehlaford of his cynerice adrifan, 7 þis wæs þam kyninge sona to Normandie gecyðed.*[443]

> [There was Earl Roger and Earl Waltheof and bishops and abbots, and there they planned that they would drive their royal lord out of his kingdom, and this was revealed to the king, son of Normandy.]

The connection between *cynehlaford* and *cynerice* is apparent here in the unrighteousness of driving their royal lord from his own kingdom. The earls have no authority to do this and this leads into a long description of how the rebellion was crushed. While the *ASC* uses the term *cynehlaford* multiple times across the manuscripts mentioned, each instance is linked to

---

[442] Irvine, *MS E*, entry for 1048, ll 42 and 51.
[443] Geoffrey Cubbin, *Anglo-Saxon Chronicle 6: MS D* (D.S. Brewer, 1996), entry for 1076, l. 7.

mentions of rebellion against what is deemed the rightful lord. There is an apparent contrast

between the term and the indignation of upsetting the power balance in the kingdom.

Whether the rebellion is opportunistic, like Eadric's, or through misunderstandings, like

Godwin's, in each case the uprising links the royal lord to the nation. A betrayal of the

cynehlaford is treachery against the nation.

As we have seen, the term *cynehlaford* is used to simultaneously flatter the king and

elevate him above other lords. The combination of the two lordly components in the word

itself places a double emphasis on his kingly qualities. Critically, this term is not used in lieu

of the title *cyning* when directly mentioning the king by name, but instead as a complement to

it: *cynehlaford Eadgar cyning* becomes the "royal lord, King Edgar" who is separated out

through the emphasis from all other *hlafordas* or *cyningas*. This becomes a rhetorical device

especially handy when listing historical kings or comparing the current king to his ancestors.

In his letter to Wulfsige, Ælfric uses the term to elevate the current king above a predecessor.

Similarly, the Chilcomb charter presents Edgar as the culmination of all his predecessors,

spinning a narrative where the kings listed endowed Chilcomb with rights "in the beginning

of Christianity" and therefore Edgar is the latest in the long line of kings who uphold these

rights. This type of rhetorical elevation is used again and again to magnify the current king's

role above his historical counterparts. However, writers are cautious not to elevate the king

above any mentions of God in the text. Æthelgifu's will is careful to not blaspheme when

ordering the grantees of her will, making sure that God is listed in the highest importance and

the king is shown as beholden to God's will. Similarly, Byrhtferth gives an example of

polysyndeton, in which he lists, in descending order of societal importance, a plea for

strength to work God's will, then his saints, his *cynehlaford*, and his brothers. Furthermore,

Wulfric's will does include a reference to the king as *cynehlaford* when included alongside a

mention of God, but only when the divine lord has been elevated even further and referred to as *god ælmihtig*.

When charters and wills span the reign of kings, whom to flatter becomes a delicate bit of political maneuvering. Do you elevate the current king whom you are petitioning or do you elevate the king who granted you the land? Bishop Ælfric of Elmham (d. 1038) runs into this trouble with his will in the early eleventh century.[444] In his introductory clauses where he explains the history of the land grant, he mentions both Cnut and his son Harald, now the current king. Which king does he refer to as his *cynehlaford*? He solves this problem by neatly sidestepping it. He describes acquiring the land under God and King Cnut, *his leofue laforde*, and that he has held it lawfully under King Harald ever since. He refers to neither king here as his *cynehlaford*, since God tops the list. Instead he includes a respectful description of the current king's father as his beloved lord; it is only later, when Harald can be mentioned on his own, that Ælfric flatters him with the *cynehlaford* description and immediately grants him and his queen gold marks each. In this way, Ælfric continues the tradition of distinguishing the current king with the *cynehlaford* description while also using the mention of God to be strategic about where the description is employed.

As Don Chapman wrote, "For the medieval grammatici, forming compounds could be seen as a creative activity similar to creating other artefacts, like paintings, sculptures or pottery"[445] Chapman convincingly argued that compounds should be viewed as a process, an artistic invention of sorts, rather than a set word to be used and reused. Of all the writers to use the term *cynehlaford*, Ælfric of Eynsham plays with the term's use the most. In his *Book of Kings*, he inverts the expectations of his audience by using the term *cynehlaford* to drive home the unjustness of Jezebel and Ahab's rule. Jezebel describes Abah as the *cynehlaford*

---

[444] S 1489.

[445] Don Chapman, "Composing and Joining: How Anglo-Saxons Talked About Compounding," in *Verbal Encounters: Anglo-Saxon and Old Norse Studies for Roberta Frank*, eds. Antonina Harbus and Russell Poole (University Toronto Press, 2005), 49.

when exerting her will over the citizens and carrying out a nefarious plan to seize an

attractive vineyard. By instructing the neighbors to bear false witness and swear that Naboth

had cursed both God and his *cynehlaford,* Ælfric plays into societal expectations that God's

will and the rule of the *cynehlaford* are tied together; yet, we are told that Jezebel and Ahab

are pagans and enemies of Jahve. In this way, Ælfric can ironically use the term to show the

unjustness of their reign. Despite Jezebel's claim, Ahab is no *cynehlaford* since he is not a

proper follower of Jahve. Ælfric expands upon the type of mutual obligation he expects from

a proper *cynehlaford* towards his people in his sermon for the Third Sunday of Lent.

Rebellion against a *cynehlaford* will end in disaster. Similarly, a *cynehlaford* must love and

respect his subjects.

  Finally, Ælfric is the only writer to use *cynehlaford* in direct address. We see this

multiple times throughout his *Esther*, and each time it serves to highlight the elevation of the

king in their rank over the speaker. The term *cynehlaford*, as a title of respect in direct

address, or as a descriptor, is always used by someone else in reference to the king. This is

why it works particularly well as a flattering form of direct address. This is also why we see

the term appear more often in legal documents written by someone else, rather than from the

king's perspective. While we still get a small handful of mentions in legal codes, these are

mostly written around the turn of the millennium when the first-person singular has been

phased out of the code writing. The codes are no longer depicted as being from the king's

own hand and perspective. This allows for writers, such as Wulfstan, to include mentions of

cynehlaford not to flatter the king but to elevate his rank and garner support for him over

other lords, or threats to the kingdom such as the vikings. The spread of the term *cynehlaford*

is narrow in scope, but not as localized as *cynescipe*. When Wulfstan adopts the term in both

his law codes and homilies, he tends to repeatedly use the same language. We see the same

ideas, with subtle stylistic changes, in his *Institutes of Polity* that we see in IX Æthelred.

Moreover, while the exact language may be tweaked, the ideas and themes are not changed. This allows him to emphasize the idea of respect and obedience due to the king.

Conclusion

Written language reflects social values and cultural tradition through linguistic interaction, syntactical construction, and — perhaps most crucially — the emphasis placed on diction. As a prefixoid, *cyne* allows for linguistic complexity in expressing various views of kingship. By specifying different aspects of kingly life and rule, poets and legal writers could metrically or legally stress relevant sections. For instance, I have shown that using *cyne* as an intensifier is a poetic technique, as in *cynegod* and *cynerof*. I have also shown how the *cyne* compounds are frequently used in non-poetic texts. Some compounds, like *cynebot* and *cynegyld,* extend the authority of the king by providing specific legal recourse. Some emphasize different aspects of the king as a person, including *cynebearn, cyneboren, cynecynn,* which emphasize a relationship to the king himself. Some emphasize the king's regalia, such as *cynebend, cynegold, cynegyrd, cynegyrela,* which give insight into the pomp surrounding the king. Very occasionally we see it forming part of a verb, such as *cynehelmian,* which gives a specific term to the action of crowning a king. Most importantly for our chapter here, *cynescipe* and *cynehlaford* are used in prose to underline the king's responsibilities. These terms connect the king to the nation. In both legal and nonlegal texts, these terms provide an idealised view of kingship.

While much scholarly discussion focuses on compounds and their use in poetry, only about 9% of the *cyne* compounds are exclusively poetic terms; 60% are exclusively prosaic terms. Mixed terms — those used in both poetry and prose — make up 30%. This tells us that affixing *cyne* to these base words is not, as we might expect, solely for poetic alliteration. Instead, the affixations are primarily to provide another degree of specificity in prose works.

Many of these words, like *cynebot,* are exclusively in legal texts. While *cynedom* is a mixed

term, it too holds specific legal meanings. Some mixed terms, like *cynebearn,* are split by

definition, giving insight into how prose writers use the term one way while poets use it

another.[446] This type of compounding gives rhetorical emphasis and linguistic weight to the

prose. A full analysis of all these terms would be useful to future scholars but lies outside the

scope of this chapter.

My investigation has suggested the activity of a particular scribal community

propagating and standardizing the usage of these terms. In noting striking similarities

between the English interlinear glosses in the psalter held by Lambeth Palace Library and

those in a manuscript held by the British Library, Celia and Kenneth Sisam postulated an

"influential monastic school in which these standard equivalents were taught."[447] Helmut

Gneuss had suggested Winchester since Ælfric was educated *in scola Adelwoldi* [in

Æthelwold's school].[448]Ælfric's *Grammar* also seems to hint at grammatical studies at

Winchester in the last third of the tenth century. The evidence I have presented throughout

this chapter suggests that the uniformity with which these terms were used, and their

localization to Winchester, are indicative of a purposeful standardization and promulgation of

set words. As we have seen, Bishop Æthelwold was instrumental in spreading the term

cynescipe. Overwhelmingly, the word's appearance is associated with either him or one of his

disciples. He was also key in spreading *cynehlaford* and both words are strongly associated

with Winchester. We see them appear in charters witnessed in Winchester, and Æthelwold's

followers who studied with him there take the terms and develop them further in their own

writings later. It is likely that both these words were part of Æthelwold's campaign to

---

[446] *DOE "cynedom"* and *"cynebearn."*

[447] *The Salisbury Psalter,* eds. Cecilia and Kenneth Sisam, EETS 242 (Oxford University Press, 1959), 74.

[448] *Ælfrics Grammatik und Glossar,* ed. J. Zupitza, 2nd edn. with contributions by Helmut Gneuss (Berlin, 1966), 1. Gneuss presented further evidence in "The Origin of Standard Old English and Æthelwold's School at Winchester," *Anglo-Saxon England* 1 (1972): 63-85.

standardize Old English.[449] Through Æthelwold's efforts to standardize *cynescipe* and

cynehlaford in Winchester, we also saw specific uses of the terms in charters and wills

become quasi-formulaic. Ælfgifu and Æthelwold's wills, for instance, both use the same

diction — but we do not see that exact same phrasing anywhere outside of Winchester. This

further supports my emphasis on Winchester as the nexus of a close-knit group of people and

texts, with Bishop Æthelwold at its head.

Medieval writers, just as modern writers, rely on favorite words and turns of phrase.

Æthelwold was no different. If we take a step back and look at patterns of use for all *cyne*

prefixoids, we can see that others are also centered around Winchester. And many of the

charters that contain them — such as S 1505 or S 806 — include more than one *cyne*

prefixoid. Through his involvement with Edgar's royal court, and his own scriptorium at

Winchester, Æthelwold standardized and, crucially, popularized their use. The evidence

suggests that Æthelwold's return to Winchester and heavy involvement with the scriptorium

there presented an opportunity to introduce a new term, one which influenced his pupil Ælfric

as well as legal writers composing charters in Winchester's scriptorium. *Cynescipe* and

cynehlaford both had a place in his scriptorium. Although close in meaning, they diverged

functionally. *Cynescipe* is primarily in legal texts, the majority of which are from the point of

view of the king. A king's *cynescipe* reflects on both him and the nation, and the term's use

comes to be closely tied to God's will as well. Over the term's short lifespan, *cynescipe*

developed from a term that mainly emphasized authority, to one drawing more on the royal

dignity aspect, to, in the end, becoming a formulaic and titulary expression. By contrast,

cynehlaford is used by legal writers about the king, and is not used by the king in reference to

himself. The term is used to elevate, flatter, and separate the king from his predecessors. It

---

[449] For more on this subject, see Walter Hofstetter, "Winchester and the Standardization of Old English vocabulary," *Anglo-Saxon England* 17 (1988): 139-161; and Mechthild Gretsch, "Winchester Vocabulary and Standard Old English: The Vernacular in Late Anglo-Saxon England," *Bulletin of the John Rylands Library* 83 (2001): 41-87.

gives a general air of grandeur while providing lexical variety. While occasionally the terms were used as complements, neither serves as a replacement for the other. Just as *cynescipe* ties the king's royal dignity to God, *cynehlaford* ties the king's rule to the nation's success. As we saw seven times in the *Anglo-Saxon Chronicle,* when rebellions occur, the king's shame becomes the nation's shame. By intervening in the king's rightful rule, as emphasized by how he is the king over all other lords, rebels are bringing disaster to the English. By disregarding the bonds of lordship, shame will follow.

By taking a high-level view of all the various forms of *cyne*, before focusing on *cynescipe* and *cynehlaford*, I was able to track the shifting popularity of these terms and their uses, both in locale and with writers. Æthelwold is primarily responsible for their spread, due to his influence over the scriptorium, and his long-running campaign to standardize Old English. Æthelwold was a prominent figure in Winchester as he revolutionized the community and his influence was felt long past the end of his life. After his death, *cyne* as an affixation is not as closely associated with Winchester. However, his pupils carry the terms forward into the new millennium and into the communities outside Winchester. Ælfric and Wulfstan both frequently use *cynescipe* and *cynehlaford* in their own writings. Wulfstan is more traditional in his uses of the term. In multiple homilies, his *Institutes of Polity*, and the law codes he authors, he uses strikingly similar language and ideas. This restraint had a singular purpose: to make his topic more familiar to his audience. Andy Orchard describes "emphasis through repetition" as the "essence" of Wulfstan's style.[450] Here we see that in effect. More than anything, this is Wulfstan's pastoral mission: to bring the layfolk to God, and increase the links between the king and church. Wulfstan is well known for recycling favorite words and phrases. "Insistent repetition is a symptom of the homiletic style in general," Clare Lees writes, "but it would be a mistake to read repetition as narrowly

---

[450] Andy Orchard, "Wulfstan as Reader, Writer, Rewriter," in *The Old English Homily: Precedent, Practice, and Appropriation,* ed. Aaron J, Kleist, Studies in the Early Middle Ages 17 (Brepols, 2007): 320.

didactic."[451] Wulfstan's repetition of key words and phrases — often combined in passages

that set out to the same end — is a labor towards precision. Heathendom is the enemy.

Flouting the king's will is a defiance against God. By connecting these tenets, Wulfstan

works to solidify his flock into a cohesive unit, united by their faith and obedience. The

homilies increase royal authority but also religious reach and Wulfstan's repeated use of these

phrases further that aim. After Æthelwold's death, Wulfstan is also the main promulgator of

cyne affixations in legal documents. In this role, he is careful to maintain these familiar

definitions. The audience of his writings, whether legal or homiletic, heard the same ideas

often expressed in the same words. Familiarity was the key strategy for Wulfstan's religious

campaign.

Primarily concerned with his nonlegal writing, Ælfric does not hold the same

concerns. For him, variation is key. He plays with legal terminology, adjusting it to suit his

narrative. With *cynehlaford*, he also subverts expectations and in doing so ends up

underlining even further the relationship of the king to God. As he begins prolifically writing

his own texts, homilies and saints' lives, he employs *cyne* as an affixation as a way for greater

specificity and variance. Terms like *cyneboren* and *cynebotl/bold* are primarily used by him.

Even in words that are not chiefly used by him, like *cynecynne* and *cynehelm*, certain specific

interpretations or definitions of the term are substantially his. Although other writers, such as

Wulfstan, appear to use some of these words, Ælfric is the predominant user of *cyne*

affixations, and their related terms. Just as he did with *cynescipe* and *cyenhlaford*, he makes

the words his own. He tweaks their use or changes their meaning to suit his purposes.

I argue that Ælfric would not have differentiated between prefixoids that hold their

own meaning like *cyne*, and compounds with components that exist independently as

simplexes. In excluding prefixoids from his study, Davis-Secord never sees Ælfric's frequent

---

[451] Clare Lees, *Tradition and Belief*, 56.

and liberal use of *cyne*. Instead, he states that Ælfric is wholly uninterested in compound

words and does not invent new ones; he concludes: "Regardless of the fact that Ælfric

changed and honed his style over time, he evidently never changed his general avoidance of

compound words."[452] By examining *cyne*, we see that Ælfric is in fact using words that are

treated as compounds to add rhetorical emphasis to his writings. He uses these terms in new

and interesting ways as a way of exploring and playing with linguistic usage, while

simultaneously adopting and adding meanings. He is the individual writer most responsible

for using the terms — by a wide margin. Using *cyne* as a tool, he was able to create

vernacular art as he added specificity to the words he used. Moreover, Æthelwold, Ælfric, and

Wulfstan were able to contextualize expectations when using terms like *cynescipe* and

cynehlaford. The terms layer cultural expectations with grammatical style. Ælfric and

Wulfstan both use homilies to express their views — often explicitly, sometimes not — of a

king's responsibilities to his people, and conversely, the people's responsibility to their king.

In the next chapter, I examine the verb *berstan* and the further role Ælfric and Wulfstan play

in spreading it.

---

[452] Davis-Secord, *Joinings,* 194.

Chapter 5: *Berstan* in Early English Writings and Abroad

Over the course of several hundred years, medieval writers transformed the poetic word

berstan into a term with a narrowed — and specifically legal — definition. Initially, the word

was used in Old English poetry to mean "to fail" and "to break apart." Subsequently, the

word began to be used in legislation, where its poetic functions fell away and *berstan* became

a legal term, specifically connoting a breaking of an oath. In this chapter, I examine major

moments in this transition and establish the context in which a medieval writer might have

chosen to use the word. By doing so, I provide a foil to the term *cynescipe*: where *cynescipe*

is limited in range and scope, *berstan* is expansive; where *cynescipe* is restricted to the

writings of a tightly-knit group of writers, *berstan* is extensively used by writers over the

early medieval period. Unlike *cynescipe*, the term *berstan* is used in literature before making

its transition into law. Therefore, I will first examine the poetic uses of the word *berstan*,

followed by its legal uses, and interrogate whether this transformation changes how later

writers use it. Finally, I will trace the expansion of the term abroad, culminating in its

appearance in later Scandinavian legislation. These changes provide important insights into

how medieval writers understood the function of language in both poetry and law.[453]

    The *Dictionary of Old English* lists approximately 55 occurrences of the word

berstan; this tally does not include cognate forms like *aberstan*, *forberstan*, *geberstan*, and

toberstan, which add almost 40 more.[454] Nor does this include *ætberstan* with its 65

occurrences, a form that is primarily used in Ælfric's writings and therefore occurs almost

entirely around the turn of the first millennium.[455] Taking a cohesive view of *berstan* and its

---

[453] In the thirteenth and fourteenth centuries, writers in England composed poetry about the law, combining categories that modern scholars often consider distinct; for instance, Lambeth Palace Library MS 179, f. 136v, contains rhyming poems against lawyers. Unfortunately, there are no existing Old English poems explicitly about the law. However, we do see legal language used in early medieval poetry. I will address this further in the course of this chapter.

[454] *DOE* "berstan."

[455] The usage is linked to Bishop Æthelwold with an exchange of land concerning him in Sussex; see S 1377. However, of the approximately 65 occurrences of the term, the majority are used in Ælfric's writings. Particular instances of note are: Ælfric's *Colloquy*, which uses *uix uiuus euade* as the Latin parallel to the Old English

related forms, we see that they appear disproportionately frequently in poetic and legal texts, like *Beowulf* and II Cnut. Although early English texts can be notoriously difficult to date, what becomes clear when looking at the occurrences is that the word is primarily used in poetry before it begins appearing in law. When tenth-century writers made the conscious choice to use *berstan* in composing legislation, they were purposefully exploiting its rich literary history. However, once *berstan* enters the legal vocabulary, the definition narrows and the term comes to mean a specific instance of failure.

The verb *berstan* first finds popularity as a poetic word, used in early English works such as *Beowulf* and the *Riddles*. Below, I show that the word is preferred by poets for its alliterative capabilities. Later we see the word begins to be used in charters and royal codes. There, a similar type of linguistic ornamentation takes place. As time passes, *berstan* develops a specifically legal connotation. One factor accounting for this blend is that certain writers were composing both literary texts and royal legislation. Later, *berstan* appears in its cognate form in medieval Scandinavia with the specifically legal connotation that it developed under early English law. However, this Scandinavian cognate shows few of the same ornamentary characteristics from earlier law. As medieval writers used lexical adornment in both literary texts and legal texts, the strict modern demarcation of the genres of literature and law begins to dissolve. The texts involved instead exist on a sliding scale where literary techniques influence the legal tradition, especially in a society where linguistic ornamentation for oratorical effect was understood and employed. As legal texts transition from mainly oral to primarily written, the techniques change and the word *berstan* provides an illustration of that critical process.

---

uneaþe cwic ætberstende; as well as his *Homilies*, and his *Lives of Saints* in the Book of Kings, Martin, and in his letter to Sigeweard. He is the only writer to use the phrase *mid fleame ætberstan*, which will be discussed below.

Berstan in Early Medieval Literature

The word *berstan* in Old English is cognate with the Old Frisian *bersta* and the Old Saxon *brestan*, in addition to the Old Norse *bresta*.[456] The first occurrences of *berstan* in Old English appear in the eighth and ninth centuries.[457] The word is used across very different types of Old English literature, including elegies, epic poetry, and hagiography. Frequently, *berstan* describes something breaking apart, whether that be stones, walls, cities, or the cross — as is the case in the *Dream of the Rood*. There the Cross speaks, telling of when Christ was nailed to it, and how *ic þa ne dorste ofer dryhtnes word / bugan oððe berstan, þa ic bifian geseah / eorðan sceatas* [I did not dare, against the Lord's word, bow or break, when I saw the corners of the earth shake].[458] In the Old English elegy, *The Ruin*, the writer uses the term *berstan* to contrast imagery of its former glory as a shining Roman city with its current state as rubble: *wrætlic is þes wealstan, wyrde gebræcon; / burgstede burston, brosnað enta geweorc* [Wondrous is this wall-stead, fragmented by fate, these city-sites broken, the work of giants decayed].[459] In both the *Dream of the Rood* and in *The Ruin*, the alliteration and stress on *berstan* is essential to the Old English poetic meter. In this line from *The Ruin*, the stress falls on the *b*-initial words, while the enjambed alliteration similarly links the two half-lines with

---

[456] See a note on the Old Frisian form in Erika Langbroek, "Die Sprache von Bernardus Rordahusim in der Niederdeutschen Apokalypse der Baseler Handschrift F.VII.12, folio 211r-217r," in *Advances in Old Frisian Philology*, Amsterdamer Beiträge zur älteren Germanistik, 64, eds. Rolf H. Bremmer Jr., Stephen Laker and Oebele Vries (Brill, 2007), 198.

[457] Old English literary texts including the term *berstan* are the Rushworth Gospels, the translation of Gregory the Great's *Pastoral Care* and translation of Boethius' *Consolation of Philosophy*, the *Riddles, Battle of Maldon, Christ C, Exodus, Genesis A, Beowulf, Phoenix*, Ælfric's *Homilies*, and Wulfstan's *Institutes of Polity*. This list is non-exhaustive but included to give a sense of the wide range and spread of the term, both in terms of dates and geography. This includes occurrences of *berstan, forberstan*, and *geberstan*. See instances of: MtGl (Ru) 27.51; GD 1 (H) 10.81.20, and CP 63.459.6; *Boethius* 18.45.18; Riddle 3, 62; Riddle 4, 7; *The Battle of Maldon* 284; *Christ C* 1141; *Exodus* 477 and 484; *Genesis A* 67; *Beowulf* 758, 816, 1120; *The Phoenix* 567; *ÆCHom* II, 12.2; ÆLS (George) 141; *ÆLS* (Julian & Basilissa) 143; *WPol* 2.1.2, 30.

[458] *Dream of the Rood* 35. George Philip Krapp, *The Vercelli Book*, Anglo-Saxon Poetic Records, vol. II (Columbia University Press, 1932), 61-5.

[459] *The Ruin* 1-2. George Philip Krapp and Elliott Van Kirk Dobbie, *The Exeter Book*, Anglo-Saxon Poetic Records, vol. III (Columbia University Press, 1936), 227-9.

the line before.[460] There is also secondary alliteration on the "s" throughout the last line. Mark

Griffith argues for the purposefulness of this type of composition technique:

> additional alliteration on a sound heading a *stressed* syllable in *close* proximity to
>
> syllables alliterating functionally on that sound seems unlikely to have been produced
>
> accidentally by a poet who was necessarily focussing on that alliterative sound in that
>
> particular context, or to have been ignored by audiences alert to stressed word-initial
>
> sounds.[461]

The stress on *gebrǣcon*, which then alliterates with the "b"-stresses in the following line,

allows even further emphasis on the import of these words. These two examples are

indicative of a trend we see throughout Old English poetry, where running alliteration

transcending multiple poetic lines links ideas and actions together, further underlining their

importance.[462] The popularity of the verb *berstan* in poetry may perhaps be traced to the ease

with which it alliterates with its cognate forms providing further flexibility. While other

words, such as *brǣcan*, provide a similar function with its flexible alliteration, it is *berstan*

that goes on to develop a specific legal meaning attached to breaking oaths, and is the focus

of this chapter.

Among its many uses, the word *berstan* often refers to the physical body, such as

several instances in *Beowulf* where it denotes bodies bursting open. During Hnaef's funeral

pyre, *hafelan multon / bengeato burston ðonne blód ætspranc, / láðbite líces líg ealle*

forswealg [heads melted, the wound-gates burst open, then blood sprang out from the

hate-bites of the body].[463] Kennings are combined with evocative verbs to show the effects of

---

[460] Enjambed or "strong-linked" alliteration is a feature of Andy Orchard's discussion of alliterative techniques in his "Artful Alliteration in Old English Song and Story," *Anglia* 113 (1995): 429-63.

[461] Mark Griffith, "Extra Alliteration on Stressed Syllables in Old English Poetry: Types, Uses and Evolution," *Anglo-Saxon England* 74 (2020): 74.

[462] For similar Old Norse innovations in metrical practice, see Seiichi Suzuki, *The Meters of Old Norse Eddic Poetry. Common Germanic Inheritance and North Germanic Innovation* (Walter de Gruyter, 2013).

[463] *Beowulf* 1120b-1122a. Elliot Van Kirk Dobbie, *Beowulf and Judith*, The Anglo-Saxon Poetic Records, vol. IV (Columbia University Press, 1953), 3-98.

the fire upon the body, thereby underscoring the violent imagery.[464] *Berstan* is used in conjunction with a series of other verbs here, but enjoys a special emphasis thanks to the *b*-initial alliteration and primary stress of the poetic meter. During Beowulf's fight with Grendel, the monster's body betrays him: *lícsár gebád / atol aéglaéca him on eaxle wearð / syndolh sweotol seonowe onsprungon / burston bánlocan* [the awful giant felt a body-wound. On his shoulder was a great wound evident, sinews sprang asunder, bone-locks burst].[465] The kenning depicts the joints or the muscles of the body failing, and bursting open. The *b*-alliteration is particularly employed to lead up to and include the hero of the poem: Beowulf. The verb *berstan* alliterates with the name *Beowulf* in the half line that follows, and again the stress falls on the *b*-initial words. The word *berstan* in *Beowulf* invites surprise as the body becomes the site of a different battle. A healthy body should not burst in any sense — neither fingers, nor bones, nor wounds — and *berstan* drives home the wrongness of the action.

Berstan is also used to describe other nouns — not just bodies — bursting or failing. However, it is almost always used in poetry for its alliterative qualities; in the majority of its occurrences in poetry, *berstan* both alliterates and provides a primary stress. The poet who composed *The Battle of Maldon* commemorating the victory of the vikings over the English describes the battle in detail: *bærst bordes lærig, and seo byrne sang / gryreleoða sum* [he burst the shield's rim, and the corslet sang a certain terrifying song].[466] Once more, we see the alliteration falling on *berstan* and each of the most important words in the sentence (shield and corslet, linked by the verb "burst") are similarly stressed. Griffith calculates that only 5.3% of lines (1493 total) in the poetic corpus alliterate on a *b*-sound; this is much lower than

---

[464] Gale Owen-Crocker notes that although this blood-springing-out and body-melting is not technically how a corpse reacts in a pyre, there is a factual basis for it; see *The Four Funerals in Beowulf* (Manchester University Press, 2000), 54-5.

[465] *Beowulf* 815b-818a.

[466] *The Battle of Maldon* 284-285a.

18.4% for vowels (5208 lines) or 12.2% for w-sounds (3459 lines).[467] *The Battle of Maldon*

contains the most alliteration on the *b*-sound out of the entire corpus, with 12.6% of lines

alliterating. By comparison, *Beowulf* alliterates 7.1% on b-sounds. Since half of the poetic

corpus alliterates on vowels, *w-*, *h-*, and *s-*, extra alliteration is much simpler to produce on

these letters.[468] The *b*-sound, along with eleven other word-initial sounds, makes up over half

of the available alliterating sounds but only totals a quarter of the poetic corpus; Griffiths

concludes that "Functional alliteration on these was more difficult to achieve (because of the

comparatively limited opportunities offered by the lexicon) and instances of added alliteration

on these sounds are, accordingly, much likelier to be the product of artistry and to have been

noticed by the audience."[469] As a verb, *berstan* provides an intuitive link between the lines of

the meter, allowing for the further chaining together of *b*-sound nouns. Furthermore, the *s-*

and *st-* sounds midway through *berstan* provide a secondary source of alliteration, making it

perhaps a more aurally aesthetically pleasing word than a similar word like *brecan* in the

poetic meter.

      Alliteration provides the key for *berstan*'s popularity in Old English poetry. Due to

the limited lexical vocabulary with regards to *b*-sounds — which becomes even further

limited when searching for words that can bear metrical stress, or verbs that can complement

nouns — *berstan* fulfills a valuable function. Examining occurrences of *berstan* in the full

poetic corpus, we see the term appear in *The Ruin, Dream of the Rood*, the *Battle of Maldon*,

Metrical Charm 7, Beowulf, Exodus, Riddles 3 and *4, Christ C,* and *The Phoenix*. In around

three-fourths of all poetic occurrences, *berstan* provides both a stress in the metrical line and

alliterates on the *b*-sound. In the majority of these instances, *berstan* provides the second

stressed syllable in the a-verse.[470] The second most popular position is as the first stressed

---

[467] Griffith, "Extra Alliteration," 75.
[468] Griffith, "Extra Alliteration," 75.
[469] The other sounds are l-, d-, c-, þ-, r-, n-, t-, st-, sc-, sp-, and p-. Griffith, "Extra Alliteration," 76.
[470] For example: *The Ruin* 2, *Dream of the Rood* 36, *Christ C* 811, *Beowulf* 1121, and *Exodus* 478.

syllable, which we saw above in *The Battle of Maldon* and *Beowulf*. It is much more unusual

to find *berstan* providing alliteration in the b-verse, which it does only a quarter of the time,

and this includes the metrically unusual lines from the water-elf charm and Riddle 4. In

occurrences where *berstan* does not alliterate, the word always provides the fourth stress,

concluding the b-verse.[471] There are no occurrences where *berstan* is not a stressed syllable.

If we factor in all the other cognates of the word, such as *geberstan*, *aberstan*,

ætberstan, *forberstan*, *oþberstan*, and *toberstan*, we see that the majority of these cognate

occurrences are much later than the appearance of *berstan* in poetry. These cognates, with the

exception of *forberstan*, are entirely used in prose. Furthermore, they mainly appear around

the turn of the first millennium. The verb *geberstan* is localized to Leechbooks; however, as

we will see below, Wulfstan does use the noun *geberst* once in a homily.[472] By contrast,

aberstan is used in the translation of Gregory the Great's *Pastoral Care* and *Dialogues*, along

with Aldhelm's *De Laude Virginitatis*, the law III Edgar, and Ælfric's homiletic writings,

along with his *De Temporibus Anni*. The most popular cognate, *ætberstan*, is used in the laws

II Æthelred, I Cnut, and multiple *ASC* entries.[473] Perhaps the most sensational example

though is a late tenth-century charter which involves Bishop Æthelwold, Wulfstan Uccea, and

a forfeit of land in Sussex.[474] After the discovery that a woman and her son had driven an iron

pin into a man, the woman was taken and drowned at London Bridge. However, the charter

---

[471] For example: *Christ C* ll. 932 and 1141, *Beowulf* 758, and *Exodus* 484.

[472] Lch I (Herb) 147.1: *ðeos wyrt mid meoluwe gecnucud gehæleþ mænigfealde untrumnyssa ðæs lichoman, þæt is berstende lic 7 forrotudnysse þæs lices.* Bald's Leechbook, probably composed in the ninth century, uses the term on multiple occasions with a prefix to describe bursting swellings or wounds. See Lch II (1) 38.7.1, Lch II (2) 19.1.3, and Lch II (2) 19.1.14.. The same text uses the past participle *geborstan* to talk of swellings or sores that had burst or were broken open; see Lch II (2) 1.1.4, 19.1.5, and Lch II (1) 29.1.2. Lch II (1 Head) 39.1 and Lch II (1) 39.2.4 uses *geberstan* to describe skin eruptions bursting or breaking across the body. For Wulfstan, see Napier 1883, no. 40: *In Die Iudicii*; reproduced with an appendix by K. Ostheeren in 1967.

[473] For *ASC* 605, 656, and 1093, pgs 23 and 104. Forms of the word are also used in the D Chronicle for 943 and 1050, and C Chronicle for 1052.

[474] The charter, S 1377, formalizes a land exchange between Bishop Æthelwold and Wulfstan Uccea. The land was forfeited because the inhabitants were condemned for witchcraft. Ecne Hart argues for a dating of 971x975. See C. Hart, *The Early Charters of Northern England and the North Midlands* (Leicester University Press, 1975), 385.

describes how *hire sune ætberst 7 werð utlah* [her son escapes and becomes an outlaw].[475]

While detailing which early medieval writer used this particular cognate first may be a fruitless task, Ælfric can certainly be credited with popularizing it around the turn of the first millennium. Of the 65 instances noted earlier, over three-quarters occur in his writings, including his *Homilies*, *Lives of the Saints*, and *Colloquy*. In letters to Wulfstan and Sigeweard, Ælfric uses the compound to indicate escape, first from a pursuer, and then the act of escape by fleeing. Wulfstan uses *ætberstan* in Æthelred and Cnut's laws to indicate escape into a city or away from a place.[476] Close-knit intellectual communities meant that favored words could spread easily from writer to writer, as we saw with the word *cynescipe*.[477] Æthelwold, Ælfric, and Wulfstan were not the only writers using the word *berstan*, but the relationship and correspondence between them reveals a likely path for favored words to have travelled. Ælfric and Wulfstan are also two of the most prolific writers of the early medieval period; therefore, we might expect to see occurrences weighted towards them. Despite Wulfstan's use of *ætberstan* in two legal clauses, the word spread much more rapidly into literature. Ælfric is the only writer to use the phrase *mid fleame ætberstan*, meaning to escape by fleeing.[478] He is also the only writer to use the cognate *toberstan*. Influenced by Ælfric's prolific writing — unlike *berstan* and *aberstan*, which maintain specific legal connotations — *ætberstan* and *toberstan* become primarily, if not strictly, literary terms with a broader definition and flexible interpretation.

---

[475] S 1377; Kelly, *Peterborough*, no. 17 at pp. 275-6. Thompson Smith, *Land and Book*, 74-5.

[476] II Atr 2.1 and I Cn 2.3; *Gesetze*, 1:222 and 1:280.

[477] For more on scribal communities, see Elaine Treharne, "Scribal Connections in late Anglo-Saxon England," in *Texts and Traditions of Medieval Pastoral Care: Essays in Honour of Bella Millett*, eds. Cate Gunn and Catherine Innes-Parker (Boydell and Brewer, 2009), 29-46. Treharne focuses primarily on the medieval priory of Worcester. Loredana Lazzari examines "The Scholarly Achievements of Æthelwold and His Circle," in *Form and Content of Instruction in Anglo-Saxon England in the Light of Contemporary Manuscript Evidence: Papers Presented at the International Conference, Udine, 6-8 April 2006. Federation Internationale des Instituts d'Etudes Medievales Textes et Etudes du Moyen Age*, v. 39, eds. Patrizia Lendinara, Loredana Lazzari and Maria Amalia D'Aronco (Brepols, 2007), 309-48.

[478] See ÆCHom II, 14.1; ÆLS (Martin) 1060; ÆLet 4 (SigeweardZ) 1117.

By contrast to the other cognates of *berstan*, which are never used in poetry, the word *forberstan* occasionally is. In *Genesis A*, the fallen angels are depicted as covered in darkness: *wæs him gylp forod / beot forborsten, and forbiged þrym, / wlite gewemmed* [their boast for them was broken, and their vow burst, and their glory humbled, appearance corrupted].[479] The verse continues to alliterate on the *b*-sound, but the repetition of the *for-*prefix on the verbs adds a secondary alliterative touch. In *The Phoenix*, Job foresees his soul's eventual ascent to heaven: *Me þæs wen næfre / forbirsteð in breostum, ðe ic in brego engla / forðweardne gefean fæste hæbbe* [My hope will never break apart in my breast, because I have eternal delight in the leader of angels].[480] There is no particular need for *aberstan, ætberstan,* and *oþberstan* in poetry as all vowel sounds alliterate with each other, and early medieval poets had many vowel-alliterative words to choose from. The alliterative quality of *berstan* increases the frequency of usage in poetry, but not in prose where cognate forms become increasingly popular instead. Without the drive for alliteration, there is no pressing need for a b-alliterative word.

To return to Ælfric: is his continued use of the word all that surprising given his poetic tendencies? Indeed if we examine all the occurrences of the word, we see that Ælfric continues to use *berstan* to supply alliteration, rhythm, and style to his prosaic writings.[481] In Ælfric's *Lives of Saints* — through which he intended to make religious writings accessible to lay people — he tells the story of the battle of Refidim, where the Israelites persevered as long as Moses raised his hands in prayer:[482]

---

[479] *Genesis A* ll. 69b-71a.

[480] *The Phoenix* ll. 567b-69a.

[481] Outside Ælfric's works, *berstan* is not frequently used in prose. This is due to the alliterative flair in his prose writing. By writing in a rhythmical form, supported by alliteration, Ælfric separates himself from the formal expectations of prose while being unconfined by the stress and meter requirements of poetry. While scholars have not reached a consensus over the nature of Ælfric's alliterative composition, even scholars who do not accept Ælfric's alliterative compositions as verse acknowledge its similarities. See Gerould, "Rhythmic Prose," 354; Needham, *Ælfric*, 22; Bethurum, "Ælfric's *Lives of Saints*," 515.

[482] In Walter Skeat's edition of Ælfric's *Lives of Saints*, he presents most of the texts as verse, and states: "If it be urged that Ælfric's lines can hardly be called poetry, it is easy to reply that they constitute excellent and flowing prose." He also commented that Ælfric composed "according to rules of his own." *Lives of Saints*, lii.

*Nis nan þincg swa lað þam geleafleasum deofle swa þæt hine man ge**b**idde **b**ealdlice*

*to Gode, forðan þe <se> swicola wat þæt his wæpne sceolan þurh halige ge**b**edu*

*to**b**erstan swiðost, and he **b**ið oferswiðod simble þurh ge**b**edu*[483]

[There is nothing, not anything, so hateful to that faithless devil as that a man prays

earnestly to God, because the treacherous one knows that his weapons shall, through

holy prayers, completely break, and he will always be conquered through prayer].

Extra-linear alliteration is a prominent feature in Ælfric's compositions despite it not being all

that common in more classical verse forms.[484] He uses the *b*-alliteration to emphasize the

links between the forms of *gebiddan* and the adverb, or verb that accompanies it.[485] Despite

there being no formal requirement for it, he continues to use alliteration as a structuring

principle in his composition.[486] Later, Ælfric describes Elijah's challenge of Baal and his

victory in the contest with Baal's prophets. Elijah proclaims to the listeners to seize the

prophets *þe baale ðeowdon þæt heora nan ne ætberste* [who have served Baal, so that none

---

For all of Ælfric's saints' lives forthwith, I quote the Old English from Skeat, as his edition is organized as poetry. See Skeat, 1:XIII, 286.

[483] Since the publication of Skeat's edition, the call for Ælfric to be treated as a poet has only grown. Thomas Bredehoft, amongst others, has argued for Ælfric's status as a poet, showing how Ælfric's alliterative writing can be scanned according to the new foot patterns that emerged in the later period. Thomas Bredehoft, *Early English Meter* (University of Toronto Press, 2005). On implications of the evolving verse forms, see Katherine O'Brien O'Keeffe, "Death and Transformations: Thinking through the 'End' of Old English Verse," in *New Directions in Oral Theory*, ed. M. C. Amodio, Medieval and Renaissance Texts and Studies (Arizona Center for Medieval and Renaissance Studies, 2005), 149-178. Other studies of Ælfric's style include John C. Pope's "Ælfric's Rhythmical Prose," in *Homilies of Ælfric: A Supplementary Collection*, vol. 1. ed. John C. Pope, EETS 259 (Oxford University Press, 1967); Haruko Momma, "Rhythm and Alliteration: Styles of Ælfric's Prose up to the *Lives of Saints*," in *Anglo-Saxon Styles*, eds. Catherine E. Karkov and George Hardin Brown (State University of New York, 2003), 253-69; and Bruce Mitchell's "The Relation between Old English Alliterative Verse and Ælfric's Alliterative Prose," in *Latin Learning and English Lore: Studies in Anglo-Saxon Literature for Michael Lapidge*, vol. 2., eds. Katherine O'Brien O'Keeffe and Andy Orchard (University of Toronto Press, 2005), 349-62.

[484] Derek Updegraff, "Ælfric, Alliterative Linking, and the Idea of a Vernacular Verse Line," *Pacific Coast Philology* 53, no. 1 (2018): 30. Haruko Momma has also noted how Ælfric uses alliteration in his *Lives of Saints* to mark units comparable to long verse lines; frequently, the implied caesura also becomes evident. Haruko Momma, *The Composition of Old English Poetry* (Cambridge University Press, 1997), 11.

[485] Updegraff shows this across Ælfric's *Lives of Saints* in "Ælfric, Alliterative Linking," 31-2.

[486] Even where he does not alliterate with the word *berstan*, he uses it as a necessary stress in a line. He coined the phrase *mid fleame ætberstan* [to escape by fleeing], which he uses three times, and each time alliterates with the *f*-sound. The word *ætberstan* always concludes the line, or presumptive half verse. See Ælfric's homily for Palm Sunday, his life of St. Martin, and his letter to Sigeweard, "On the Old and New Testament."

of them escape].[487] Ælfric links Baal, the subject of this entire passage, with the verb

ætberstan through alliteration. In this case, the alliteration falls on the last stress, a structure

that Ælfric seems comfortable with given how often he uses it; this pattern means that there

can be two primary stresses in alliterative links.[488] As an author, Ælfric "was sharply attuned

not just to the craft of writing but to the reception of his works by listeners and silent

readers."[489] His rhythmic prose, alliteration, and the parallel structures all helped the oral

delivery of his writings. Ælfric has the same need for *berstan* in his writings as his poetic

predecessors did, while other prose writers were not constrained by alliteration, causing the

word to fall out of favor. However, with a need to create alliteration and rhythm, and a

shortage of *b*-alliterating words, *berstan* remained a valuable word in Ælfric's hoard.

Berstan in Early English Law

Tracking the word *berstan* through literary texts, we have seen how writers throughout the

ninth to the eleventh centuries relied on the word to supply drama and violence to their

sentences, and, on a technical level, fulfill the alliterative requirements of Old English meter.

In the early tenth century, the term *berstan* began to appear in English law codes, establishing

a specific legal meaning for the word. The semantic change of *berstan* from a poetic word to

that of a legal term sheds light on the process of law-writing. Law did not spring forth fully

formed from dark and mysterious places. Instead, kings, in consultation with their *witan*,

promulgated codes steeped in tradition, which appealed to oral and written authority. By

following *berstan* as it is used in poetry and laws, we have a microcosm where we see that

the restrictions for writing Old English laws were looser than composing poetry; words, like

laws, did not spill from the tip of the quill onto the legal code with a fully fleshed out context.

---

[487] Skeat, 1:XVIII, 392.

[488] As Updegraff notes, there can even be more stresses in the cases of three-stress verses; see "Ælfric, Alliterative Linking, and the Idea of a Vernacular Verse Line," 31-2.

[489] Mark C. Amodio, *The Anglo-Saxon Literature Handbook* (John Wiley & Sons, 2013), 131.

Instead, *berstan,* and its cognates, went through numerous legal contexts as it transformed

into a legal term. One of the earliest examples of the word in law is in the Fonthill letter in

the early tenth century, which contains a legal plea to King Edward the Elder and uses the

cognate *forberstan.* The writer, in summarizing the dispute over the land in Fonthill, explains*:*

bæd me ðæt ic him fultemade 7 cwæð ðæt him wære leofre ðæt he [ðæt land me se]alde

ðonne se að forburste oððe hit æfr[.....e ge.b..]æde [he bade me that I support him and said

that he would rather that he give the land to me if the oath should fail than if it forever be

declared forfeit].[490] During Edward the Elder's reign, the word began to be frequently used in

legal contexts. It occurs in numerous legal clauses but not necessarily part of set phrases; its

various uses show how medieval writers understood the word.

　　　　When used in the laws, the verb *berstan* can consistently be translated as "to fail," or

"to be broken," and is most frequently understood as an oath failing. The broader definitions

used in poetry fall away and the legal term becomes narrow and specific. In the royal codes,

the first appearance of the term *berstan* itself, is in the 920s, in Edward's first law code. The

code is addressed to Edward's reeves and sets out what is expected of them. The relevant

clause states:

> *Eac we cwædon be þam mannum ðe mansworan wæran, gif ðæt geswutelod wære,*
>
> *oððe him að burste oððe ofercyðed wære, þæt hy siððan aðwyrðe næran, ac ordales*
>
> *wyrðe.*[491]

> [Also, we have declared with regard to the men who have been accused of perjury, if
>
> that has been proven, or it has failed, or stronger testimony was brought, that
>
> thereafter they are not entitled to make an oath, but only by ordeal].

---

[490] S 1445.

[491] I Ew 3; *Gesetze,* 1:140.

This was certainly less harsh than Edgar's law introduced 30 years later that a perjurer should have *his tungan scyldig* [his tongue cut out], or Cnut's law that anyone swearing false oaths over holy relics would *ðolie ðara handa* [forfeit those hands]. In I Edward, the word is also used with the dative of respect, to mean a failure of suit against an individual.

While *berstan* performed an important alliterative function in poetry, law writing did not have the same constraints; therefore, the word *berstan* is not the only term associated with breaking laws. In Wihtræd's code, for instance, vouchsafing someone's character necessitated swearing oaths in front of the community: *Ceorlisc man hine feowra sum heafodgemacene on weafode; ond ðissa ealra að sie unlegnæ* [A common man can clear himself [through oaths] at the altar, as one of four equals, and the oath of all of them is not able to be broken].[492] Later, both Edward and his successor, Æthelstan, use *abrecan* in discussing oath-swearing and oath-breaking. II Æthelstan states that if a man lies while swearing an oath, then he is never again able to prove his innocence through oath swearing.[493] In the prologue, the word *abrecan* is used when talking about oaths failing and the subsequent repercussions: *forþon ðe ða aþas ond þa wedd ond þa borgas synt ealle oferhafene ond abrocene* [because the oaths and the pledges and securities are all ignored and broken].[494] Here the word indicates the violating of promises. This is an unusual occurrence of the word, however, as *abrecan* is rarely applied to oaths breaking, but instead is used in literature to describe something destroyed or vows of silence or baptism being broken.[495] The term is also used with the breaking of friendships or the declarations — but not oaths — of councillors. In IV Edgar, the king commands his reeves to correct anyone who *minra witena wed abrecan mid ænegum*

---

[492] Wi 21; *Gesetze*, 1:14.

[493] II Atr 26; *Gesetze*, 1:164.

[494] II Atr Prol., 3; *Gesetze*, 1:166. We might have expected to see the words *abrecan* or *unlegnæ* used in "breaking" oaths, but this rarely occurs, revealing how *berstan* fulfills a niche semantic need. In literature, we sometimes see the formulation with the negative: *fela aða on unriht* "many oaths [not sworn] wrongfully" as in *Beowulf*, ll. 2739-40.

[495] Similar uses of the word violating commandments appear in two identical charter phrasings, one of Æthelred's codes, and the later *Ordal* law, which uses it explicitly to refer to *lage abrece* [breaking a law]. S 1313 and S 1320 both contain the term in identical contexts, although S 1456 also uses it. See also V Atr 5, *WPol* 2.1.1, Red 6.10, Benedictine Rule 58.99.21, and *Ordal* 6.

wacscipe wille [wishes to break the oath of my councillors through any negligence]. This is

the same as breaking a law. However, there is often a semantic difference in the term *berstan*,

as there is an inherent threat of bodily violence. The repercussions become harsher; the

expectation of divine punishment for cheating or lying during an oath is present throughout

the judicial process.[496] As we saw above, in I Edward, *berstan* is explicitly linked to violence

when the defendant is no longer allowed to swear an oath and must undergo an ordeal. As

Gregory Laing remarks, "The very real threat of perjury endangers the oath system by

conceding credibility to speech that should not be given any level of trust."[497] With an

emphasis on oath swearing in legislation, oath-breaking motivates severe legal

consequences.[498]

  Therefore, while the term *berstan* is not the only one associated with oaths, it is the

one that is most often linked with oath-breaking. Although Æthelstan's second code uses

abrecan as well as *berstan*, by his fifth code in the 930s, *berstan* bears the weight of the

clause. This code concerns a set of rules for members of the London peace-guild, with an eye

towards enforcing the king's justice. The term appears when outlining how all members of

the guild who are summoned should respond when trying to find a thief. In that instance, each

man who heard the summons was to ride forth as long as the trail was visible, but when the

trail was lost, or *burste,* then local men should be hired to help. The code states:

> *Þæt ælc man wære oðrum gelastfull ge æt spore ge æt midrade þara þe þa gebodu*
>
> *gehyrde, swa lange swa þe man spor wiste. 7 syððan him spor burste, þæt man funde*

---

[496] Oliver, *The Beginnings of English Law*, 144.

[497] Gregory L. Laing, "Bound by Words: Oath-taking and Oath-breaking in Medieval Iceland and Anglo-Saxon England" (PhD diss., Western Michigan University, 2014), 132.

[498] In this, early medieval English and Icelandic legislation both offer heavy penalties. More people swearing oaths increases the societal fear that an oath might prove false. William Ian Miller, "Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland," *The American Journal of Legal History* 28, no. 2 (1984): 98.

ænne man [swa of II teoðungum], þær mare folc sig, swa of anre teoðunge, þær læsse

foc sy… [499]

[Every man that heard the summons shall assist the rest, both by following a trail, and

by riding with them as long as the trail can be seen. And after the trail has failed, one

man shall be given, from two tithings, where the population is large, and from one

tithing, where the population is small…]

Even as the term *berstan* was frequently used for oaths, it was also used in cases like this

where there was a failure of justice. Here, the failure is intrinsically tied in with tracking the

subject and losing the trail. The men's efforts to follow the trail have fallen apart. When the

pursuers fail in tracking the criminal, there is a break-down in the justice system as no one

can be held accountable and charged with paying compensation. This failure in justice

appears in Edgar's Andover Code in the 960s as well. The code states that: *and gif hwa ðonne*

*woh wirce 7 ut **ab**erste, **ab**ere se **b**orh þæt he **ab**eran scolde* [and if anyone then commits a

crime and breaks free, the guarantor is to bear what (the criminal) would have bourne].[500]

This is the first appearance of the cognate *aberstan* in the laws. The collocation of *ut*

aberstan has also been taken as a compound and we see this same configuration with the idea

of "bursting forth" meaning "escaping" in both Ælfric's *Homilies* and Aldhelm's treatise *De*

Virginitate.[501] Just as in Æthelstan's law code, there is an initial rightness — with the trail of

the criminal being followed, or the state of someone vouching to follow the law and provide a

surety — and that rightness is lost, as the trail disappears or the person commits a crime.

Additionally, vowel and *b*-sound alliteration links this line together. Since alliteration is not

required in composing laws, it appears at a much lower rate than in poetry. However, in this

case, the words are all *b*-initial verbs, linking to the word *borg,* the technical legal term for a

[499] VI As 6; *Gesetze*, 1:173.
[500] III Eg 6.1; *Gesetze*, 1:202.
[501] *DOE* "aberstan;" ÆHom 15, 159; and AldV 1, 4476.

guarantee of security. Furthermore, on multiple citations of *borg* in Edgar's laws, *b*-sound

alliteration proliferates on the line; for example: *Ðæt is þonne, þæt ic wille, þæt ælc mon sy*

*under **b**orge ge **b**innan **b**urgum ge **b**uton **b**urgum* [This is then what I will: That every man be

under surety, both inside and outside the cities].[502] The meaning of the statement is conveyed

more emphatically through the use of alliteration on *b*.[503]

      Beginning in the mid-tenth century, the frequency of *berstan* increases in legislation.

In a record of a land purchase by Archbishop Dunstan after the culmination of a dispute, the

charter scribe constructed a narrative of forced forfeitures and successful sales. The charter

opens with the gripping phrase *Se fruma wæs þat mon forstæl ænne wimman* [It all started

when someone stole a woman] and culminates in a persuasive argument for Dunstan's

rightful ownership of the property.[504] The charter is rife with literary ornamentation. In

particular, the parallel syntactic structure and running alliteration are unusual in their density.

The narrative begins when Ælfsige, the owner of the female slave, discovers her in the

company of a man named Wulfstan.[505] Wulfstan declares that the previous owner was an

Æthelstan of Sunbury; the man accepts the declaration but misses the date appointed for the

oath of warranty and therefore forfeits his estate. As the scribe recorded it:

> *Þa tymde Wulfstan hine to Æþelstane æt Sunnanbyrg, þa cende he tem 7 let þone*
>
> *for**b**erstan 7 for**b**eh þone andagan æfter þam **b**æd Ælfsige ægiftes his mannes, and he*
>
> *hine ægef and forgeald him mid twam pundum, þa **b**æd **B**yrhferð ealdormann*
>
> *Æþelstan hys wer, for þam tem**b**yrste.*[506]

---

[502] IV Eg 3; *Gesetze*, 1:210.

[503] A number of other codes use *b*-alliteration when using the term *borg*; for example, Af 3, Af 3.1, II Eg 3, I Atr 1, I Atr 3, II Atr 8, II Cn 201, II Cn 58, II Cn 58.2.

[504] S 1447, 1. See Scott Thompson Smith, *Land and Book*, 79-107; A. G. Kennedy, "Disputes about *Bocland*: The Forum for their Adjudication," *Anglo-Saxon England* 14 (1985): 184; Keynes, *The Diplomas of King Æthelred*, 34, n. 59.

[505] Thurwif, the female slave, only appears in S 1447, as does her owner, Ælfsige, the Æthelstan who is supposed to vouch warranty, and this particular Wulfstan. See "Thurwif 1," "Ælfsige 58," "Æthelstan 42," and "Wulfstan 25" in the Prosopography of Anglo-Saxon England (PASE): http://www.pase.ac.uk.

[506] S 1447.

[Then Wulfstan called her as a witness for Æthelstan at Sunbury. Then he said that he would vouch warranty, but he let it fail, and failed to appear on the appointed day; after that, Ælfsige demanded the return of his slave and Æthelstan returned her and paid him two pounds compensation, but Ealdorman Byrhtferth demanded that Æthelstan pay his wergild for failing the test of warranty.]

This is the first episode of four, each indicated through careful transitions. As Scott Thompson Smith noted, "the first episode contains five different verbs with the *for-* prefix, with each verb appearing a single time in the entire account… Four of these verbs have distinct legal meanings relating to theft or default" and this distribution "suggests a deliberate concentration of such words early in the account."[507] The writer links the terms *forberstan* and *forbeh*, both types of legal failure, together with both assonance and alliteration. Although *forbugan* is used often in laws to mean evading a legal responsibility, this is the only time the two terms are linked together.[508] The passage opens with *team* and *forberstan* and ends with the compound *temberstan*, a hapax legomenon. This final term is further tied in through the polyptoton present in the *tymde, tem,* and *tembyrste* cluster, where the alliteration stylistically links the related verb and nouns further together. Through these techniques, the writer is emphasizing Æthelstan's legal failure, driving the point across how he has abdicated any claims to the land that he subsequently forfeits in punishment. Similarly in a clause in II Æthelred, *team* and *berstan* are linked together in a set of instructions for how blame should be assigned for mishandling of property or goods.[509] A dead man can be held liable if accused by someone and he has no heir to clear his name. But the relevant clause states that: *gif he ðonne ðære freonda hæfð, ðe þæt don durron, ðonne berst se team, swa wel swa he liues wære 7 sylf andsæc worhte* [If, however, he has friends who are prepared to do that, then the

---

[507] Thompson Smith, *Land and Book,* 93.
[508] Northu 4, and 44; Hu 6; I Atr 1.7; II Cn 25; and S 1447.
[509] II Atr App 9.3; *Gesetze,* 1:226.

warranty fails, just as if he were alive and proved his denial].[510] These episodes evince a careful process for selecting relevant and impactful diction to strengthen the legal episodes, making them memorable through alliteration, creative compounds, and word choice.

Alliteration is especially noticeable in medieval law as it was not required for its composition. While early instances of legal alliteration might be dismissed as oral remnants, the continuing presence of alliteration in legal writings, especially linked to the same recurring words, gives us insight into what terms or ideas legal writers considered the most important.[511] For instance, in 994, King Æthelred purchased peace from the invading viking army out of a pressing concern for the safety of English trading ships. More than half of the treaty, otherwise known as II Æthelred, deals with trade goods and safety in ports, both foreign and domestic, and provides that every trading ship which enters a port was to have peace: *7 ðeh hit gedriuen **b**eo 7 hit ætfleo to hwilcre frið**b**yrig, 7 ða menn ut æt**b**erstan into ðære **b**yrig, ðonne habban ða men frið 7 þæt hy him mid **b**ringað* [and though the ship is driven ashore and it escapes to any town covered by this peace, and the men escape into the town, then let the men, and what they bring with them, have protection].[512] Similar to the poetic uses of *berstan*, there is running alliteration, across multiple lines of prose, on the *b*-sound. While *beo,* and other forms of the verb "to be" are not strongly stressed, the combination of the words *friðbyrig, ætberstan, byrig,* and *bringað* create a consistent rhythm across these lines, especially with secondary and tertiary alliteration on the *f-* and *h*-sounds in this line.[513] This is clearly a structural element to this prose style, just as much as the

---

[510] II Atr 9.3; *Gesetze* 1:226.

[511] As R. Matzinger-Pfister has described, the presence of alliteration in later laws is not necessarily indicative of an oral origin but is instead an artistic rather than purely functional choice. See Regula Matzinger-Pfister, *Paarformel, Synonymik und Zweisprachiges Wortpaar. Zur Mehrgliedrigen Ausdrucksweise der Mittelalterlichen Urkundensprache* (Juris, 1971).

[512] II Atr 2.1; *Gesetze,* 1:222.

[513] By comparison to the *b*-sound alliteration in the Old English poetic corpus, Mark Griffith calculates 8.9% (2515 lines) on the *f*-sound and 10.3% (2899 lines) of alliteration on the *h*-sound; of course, this does not factor in prose, such as the laws, into this number as they are not expected to conform to the metre requirements. Griffith, "Extra Alliteration," 75.

repetition of *byrig*. These rhetorical embellishments emphasize the concern to preserve *frið* at all costs.

The term *berstan* maintains its momentum in later tenth-century writings although not all the clauses include alliteration. Both the Northumbrian law and then Æthelred's first code use *berstan* to set up conditional clauses. The Northumbrian law states that if the attempt to clear himself fails, he must pay compensation to the king.[514] Æthelred's code states that in case of failure to adhere to the laws, *lahslit* — or fees payable for a breach in the law — of six halfmarks must be paid.[515] Æthelred's third code provides exact instructions for what to do with a thief who underwent the ordeal: *gif he þonne ful beo, slea man hine, þæt him forberste se sweora* [If he is then convicted, strike him so that his neck breaks].[516] The compound term *forberstan* is used about a fifth of the time with the dative reflexive to show something physically breaking — here, a part of the body. Given how *berstan* and its forms are used in poetry, we would expect to see more clauses using the term in relation to the physical body in the laws. However, this is one of the only instances. As a legal word, writers incorporated its meaning of "failure" but not the context in which it was used in poetry.

Cnut's law codes use the term multiple times to describe laws breaking. We see it in an early clause in II Cnut concerning accusations of reeves approving of or committing coinage fraud. If a reeve is accused of this, he must exonerate himself. The law dictates: *7 gyf seo lad þonne berste, hæbbe þone ylcan dom, þe se þe þæt fals worhte* [And if the acquittal then fails, he is to have the same sentence as he who coined the false money] — meaning that the reeve forfeits his hand, and no compensation can remedy this.[517] Several clauses later, the law states that in case of a property dispute, a person should demand his rights in the hundred

---

[514] Northu 52; *Gesetze*, 1:383.

[515] *Gif landagende man ætsace, þonne nemne man him his gelican ealswa micel wente swa cyninges þegne; gif him þæt berste, gilde lahsliht: vi healfmarc.* I Atr 1.3; *Gesetze*, 1:216. This is the same amount of compensation to be paid in a king's suit, according to III Atr 12.

[516] III Atr 4.1; *Gesetze*, 1:230.

[517] II Cn 8.2; *Gesetze*, 1:314. Instructions for accused reeves appear in the aforementioned clause; see II Cn 8-8.1 for instructions on improvement of the peace and coinage, and the punishment of others who coin false money.

three times, and: *gyf se þonne berste, nime þonne leafe ægþer ge heonon ge þanan, þæt he mote hentan æfter his agenan* [If this then fails, he is to get permission either from (the shire) here or there, that he may seize his own.].[518] If someone is *tihtbysig,* or frequently accused by others, then he is considered to be of ill repute and loses rights under the law.[519] If a person's oath could not be trusted, then they could not be a full member of society; this often meant they were outlawed, for the social organization of the time was built around community trust and compensation-seeking.[520] For everyone else, the law states that: *sy ælc getrywa man, þe tihtbysig nære, 7 naðor ne burste ne að ne ordal, innan hundrede anfealdre lade wyrðe* [every trustworthy man, who has not been frequently accused, and has failed neither oath nor ordeal, is to be entitled to onefold exculpation within his hundred].[521] Finally, we see Cnut's code state: *7 gif hit tihtle sig, 7 lad forberste, bisceop þonne wealde 7 stiðlice deme* [And if an accusation is brought, and the acquittal fails, then the bishop is to take control and judge firmly].[522] In all these instances, the oath, permission, or acquittal, fails. This causes a failure in justice, or a concern that a right would need to be wronged. In the instance of property rights, the law gives claimants the right to seize it on their own.

The word *berstan* is used in poetry for all types of failure: things breaking apart, bursting open, swelling, erupting; it is not used as a subversion against people. Instead, this meaning of failure — of subverting laws, failing oaths, ordeals, or vouching to warranty — is

---

[518] II Cn 19.2; *Gesetze,* 1.322.

[519] J.E.A. Jolliffe, *The Constitutional History of Medieval England, from the English Settlement to 1485* (Adams and Charles Black, 1937), 9.

[520] This holds true in medieval Icelandic laws as well. When an oath comes under question, a person must bring witnesses forward who witnessed the original oath or otherwise reswear the oath; see *Grágás,* 1:75. Once oaths are regarded as questionable, then the people lose the ability to be trusted and this doubt spreads to those who vouch for them. *Grágás* also punishes those who refuse to swear an oath, as this too conceals the truth needed for the community to function; see *Grágás efter det Arnamagnæanske Haandskrift Nr. 334 fol., Staðarhólsbók og en Række andre Haandskrifter,* ed. Vilhjálmur Finsen (1883; reprint, Odense University Press, 1974), 305. For the implications of false swearing, see *Járnsíða eðr Hákonarbók,* ed. Þórður Sveinbjørnsson (Sumptibus Legati Arnæmagnæani, 1847), 57. For the Old English context, see *Exile in the Middle Ages: Selected Proceedings from the International Medieval Congress, University of Leeds, 8-11 July 2002,* in International Medieval Research, 13, eds., Laura Napran and E. van Houts (Brepols, 2004), 13-28.

[521] II Cn 22; *Gesetze,* 1:324. How someone came to be considered *tihtbysig* is unclear; however, Tom Lambert sums up the evidence for achieving this unwanted status in Æthelred and Cnut's laws, in *Law and Order,* 262-4.

[522] II Cn 53.1; *Gesetze,* 1:348.

only in the laws. While many of the poetic techniques continued to be used with *berstan* in the laws, another technical difference arose: *berstan* is only used with the dative of respect in the laws. The law writers composed legal texts that relied on the idea of failure as developed in poetry. The early English, as with many medieval communities, were preoccupied with thieves and liars — and their law codes reflected this. People fail in the laws, most frequently in their oaths and accusations. The significance of breaking an oath is emphasized through the ornamental *b*-initial alliteration, parallel syntax, and diction evident in many of these examples. Dorothy Bethurum, among others, has pointed to alliteration as a mnemonic necessity.[523] While this is certainly true, alliteration should also be considered a purposeful, ornate touch, especially in the later laws where the expectation of written, instead of oral, legislation becomes solidified. Instead, alliteration and poetic ornamentation appear to increase in the later laws, with the most conspicuous being the laws of Æthelred and Cnut. Legal hendiadyses that alliterate may also be considered adornment, which are subsequently frozen over time as formulae.[524] Outside of legal hendiadys, I have only noted alliteration of three or more words to minimize chance. However, it is clear that while Grimm argued that Germanic law was closer to poetry than prose it is a statement that perhaps builds on a tinged perception of a Proto-Germanic law corpus and does not consider that most law codices were

---

[523] Bethurum, "Stylistic Features," 263-79.

[524] Some of these alliterating formulae include: *unabeden and ungeboht, binnan oððon buton, to bocan and to bellan, bodian and bysnian, butan bræde and biswice, deede and dihtes, earm and eadig, freole and fæstene, frið and freondscipe, fleo oððe feohte, hæbbe and healde, lara and lage, lufe oððe lage, ge on life ge on legere, manslagan and manswaran, Godes miltse and his mildheortnesse, morðweorcum and manslihtan, sac and socn, sib and son, wealdend and wyrhta, wer and wite, word and edd, word and weorc, wuldor and weorðmynt.* Dorothy Bethurum includes many of these formulae, as well as many Old Frisian ones, in "Stylistic Features," 266-7. Not all of these are hendiadys, of course. Alliteration is an excellent tool for emphasizing contradictions as well, as shown in the phases *lufe oððe lage* and *ge on life ge on legere*. Bethurum also includes a list of formulaic phrasing in Æthelred's laws on page 272. Many of these alliterating word pairs exist in Old English and are more obvious in the short form of charters than they necessarily are in the longer law codes. Especially looking at tenth- and eleventh-century charters, it is not just the legal hendiadys but the groupings of them that become set and formulaic. We see this in the grouped phrases so common in charters: *saca and socne, toll and team, griðbrice and hamsocne, and forsteal, and all oðre gerihte, inne tid and ut of tide, binnan burh and butan burh, on stræte and of stræte.* Versions of these phrases exist, for instance, in S 731, S 986, S 1058, S 1088, S 1089, S 1091, S 1093, S 1097, S 1098, S 1104, S 1109, S 1125, S 1138, S 1139, S 1140, and extend into writings by William I, Henry I, and Stephen de Blois as well. I expand on some of these linked, alliterative phrases in Chapter 6.

in Latin without traces of vernacular poetic expressions. A better description of the laws'

language is that legal clauses may alliterate, and other stylistic features such as parallelism

are apparent, the laws do not fit the metrical requirements of verse. The poetic aspects are

indisputable.[525] The textual forms of law exhibit the modifying influence of poetry. The

parallel structure, alliteration, and diction, as indicated by this examination of the word

berstan, point to poetic composition. The rhetorical flourishes and lexical ornamentation

indicate a verbal showmanship. By importing a poetic term, with all the literary possibilities

attached to it, writers utilized an existing tradition and developed it to further their own

needs. In *De Schematibus et Tropis*, Bede describes how *"Quod grammatici Grece schema*

vocant, nos habitum vel formam vel figuram recte nominamus, quia per hoc quodam modo

vestitur et ornatur oratio" [Scholars call an artificial arrangement of words a *schema* in

Greek. We rightfully call an arrangement a *habit*, or an *adornment*, or a *figure*, because in this

way language is to speak clothed and adorned].[526] These types of rhetorical decorations

underscore the importance of the passage but also the skill of the composer. The more

intricate and interwoven these literary devices, the more forethought has gone into its

ordonnance. Legal documents such as the charter concerning dispute over Thurwif the slave,

or the episode with mother and son driving an iron pin into someone, contain narrative as

engaging as that of any poem. By continuing to use alliteration and other forms of literary

ornamentation in legal writings, these writers show forethought and care in their

compositions and a keen understanding of the effects of these devices. With writers using

many of the same literary techniques in composing both poetry and law, and indeed some of

the same writers doing the composition of both, the lines between the two types of text blur.

---

[525] Jacob Grimm, *Von der Poesie im Recht,* in *Zeitschrift für Geschichtliche Rechtswissenschaft,* Bd. II, 1816.
For the poetic qualities of medieval Scandinavian laws, see Grimm, *Deutsche Rechtsaltertümer* (Leipzig, 1899),
ch I; and E. Sievers, *Metrische Studien IV, Die Altschwedischen Upplandslagh Nebst Proben Formverwandter
Germanischer Sagdichtung,* in *Abhandlungen der phil.-hist. Klasse der königl. Sächsischen Gellschaft der
Wissenschaften 35, i-ii* (Leipzig, 1918-19).
[526] Bede, *De Schematibus et Tropis,* 168 and 169.

Medieval literature and law are not as strongly demarcated as our modern genre labels would imply.

The International Perspective on Berstan

While words can be regionally linked and limited in range, such as *cynescipe* or much of the Winchester vocabulary, the word *berstan* is expansive in its range. In addition to spreading through and expanding its meaning in Old English poetry and legal writings in the eighth through the eleventh centuries, the term appears in Scandinavian legislation from the twelfth century onward in a cognate form. When used in Scandinavian legal writings, it contains the same specific legal connotation that it developed in early English law. I argue that one likely reason for the term's appearance in medieval Danish, Norwegian, and Swedish laws is due to the close trade connections between the countries and people responsible for composing laws across Cnut's North Sea Empire. There is a gap between the end of Cnut's reign and the first appearance of the term *berstan* in Scandinavian writings; however, there are no extant Scandinavian legal manuscripts from this time. The thirteenth-century and later legal manuscripts that do survive often contain indications that they are later versions of laws already composed and in effect, whether orally or otherwise.[527] As such, I first discuss the connections developed under Cnut between early medieval England and Scandinavia, then Cnut's legacy, and finally how this gives us an international perspective of the term *berstan*. By examining how *berstan* spread and influenced legislative writing abroad, we see how successful it was as a legal term. Furthermore, while scholars often discuss the Old Norse influence on English legislation, the term *berstan* is evidence of a reverse trend of Old English legal writings subsequently influencing medieval Scandinavian legislation.

---

[527] Replacing the orally-transmitted laws with written codices started most likely some time earlier. The codification most likely included revisions and reworkings of the oral tradition. The exact determination of what was in the first written codices is made highly difficult by the much later dates of surviving manuscripts.

King Cnut assembled a court that traveled with him in Northern Europe; we have no evidence of him issuing any legislation aimed specifically at his Scandinavian subjects, although he frequently engaged in legal writing while out of England. In 1019, following his conquest of England and the issuing of his first law code, Cnut set sail back to Denmark — the first of many trips he would take abroad during his reign. There he wrote a letter to Earl Thorkel, who acted as regent of England in the king's absence. As we have seen in Chapter 3, the epistolic prologue contained a general address to all the people of England, before the contents moved on to direct Thorkel in specific actions to ensure peace in the kingdom while Cnut was abroad.[528] He returned to England the following year. In 1022 or 1023, he again sailed to Denmark to solidify his position there and crush any insurrection.[529] Then in 1026, he led a campaign in Sweden at the river Helgeå against the kings of Norway and Sweden, who were taking advantage of Cnut's absence in Scandinavia. In 1027, he traveled from Denmark to Rome and sent another letter back to the English explaining how he had spoken with Pope John XIX:

> *Locutus sum igitur ipso imperatore et domino papa et principibus qui ibi erant de neccessitatibus totius populi uniuersi regni mei, tam Anglorum quam Danorum, ut eis concederetur lex equior et pax securior in uia Romam adeundi...*[530]

> [Therefore, I spoke with the emperor and the lord pope and the princes who were present, concerning the needs of all the people of my entire realm, whether English or

---

[528] *Gesetze* 1:273-75; Whitelock, *EHD*, 414-6. For commentary, see Whitelock, "Wulfstan and the Laws of Cnut," 433–52; and "Wulfstan's Authorship of Cnut's Laws," 72–85.

[529] *ASC* 1023C. Keynes, "Cnut's Earls," 56-7.

[530] Cnut 1027, 6. *Gesetze*, 1:276-7; Whitelock, *EHD*, 416-8. This letter only survives in a Latin version, although it was presumably written in Old English. The text is preserved in William of Malmesbury's *Gesta regum Anglorum* 2:183, and in John of Worcester's *Chronicle*. Liebermann established that the translation was post-Conquest thanks to its use of the term *vicecomitibus*, presumably for Old English *scirgerefum* or *gerefum*. *Gesetze*, 3:19. See also *William of Malmesbury*, 1:324-30; and *The Chronicle of John of Worcester*, 2.512-18. There is some evidence that Cnut also visited Cologne in 1027; see Michael Hare, "Cnut and Lotharingia: Two Notes," *Anglo-Saxon England* 29 (2000): 269-72.

Danish, that they might be given more equal law and greater security on the road to

Rome...]

Just as in the prologue to the letter, where he styles himself as the king of England, Denmark, and Norway, he separates out the people of his kingdom as English or Danish.[531] Cnut is depicted as thinking about both groups through this explicit provision. After his visit with the Pope, he commanded his administrators to deliver law justly and announced that he was returning to Denmark before once again coming back to England.[532] Cnut was frequently overseas during his reign and, given the legislative qualities of his letters, he was often thinking about law-giving. As Wormald notes:

> the legislative impulse of the Old English kingdom waxed and waned with its
>
> imperial consciousness… As for Cnut's laws...there was a preliminary sketch as the
>
> regime was established, in 1018, and a vast statement after 1020, when Cnut became
>
> an emperor on a scale that dwarfed the aspirations of his predecessors.[533]

Although no direct evidence of Cnut providing law codes for his subjects in Scandinavia has ever been found, his English codes almost certainly show an Old English influence on Scandinavian legal terminology. Both of Cnut's letters to the English, sent while he was abroad, are efforts in law-giving.[534] Although the contents are more epistolic in nature — perhaps out of necessity — than his royal codes, they both start in much the same way: with

---

[531] Although he declares himself the *rex totius Anglie et Denemarcie et Norreganorum et partis Suorum*, the inclusion of Norway must be a later addition. As we saw in Chapter 2, if the letter's date is 1027, then Cnut was not a ruler of Norway. Later chroniclers such as John of Worcester and William of Malmesbury both thought the letter was from 1031 instead of 1027, and therefore Cnut was king of Norway at the time. See *The Chronicle of John of Worcester*, ii. 513, fn. 4.

[532] Cnut 1027, 12-13; *Gesetze*, 1:277.

[533] Wormald, *The Making of English Law*, 444.

[534] Here I follow Dorothy Whitelock in arguing that the letters only make sense to have been composed and sent while abroad; Wormald also finds this likely. Liebermann claims the 1020 letter was written after Cnut's return to England, which makes no sense. Since the Old English version of the 1027 letter does not survive, we do not know why both Florence of Worchester and William of Malmesbury say that Abbot Lifing of Tavistock delivered the letter and we must assume that they had access to a version which no longer survives to us. See *Gesetze*, 1:273-5; Whitelock, *EHD*, 414-6; and Wormald, *The Making of English Law*, 347.

prologues. After that, he continues to describe new legislation with corresponding punishments. However, the tone varies. His 1020 letter includes the diction of prayer, and his 1027 letter gives further updates on his travels. Yet Cnut, or those writing on his behalf, is careful to always give the English and the Danish their own textual space. These letter-proclamations lead us to understand that he was still promulgating law while abroad.

The medieval chroniclers Henry of Huntingdon, William of Malmesbury, and John of Worcester all describe Cnut's deeds, travels abroad, and time spent in Denmark. However, the early thirteenth-century chronicler Matthew Paris has a particularly intriguing description of Cnut's activities in his additions to *Flores Historiarum*, a far-reaching Latin chronicle.[535] In his entry for 1022, he wrote:

Angli et Dani in colloquio apud Oxoniam celebrato, de legibus regis Eadwardi primi tenendis concordes effecti sunt. Unde eisdem legibus, jubente rege Cnutone, ab Anglica lingua in Latinam translatis, tam in Dacia quam in Anglia, propter earum æquitatem a rege præfato observari jubentur.[536]

[The English and the Danes held a council at Oxford and agreed to keep the laws of King Edward the Elder. By the command of Cnut, these same laws were translated from the English language into Latin, and were commanded by the king to be observed both in Denmark and in England because of their fairness.][537]

---

[535] The first *Flores Historiarum* was compiled by Roger of Wendover and covers the period from creation up to 1235, the year before his death. The second *Flores Historiarum* includes additions by multiple other authors including Matthew Paris and Robert of Reading (d. 1325). For comparison, Roger of Wendover's entry for 1022 states: *Angli et Dani, in colloquio apud Oxoniam celbrato, de legibus regis Eadwardi primi tenendis effecti sunt concordes; unde eisdem legibus, Cnutone jubente, ab Anglica lingua in Latinam translatis, propter earum æquitatem a rege observari jubentur.* Roger of Wendover, *Chronica sive Flores Historiarum*, I, ed. Henry Coxe (Sumptibus Societatis, 1841), 1:465.

[536] Matthew Paris, *Flores Historiarum*, in *Cambridge Library Collection - Rolls Vol. 1,* ed. Henry Richards Luard (Cambridge University Press, 2012), 1:550.

[537] I have taken the Edward references as Edward the Elder (r. 899-924), rather than Edward the First (r. 1272-1307), for although Roger of Wendover could have become confused, it is unlikely he would have accidentally substituted the king reigning while he was writing the chronicle. Other texts typically say that Cnut reaffirmed the laws of Edgar the Peaceful (r. 959-975); however, Edward the Elder did issue a law code. Another option is that the chronicler fell into the topos of celebrating the laws of Edward the Confessor (r. 1042-1066), who was also past Cnut's reign. Multiple legal texts after 1066 celebrate the "Law of Edward" as

This tantalizing reference *in Dacia* has been typically taken to mean the Danelaw area of England, despite that being a highly unusual description. Like Cnut's letter of 1027, both the English and the Danish are considered in the law-making effort. Unfortunately, no sources survive from Scandinavia to tell us if English law was provided in Latin to the Danish realm. It would have conflicted greatly with Danish legal tradition and a translation into Old Danish would most certainly have been necessary to promulgate the law. As Stenton famously remarked, Cnut's reign was "so successful that contemporaries found little to say about it."[538] However, it is possible that Roger of Wendover and Matthew Paris both kept the reference to the law being observed in Denmark because they knew of English influence on Scandinavia. After all, there were close connections between early medieval England and Denmark, especially with Cnut sailing back and forth accompanied by members of his court, religious leaders, scribes, and skaldic poets.[539] Matthew Townend makes a persuasive case for Cnut's court as a bilingual society, with English and Latin written at the court, while English and Old Norse were spoken.[540] Judith Jesch argues for the historical significance of praise poetry and for Old Norse poetry to be considered part of English literature, partly because of Cnut and his court.[541] Politically ambitious people came from far afield for the chance to gain Cnut as a

the apogee of good law giving; however, Edward the Confessor did not issue any law codes. As Wormald reflects, "perhaps his reputation for justice rested on his judgements and pronouncements by word of mouth." *The Making of English Law*, 128. Since Roger of Wendover was writing a timeline of events, I find it unlikely that he misunderstood the chronology of the early English kings; this entry also remains uncorrected in Matthew Paris' additions. If this is indeed an Edward he means, then the likeliest explanation then is that this reference is to Edward the Elder.

[538] F. M. Stenton, *Anglo-Saxon England*, 3rd ed. (Oxford, 1971), 399.

[539] At least eight skalds were famous for having directly composed for Cnut: Sigvatr Þórðarson, Óttarr svarti, Þóarinn loftunga, Hallvarðr háreksblesi, Bersi Torfuson, Steinn Skaptason, Arnórr Þórðarson jarlaskáld, and Óðarkeptr; see *Edda Snorra Sturlusonar*, eds. Sveinbjörn Egilsson, Jón Sigurðsson and Finnur Jónsson, 3 vols. in 4 (Copenhagen, 1848-87) 3:251-86; and Matthew Townend, "Contextualizing the '*Knútsdrápur:*' Skaldic Praise-poetry at the Court of Cnut," *Anglo-Saxon England* 30 (2001): 145-79. Roberta Frank, "King Cnut in the Verse of his Skalds," *The Reign of Cnut: King of England, Denmark and Norway*, Studies in the Early History of Britain, ed. Alexander R. Rumble (London, 1994), 106-24. Emily Thornbury, *Becoming a Poet in Anglo-Saxon England* (Cambridge University Press, 2014), 90-1.

[540] Matthew Townend, "Viking Age England as a Bilingual Society," *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, eds. D. M. Hadley and J. D. Richards, Studies in the Early Middle Ages 2 (Brepols, 2000), 89-105.

[541] Judith Jesch, "*Knútr* in Poetry and History," in *International Scandinavian and Medieval Studies in Memory of Gerd Wolfgang Weber,* ed. Michael Dallapiazza (Parnaso, 2000), 243-259.

patron or to join Cnut's court.[542] Travelling with the king offered new opportunities as well.

Lawson makes the intriguing suggestion that Cnut's codes were "perhaps read out by

Wulfstan at a Christmas court in Winchester."[543] It is certainly suggestive of an intermingling

of different cultures and audiences, where ideas, even specific words, could be traded as the

itinerant court came to share an understanding of Cnut's laws. We have seen English writers

compose literature and law side-by-side, and Scandinavian poets at the court presented

another way in which Cnut could influence his Danish and Norwegian subjects. As the skalds

travelled back to Scandinavia, bringing the influence of the English courts, it is likely that

their own language was swayed by their time abroad.

Later accounts suggest that Cnut's law codes were well known and admired. When

the Northumbrians revolted against Tostig's rule as earl in 1065, King Edward the Confessor

removed Tostig; in doing so, the *Anglo-Saxon Chronicle* states that *he niwade þær Cnutes

lage* [he renewed there the law of Cnut].[544] In addition to the early English scribes,

Continental writers such as Adam of Bremen describe Cnut, his activities abroad, and his

law-giving.[545] Cnut's influence was still felt a century later when Danish laws began to be

written down. Sven Aggesen, a Danish historian and royal retainer to Valdemar I (r.

1146-1182), translated the Old Danish *Vederlov* into Latin as *Lex Castrensis* in the 1180s.[546]

---

[542] Arnórr Þórðarson jarlaskáld seems to have left Iceland for the first time to join Cnut's court. Diana Whaley, *The Poetry of Arnórr jarlaskáld*: *An Edition and Study* (Brepols, 1998), 41-7. Townend notes that Arnórr was potentially influenced by the earlier career success of his father, Þórðr Kolbeinsson, in his choice of destination, *Knútsdrápur*, 163, n. 92. Additionally, as Hare notes, there was a large number of German (mainly Lotharingian) clerics at Cnut's court. Hare, "Cnut and Lotharingia, 261.

[543] Lawson, "Archbishop Wulfstan and the Homeletic Element," 161.

[544] *ASC D* 1018, p. 154; 1065, pp. 192-3. The preface to the twelfth-century *Consiliatio Cnuti* also says that Cnut unified England through his law giving, as he decreed after deep reflection that since England had a sole king, it should be ruled by one common law. *Gesetze*, 1:618.

[545] Hare, "Cnut and Lotharingia," 261 and 272, no. 60. Adam of Bremen, *History of the Archbishops of Hamburg-Bremen*, ed. F. J. Tschan (Columbia University Press, 2002).

[546] *DDR*, 1-5. Ludvig F. A. Wimmer defines *Vederlov* (*witherlog manne*) as *Mændenes Straffelov*, i.e., the penalty code for the men in the *hirð*. See *Kongelige Danske Videnskabernes Selskabs Forhandlinger* (Copenhagen, 1899), 136. The standing army is often described with the word *hirð* and there are similarities between *Vederlov*, *hirðskrá* and *gildeskraa*; for a discussion of these relationships, see Chapter 4 in Max Pappenheim, *Die Altdänischen Schutzgilden: ein Beitrag zur Rechtsgeschichte der Germanischen Genossenschaft* (W. Koebner, 1885). On Sven Aggesen, see the introduction to *The Works of Sven Aggesen, Twelfth-Century Danish Historian*, trans. Eric Christiansen, Viking Society for Northern Research Text Series 9, eds. Peter Foote and Anthony Faulkes (University College London for the Viking Society for Northern Research, 1992). Also Sven Aggesen, *Lex Castrensis, Scriptores Minores Historiæ Danicæ*, vol. 1, ed. M. Cl.

This law was, according to the text, instituted by King Cnut to regulate the fractious group of soldiers he had gathered around him. While the king controlled a huge amount of wealth, he struggled to control his magnates. At times, even his *hirð*, or his household staff, were difficult to control. While Saxo, a contemporary of Sven Aggesen, called them the king's *clientela*, and the term *hirð* was more common in Norway than Denmark at the time, the issues with the people surrounding the king remained the same — and they could spell trouble in politically fraught periods.[547] Several times over Valdemar's reign, his knights supported, or actively failed to intervene, in plots to oust or murder him.[548] Scholars have debated how formalized the *hirð* were as an institution in the period before Aggesen wrote about it; however, the fact remained that if they needed to be disciplined, the king had little formal recourse.[549] In the incipit and following prologue to the Danish version of the *Vederlov*, which is only preserved in later manuscripts, the law's influence is attributed to Cnut the Great, otherwise known as "Old Cnut:"

> *Incipit statutum Kanuti regis filii Waldemari regis et archiepiscopi Absalonis quod dicitur witherlax ræt. Thetta ær witherlax ræt ther Knwt kunung Waldemar sun oc Absalon ærkibiscop lote skriuæ sua sum war i gamblæ Knutz dagha. Gamle Knut war kunung i Danmark oc Ængland oc Norghæ oc Samland ok hafthæ hirdh myklæ sankat af land thær han war kunung ywer oc gat han them eig hawat saman sata oc i frith.*

Gertz (Copenhagen, 1917-18; repr. 1970). Lars Hermanson and Alan Crozier, *Friendship and Social Formation in the High Middle Ages* (Brill, 2019), 78-9.

[547] Christiansen, *Sven Aggesen*, 8. They were also referred to as *liðsmenn* in Iceland, and there is a *Liðsmannaflokkr*, or household troops poem, composed by members of Cnut's troops during their London campaign in 1016. Russell Gilbert Poole, *Viking Poems on War and Peace: A Study in Skaldic Narrative*, Toronto Medieval Texts and Translations, vol. 8 (University of Toronto Press, 1991), 86-115.

[548] Prominent are the conspiracies in 1174-6 and then involving the Scanians in 1180-2. Saxo Grammaticus writes about both these moments: *Saxonis Gesta Danorum*, eds. J. Olrik and H. Ræder (1931), 503-12, 528-9, and 538; also *Saxo Grammaticus, Books X-XVI*, trans. Eric Christiansen (1980-1), 549-64, 588-90, and 604.

[549] A century later, c. 1270, "the Norwegian hirð was a three-tier organization of knights, officials, and servants, described in *Konungs skuggsjá* and governed by the surviving *Hirðskrá*." Christiansen, *Sven Aggesen*, 8. Saxo declared that they should be an obedient army (*tinglith*) under the king, "like limbs subject to one head." Christiansen, *Sven Aggesen*, 68-71. On the *hirð*, see Niels Skyum-Nielsen, "Saxo som kilde til et par centrale institutioner i samtiden," *Saxostudier* (1975): 174-8; and John Lindow, *Comitatus, Individual and Honor: Studies in North Germanic Institutional Vocabulary* (University of Berkeley Press, 1975), 64-7.

num rætin ware stark hunum ther misgiorthe with annen... Witherlaghet war troligha

takit melle hærre oc mannum sinum, oc stodh swa vspiallat i atta kunungæ daghum.

Gamble Knutz. Hartha Knwt. Magnus Gotha. Swen Azstretha suns. Haralz Hen. hins

hælgha Knwt i Othenso. Olofs hands brothers. Erik hin Egothe.[550]

[Here begins the Law of the *Vederlov* that King Cnut, son of Valdemar, and

Archbishop Absalon established just as it was in Old Cnut's days. Old Cnut was king

in Denmark and England and Norway and Samland and had a large *hirð* gathered

from the lands he was king over, and he was unable to keep them united and at peace

unless there were strict justice for those who offended others...the *Vederlov* was

faithfully accepted between lords and their men and stood thus unblemished through

the days of eight kings — Old Knut, Harthaknut, Magnus the Good, Sven Estrithsen,

Harald Whetstone, St Knut at Odense, his brother Olaf, and Erik the Ever-good.]

The prologue invokes tradition and historical authority in its opening, an appeal and topos

similar to the prologues from Chapters 2 and 3. Cnut is explicitly remembered as a lawmaker

a century after his death and mentioned in the Old Danish laws. Furthermore, his laws are

once more viewed both favorably and as appropriate tradition to invoke. The code itself is

less of an exposition on military law, and more a treatise about a particular legal system and

how it underwent change over time. In cases of violence, the king's men were brought

together for a meeting called the *Huskarlestefne*. In such a case, the plaintiff had to prove the

accusations with the testimony of two men from the *hirð* who swore oaths on the sacraments.

Only then could a man be expelled from the *hirð*:

---

[550] This was the foundational text for Sven Aggeson's translation into Latin. Erik Kroman details the surviving manuscripts, the most important of which are from the 15th century; see *DDR*, 1-4. Christiansen, *Sven Aggesen*, 44-6.

Comme han til stefnæ oc matte kunung meth twiggia witherlagha manna witne oc meth hælegdoms eth. hanum saa gøra at sak thet han wilde ratha antig a lif ællær a land hans. tha haffwer han witherlag tapat. ok sik siælwan for giort. Thordhe witherlaghe mæn thet eig witne oc a helegdom eig swæria tha skal han meth gudzdom æller fælles. ællær wærias thet ær meth iarnbyrth. at them loghum ær gamble Knwt giorthe.[551]

[If he comes to the *hirð*-meeting and the king can, with testimony of two men from the *hirð* and with an oath on sacred objects, provide proof that he conspired against his life or land (possessions) then he has lost (his membership in) the *hirð* and destroyed himself. If the *hirð* men do not dare to testify or swear on sacred objects then he shall either be found guilty or innocent by judgment of Heaven — that is ordeal (by carrying hot irons) according to the law Old Cnut made.]

While this code does not use the Old English term *berstan*, or the Scandiavian cognate *bresta*, the similarities in the legal giving and punishment are too close to be coincidental. The traveling of Cnut's court allowed for more opportunities for legal ideas — and language — to spread and the earlier English writing tradition to influence the later recording of the Scandinavian codes. Why, therefore, invoke "Old Cnut?" Eric Christiansen argues that Cnut was respected in twelfth-century England as a law-maker, and his wide conquests and large army still evoked respect and admiration.[552] A clause contained in II Cnut also declares that anyone who fought in the king's court was to forfeit his life, unless the king wished to spare him.[553] This clause itself harkens back to that of Alfred's ninth-century law code.[554] Bishop

---

[551] While this is the old Danish *Vederlov* from ca. 1180, it is preserved in younger manuscripts. Ludvig Holberg, *Dansk Rigslovgivning: Forholdet mellem Vederlagslov og Rigslov: Rigslovene i Perioden 1241-1282* (Gad, 1889).
[552] Christiansen, *Sven Aggesen*, 28-9.
[553] II Cn 59; *Gesetze*, 1:350-1.
[554] Af 7; *Gesetze*, 1:52.

Absalon was likely unaware of its beginnings in Alfred's code, but aware of its presence in Cnut's code. In Cnut's English code, we saw earlier that if an accusation is brought, and the acquittal fails (*7 lad forberste*), then the bishop is to take control and judge firmly.[555] Cnut's English clause is strikingly similar to this clause regulating the *hirð*.

The etymologically-identical term *bresta* begins to appear in Scandinavian law codes in the thirteenth century; as previously mentioned, there are no extant legal manuscripts from this area before this time. With the similarities between Cnut's English law codes and the later Scandinavian laws, a convincing argument can be made for an awareness and influence of his legislation across the countries that formerly made up his North Sea Empire. For instance, the *Codex Ranzovianus*, which contains the Norwegian *Gulathingslog*, is from around 1250; however, the text therein represents all the lawmaking efforts from the annual parliamentary assembly over several centuries, meaning the *Gulathingslog* itself is likely much older than the late thirteenth century.[556] There, the law regarding theft is similar to what we see in the earlier English codes or Archbishop Dunstan's land charter. The legal concern centers on the oaths sworn by someone accused of theft. If a person finds his stolen goods in the possession of another, but the accused declares that the items are rightfully his own, then the accuser may demand bail and surety for the goods he claims as his own. On the date of the hearing, the accuser must prove that the goods are his: *þa scal hann gera hvárt sem hann vill. at fara brott með fe sitt. æða reyna heimilldar taca hans. Nu ef hann brestr hanom, þa er hann þiofr at* [Then he can do what he wants. He can leave with his goods or look into the accused's claim to have a guarantor. Now if he (the guarantor) fails this, then he (the accused) is a thief].[557] This clause hinges on *bresta* for failure and is very similar to some of the uses from the English legislation. The term itself is tied to the act of oath-giving. If the guarantor

---

[555] II Cn 53.1; *Gesetze*, 348.
[556] Knut Helle, *Gulatinget og Gulatingslova* (Skald, 2001), 11.
[557] Helle, *Gulathingslov,* 254.

cannot give an oath validating the accused's rights towards the goods, then the accused is a thief. The act of oath-giving is made implicit through the use of the term *brestr*.[558]

We see another example of this in *Frostatingsloven*, a Norwegian law code dating to around 1260. While not as old as *Gulathingslog,* the *Frostatingslov* is a set of provincial laws that also date from far prior to the extant manuscript sources.[559] The section on church law, for one, seems to be connected to Archbishop Eysteinn of Niðaróss (d. 1188) who wanted to bring the Norwegian laws in line with Gratian. Similar to *Gulathingslog, Frostatingsloven* states that if the witness "fails," the accusers reclaim their property: *ef honum brestr þat vitni þá meti iamnyndir menn hvárs hann hefir mist* [if the testimony fails, then men of equal standing measure what he has lost].[560] As a verb, the *brestr* acts upon the noun *vitni*, connecting the two parts of speech. Just as we have seen in *Gulathingslog,* the term is connected to failing oaths — the usage we have come to expect from the Old English term. Similar to V Æthelstan, III Æthelred, and *Gulathingslog*, the verb *berstan* or its cognate forms appear in connection to a thief. Unlike J. R. Schwyter's analysis of an Old English theft-lexeme, which pointed to verbs such as *forstelan* and *geniman* to describe a thief's activities, *berstan* is only used in these cases with how to catch or punish a thief — or, as we witnessed above, when the oath fails.[561] While so far we have seen this in the Norwegian laws, this remains consistent in the medieval Danish laws as well.

Both the Danish laws of Scania and Jutland employ the legal term *bresta*. The law of Scania must date from between 1202-16 because it incorporates royal legislation from 1202

---

[558] Just as in the early English laws, the term *brestan* is not the only one used for oaths. In some cases, *falla* meaning "to fail" or "to be foiled" is used. This is more famously used in failing to take an oath, like in the phrase *sa eiðr fellr hanom til utlegðar.* See G. T. Zoega's *A Concise Dictionary of Old Icelandic* (University of Toronto Press, 2004), 123.

[559] There is a diminishing number of early manuscripts of *Frostatingsloven*. The seventeenth-century historian Peder Hansen Resen gifted the *Codex Resenianus* to the University of Copenhagen but it was incinerated during the 1728 Fire of Copenhagen.

[560] *Norges gamle Love indtil 1387. Bind 1,* eds. Rudolf Keyser and Peter Andreas Munch (Chr. Gröndahl, 1846): 249, 5. See also *The Earliest Norwegian Laws: Being the Gulathing Law and the Frostathing Law,* trans. Laurence M. Larson (Columbia University Press, 1935).

[561] J. R. Schwyter, *Old English Legal Language: The Lexical Field of Theft* (John Benjamins Publishing, 1996), 132.

as well as references to undergoing ordeal by hot iron, which was abolished by King

Valdemar II following the Fourth Lateran Council in 1215.[562] In the case of a man being

accused of theft, if 12 nominated men from across the whole administrative area swear that

they believe the accused is innocent, then he walks away; however, if they swear that he is

guilty then it ends much differently: *bristær hanum næfnd tha boric han earn* [If the jury fail

him, then he has to carry iron].[563] The failure here is explicitly the failure of oaths, as

indicated by the verb *bresta*. Even when the use of an oath is not necessarily made explicit by

the legal clause, the verb usage reveals that speech was essential or there could be no failure.

The law of Jutland, traditionally ascribed a date of 1241, has similar clauses including

bresta.[564] In a clause on gang crime, the Old Danish reads: *æn of hanum bristær vitnæ, tha*

skal thæn, thær sæktæt ær, sik værjæ mæth næfnd i kyn.[565] [But if the testimony fails him, then

he, who is accused, shall defend himself with men of the kin.] Once again, the speech act and

the failure are linked. We see this again and again throughout the law of Jutland: the word

bresta describes oaths. In a subsequent clause on nominated men and land rapine, a person

accused of illegitimately possessing property can swear that he obtained it accidentally or in

such a way that he legitimately thought it his own: *æn bristær hanum logh, latæ ut thæt, thær*

å kallæs, ok bøtæ å thre mark båthæ bondæ ok svå kunung.[566] [But if his oath fails, then he

must return that which was demanded and pay three marks both to the farmer and also to the

king.] It is only if the person swears and the oath is *brestan* that the king gets his due. By

contrast, in cases of field rapine, where a person takes someone else's grain, then: *of hanum*

---

[562] William Ian Miller, "Ordeal in Iceland," *Scandinavian Studies* 60, no. 2 (1988): 189-218. For an analysis of the dating of these laws, see Tamm and Vogt, *The Danish Medieval Laws*, 47-9. The Scanian law also exists in Latin as the *Liber legis Scaniae*, written by the Danish Archbishop Anders Sunesen of Lund (c. 1167-1228) and often known as *Anders Sunesens Parafrase over Skånske Lov*.

[563] Ch 147 in *Danmarks Gamle Love paa Nutidsdansk: Skaanske Lov*, eds. Erik Kroman and Stig Luul, Det danske Sprog- og Litteraturselskab, 1945.

[564] The law of Jutland was written down several decades after the Scanian law. The prologue dates the law of Jutland to 1241 but the laws themselves could have been already in use. For more on the dating and law manuscripts, see Tamm and Vogt, *The Danish Medieval Laws*, 238.

[565] *Jyske lov* 33. I follow the numbering of the clauses as found in Tamm and Vogt, *The Danish Medieval Laws*.

[566] *Jyske lov* 39.

bristær logh, tha havæ han thæn sæth forgörth ok sit arveth.[567] [If his oath fails, he has

forfeited his grain and his work.] If, however, someone ploughs someone else's grain, he can

swear an oath that he believed it to be his own: *æn bristær hanum logh, latæ ut, ok bøtæ å*

thre mark bondæ ok thre mark kunung.[568] [But if his oath fails, he must cede it and pay three

marks to the farmer and also to the king.] There is a concern for punishing only those who

deserve blame in these clauses, with great focus being placed on those who lie when swearing

oaths. If a person swears false oaths, then society cannot function. If, for instance, a person

hands over a good to someone to store, and a fire burns down the place, who is responsible

for the goods? If the person storing the goods lost his goods as well, then he is blameless.

However, in some cases, oaths and witnesses are required where it is unclear whether those

goods were actually lost. In those cases, *æn bristær hanum logh, tha latæ ut kostæ, ok bøtæ å*

thre mark bondæ ok thre mark kunung.[569] [But if the oath fails him, he shall cede the goods

and pay three marks to the farmer and three marks to the king.] This statement is strikingly

similar to that of the previous clause on illegitimately possessing property. These

punishments all stem from a person's oath failing. In each of these cases, if a person's oath

does not *bresta,* or if possession of the property was accidental or well-intentioned, then the

only thing forfeit is the return of the goods or the labor involved. It is specifically the action

of the oath failing that makes these clauses so specific and punitive.

The law of Jutland uses *bresta* twice more to refer to the speech acts of thieves. If

someone catches a thief with something in his possession, the thief is given the opportunity to

specify where he received those goods. If he cannot, then he is bound. However, a thief may

try to misdirect: *æn næfnær han skøtæ, ok bristær hanum sithæn skøtæ æth hemlæ, tha ær*

thæt samæ.[570] [But if he mentions a proof of possession and if later the proof of possession or

---

[567] *Jyske lov* 71.
[568] *Jyske lov* 72.
[569] *Jyske lov* 113.
[570] *Jyske lov* 92.

proof of rightful ownership fails for him, then it is the same.] Likewise, the thief ends up bound if the claim of where he received the goods from is impossible to trace. If a man catches a thief on his horse, and the thief states that someone can vouch for him, then the person should follow the accused thief into the village and ask for a surety: *æn bristær (hanum) tak æth skøtæ, tha gømæ bondæ sin thjuf.*[571] [But if the guarantee or surety fail, then the farmer shall keep his thief.] While these final two examples do not use the specific word for "oath" that was used in earlier clauses in the Jutland law, they both tie the verb *bresta* to speech acts made on the part of the defendant. No other verbs are explicitly used in the law of Jutland for an oath failing. If anything, by this point *bresta* is intrinsically linked to the idea of failing in medieval Scandinavian legal speech.

While so far we have seen *bresta* in numerous Old Norwegian and Old Danish law codes, *bresta* is also used in Old Swedish as a legal term also specifically meaning failing an oath. We see this in King Magnus I's 1285 legislation on peace and laying down the weapons of war: *Æn hwar sum sik bindir thær til. at han wil prøua vp a nokon thæssa sak. brister sithan ok ær egh san. taki vp þa plikt han hafþe hanum ætt. æn swa þykker likt* [But whoever commits himself to accuse someone of this matter and it later fails and is not true, he has to take up that obligation he had to him as it seems right].[572] Although this is the youngest of the law codes, according to manuscript codification, the Old Norwegian, Old Danish, and Old Swedish codes were being written down all within close time spans to each other. The legal clauses themselves are different from code to code, so the transmission of the term *bresta* cannot be caused by simple scribal copying. Instead, the concept of *bresta* and how it is used with oaths had already spread across medieval Scandinavia. When it comes time for these laws to be turned into ink, the context for oath-breaking is already there and linking directly back to the Old English tradition.

---

[571] *Jyske lov* 105.

[572] *Svenskt Diplomatarium, Vol 1-2,* ed. G. Liljegren (1829–37), 1:669, no. 813.

Conclusion

In the course of this chapter, we have seen the term *berstan* transition from a poetic word in Old English to a word with a specifically Old English legal connotation. Then the word is adopted in Old Danish, Old Norwegian, and Old Swedish. This transition took place over the ninth to the thirteenth centuries. After the reign of Cnut, the word appears in vernacular Scandinavian law texts in the cognate *bresta*; there the word carries an equivalent connotation of oath or law breaking. In all these examples, the consequences for failing are clear. In the Scanian law, an oath-breaker must undergo an ordeal. In the Jutland law, someone whose oath has been proved false has to pay a fine to the king. The passage of time turned this Old English word from one of poetic description into a legal term that is copied in multiple vernacular codes. Over the course of these codes, the poetic word *berstan* solidified into a term with a specific meaning of legal failure. Due to Cnut's court spending significant stretches of time in Denmark — and the presence of Scandinavians, particularly Danes, at Cnut's court in England — lawmakers there seem to have adopted the specific oath-breaking meaning of the Old English term *berstan*.

The extensiveness of the word *berstan* can be seen through its many uses in poetry and law. The popularity of the word *berstan* in poetry can be explained as the word is a convenient source for primary stress and *b*-initial alliteration, thereby serving a vital function in satisfying the Old English meter. The *s-* and *st-* sounds halfway through the word may have also made the word more aurally pleasing than other similar verbs meaning "to break" or "to fail." Since poets relied on *berstan* for its *b*-initial alliteration, the majority of its cognate forms appear once *berstan* is used in prose and no longer needed to satisfy *b*-initial alliteration in poetry. Even so, *berstan* and its cognates prove popular with Ælfric, who persists in using alliteration linking passages even in prose.

In the early tenth century, the poetic word *berstan* began to appear in English law codes and rapidly came to hold the specific legal meaning of breaking oaths. *Berstan* becomes a term for failing speech acts. The Fonthill Letter connects the *að* [oath] with *berstan* in the earliest example of this, and it catches on. Edward's law codes connect the act of perjury, literally oath-bursting, with this idea of legal failure in the 920s. Thereafter people who are proven to have failed their oaths are no longer entitled to make an oath but can only undergo an ordeal. Guarantors, warranters, and those swearing oaths as witness are all linked with *berstan* if their testimony fails. In the mid-tenth century, the use of *berstan* in laws increases significantly. Some of those composing the laws used *berstan* and its long history in poetry as literary ornamentation. In S 1447, the land grant involving Archbishop Dunstan, each verb is carefully picked to contain a different legal meaning relating to failure or theft. The term *berstan* also alliterates in the charter. Alliteration stands out particularly in legal clauses as it warranted extraneous effort when crafting legislation. There was no metrical requirement for it. The increase in alliteration, particularly in the later codes, is an aural and artistic choice. This type of ornamentation helps to blend the genre categories between poetry and law.

The alliterative, technical uses of the word were left behind once the Old English term *berstan* was adopted by Scandinavian legal writers. However, the specific oath-breaking meaning spread from Old English law codes first to Old Danish codes and Old Norwegian codes, and then on to Old Swedish codes.[573] The precise use of *bresta* as seen in *Gulathingslog* and *Frostatingslov*, as well as in the East Norse examples mentioned, are relatively late introductions into Scandinavian legal language. By comparing the preserved written *Gulathingslog* from around 1250 with the Icelandic law collection *Grágás*, where the term is not used, we see different approaches to determine guilt. Another place where the

---

[573] We do see the popular alliterative phrase *bære eller briste*, but this seems to be a much later medieval, early modern usage.

term *bresta* is not used is in *Gutalagen*, the thirteenth-century law code from Gotland. The

vocabulary used for failed oath-taking is *faldir* instead. In the case where a man is accused of

fathering a child by a woman from Gotland, and he denies it, he is to take two local men to

swear that they have never heard rumors about the unborn child and support that with a

six-man oath. If so:

> *þa fylgir hanum vitorþ En han far þa tua bolfasta menn faldir hann oc far at witorþ.*
>
> *þa hafi han vitorþ miþ siex mannum allum sir iem burnum. oc sueri þet et hann sei*
>
> *faþir at barnj*[574]

> [The right to prove his denial is in his favor if he then gets two resident men. If he
>
> fails and does not get that right, then the woman has the right to prove her accusation
>
> with six men, all equal in rank with her, that he is the father of the child].

Perhaps the Old English influence on Icelandic and Gutlandic law was not as strong, and it

may be therefore that the term *berstan* with its connotations of oath-breaking do not make it

into these more peripheral areas. As Cnut never conquered either of these areas, it is also

possible that his law-making efforts never directly influenced those cultures either.

Despite first appearances, *berstan* develops into a legal term as it changes between its

literary and legal usages over the early English period. In poetry, the word is used as a key

alliterative verb and some of these technical flourishes are maintained when the word is

brought into legal usages. There, the word *berstan* becomes a specific legal term relating to

breaking laws or failing oaths. Unlike more regionally-limited terms, such as *cynescipe*, the

spread of the term *berstan* reaches over international boundaries. This chapter adds further

evidence to the blurring lines between law and literature. By tracing this transition, we see,

first, how the written tradition of law adopted and used language from poetry to strengthen

---

[574] *Gutalagen* 15; *Guta Law: The Law of the Gotlanders*, trans. Christine Peel (Viking Society for Northern Research, 2009), 31.

the legislation issued. Frequently, the writers of law were also writers of literature. Second, that medieval Scandinavian legal language was influenced by Old English. There is strong evidence to suggest that the Old English word, with this specific legal meaning, made its way to Scandinavia, influenced most likely by the circle of Danes and Norwegians around King Cnut, and was entrenched in legal terminology ready to be used when *Gulathingslog* and the other medieval laws were committed to parchment. Oath-breaking in Old English became oath-breaking throughout medieval Scandinavia.

Chapter 6: The Afterlife of Old English Legal Terminology

We may view legal and literary language as entirely separate genres today, but that was not the case in the Middle Ages. Over the early English period, writers developed vernacular legal terminology to separate their codes from the earlier Roman legal tradition and fulfill necessary functions in the legal framework. Eventually, many of these legal terms came to be used outside of the contexts where they originated. Their usage spread, and these formerly legal terms were used by medieval writers in non-legal contexts. In these settings, their meanings often shifted, adapting and changing to their new environments. I argue that these changes serve to blur the lines between the legal and literary genres, making a strong case for literary scholars to engage more with legal texts, and vice versa. As demonstrated in the first set of paired chapters of this dissertation, the prologues to the early English law codes present an incontrovertible case study of literary techniques being used in a legal context. Narrowing this down to the terms *cynescipe, cynehlaford,* and *berstan,* in the next set of paired chapters I revealed how legal words were employed across a variety of corpora and that writers adapted their meanings to the environments the words were used in.

My dissertation began with a study of the prologues to the vernacular law codes, which offer a unique insight into how legal writers positioned early English law. While relying on traditional techniques of claiming authority — such as invoking the ancestors, citing divine will, or inventing historical precedent — the prologues claimed and justified increasing amounts of authority for the king. Through the legislation of the sixth-century King Æthelberht I of Kent to the eleventh-century King Cnut the Great, prologues functioned as explicit efforts in image-making, serving as propaganda and revealing political ambitions. As we saw, eighth-century legal writers trended towards composing prologues from the point of view of the ruler, writing codes in the king's name and expressing the king's intent and direction through the royal codes. This also served to increasingly make the breaking of the

code a personal affront to the king himself and, through the king, God. As the earthly ruler

was viewed as the divine's representative, law and religion became closely intertwined as the

period progressed.[575] In Chapters 2 and 3, I showed the developmental scope of the royal

codes through the extant prologues, and the commitment of legal writers to legislating in Old

English, with the use of the vernacular creating a difference to contemporary legal

codification on the continent. The prologues served as imaginative textual spaces for

envisioning royal authority, a fact medieval writers were well aware of and played with.

In Chapter 4, I examined words fundamental to discussing kingship and power:

cynescipe and *cynehlaford*. Both these terms are deeply important to the legal and literary

corpus, and their frequent appearances in the primary texts drove me to examine them more

in-depth. As we have seen, these terms are related in meaning but functionally different in

what they tell us about how kingship is imagined through diction. I demonstrated how their

development and success as legal terms were connected to the influence of specific people,

such as Bishop Æthelwold, who were intricately involved with the king's court and legal

writings, and how the further dissemination of these terms was advanced by Ælfric and

Wulfstan. I revealed how the use of these terms was centered in and around the Winchester

scriptorium. Even Æthelwold's death did not lessen his influence; I showed how Ælfric and

Wulfstan carried on using the terms that the bishop and the Winchester scriptorium had

popularized. I separated out Ælfric's uses from Wulfstan's, as they strategically employed the

terms for different effects: Wulfstan remained a traditionalist in his usage, as he layered

cultural expectations with his homiletic style; Ælfric treated the compounds as a method of

adding rhetorical emphasis but, unlike Wulfstan, played with the terminology and became the

writer to employ them most often.

---

[575] This has been written about elsewhere, including in Rabin's article "Holy Bodies, Legal Matters," as well as Lenker's "The Monasteries of the Benedictine Reform." Rumble covers the topic even more extensively in his monograph *Leaders of the Anglo-Saxon Church*.

In Chapter 5, I tracked the word *berstan,* first in its literary contexts, then into legal writings as it developed a specific legal meaning. After solidifying its position as a verb for the breaking of oaths, I determined how *berstan* made its way abroad into medieval Scandinavian law codes in the cognate form *bresta,* retaining the specific meaning it had developed in Old English. While the term *cynescipe* began as a legal term for kingship before being used in literary texts by writers like Ælfric, conversely, *berstan* began as a literary word before being used in legal texts, whereupon it developed a specific meaning related to oath-breaking. By examining these terms and their uses in the law, we saw multiple examples of how these vernacular legal terms are specific to Old English. In its day, early English law was treated as a living, breathing system that was adapting and changing, and through terms like *berstan,* as well as *cynescipe* and *cynehlaford,* we saw how legal writers were inventing or co-opting terms to fit their specific legislative needs. All of these legal terms worked in a similar way to the prologues, delineating and defining the law, albeit in a more specific and narrower sense. Legal terminology works in the same way as a preface: both ascribe a particular type of authority, and therefore legitimacy, to law and the law giver. Using vernacular terminology centered the early English kings as law givers (as the prologues claim) in their own legal tradition, linguistically separate from that of Roman and Continental law.

In this conclusion, I examine the "afterlives" of Old English legal terminology. By investigating the surprisingly long effects of this vernacular legal tradition and its enduring influence in England, I demonstrate the importance of understanding how Old English law shaped the material of law for centuries to come. I take as my jumping-off point the shift in legal writing that was ushered in by the Conquest, and examine the effect on vernacular terminology when the primary legal language moves away from Old English. While the legal and administrative terms were largely replaced by Latin and the hybrid language known as

Law French following the Norman Conquest, I focus here on the Old English terms that persisted into later medieval legal writings. I argue that the survival of these terms is due to the enduring power of, and interest in, royal authority. I build on the recent lexical and semantic studies, including those of Sara Pons-Sanz and Angelika Lutz, that show the development and endurance of loanwords in medieval England.[576] The words I investigate are not loanwords, per se: they are instead words that survive from Old English as the predominant language shifts. I explore the material evidence and contexts for these terms; this investigation touches on contact linguistics as I analyze vernacular terminology in relation to its use by later authors. In particular, I scrutinize the twelfth-century translation efforts that dealt with the earlier Old English law, as I probe how translation techniques and interest in royal authority allowed a number of specific legal terms dealing with royal pleas to persist through the High Middle Ages. This is not intended as an exhaustive study of legal terminology pre- and post-Conquest, but instead serves to highlight terminology and techniques that persist after Old English is no longer the language *du jour* for legal writing in medieval England. I conclude by demonstrating key places where we can fill in gaps in our scholarly knowledge and propose further ways in which we can bridge the divide between legal and literary studies.

Twelfth-Century Legal Compilations and Translations

As different forces came to power over the insular kingdoms, the law — and the language it was written in — changed. While Roman law had been administered by highly skilled Roman bureaucrats in the occupied parts of Britain, formally a Roman province, this law was

---

[576] Sara Pons-Sanz, *Lexical Effects of Anglo-Scandinavian Linguistic Contact on Old English* (Brepols, 2013); also Pons-Sanz, *Norse-Derived Vocabulary*; Angelika Lutz, "Norse Loans in Middle English and their Influence on Late Medieval London English," *Anglia* 135, no. 2 (2017): 317-357; see also Philip Durkin, *Borrowed Words: A History of Loanwords in English* (Oxford University Press, 2014); Richard Dance, *Words Derived from Old Norse in Early Middle English: Studies in the Vocabulary of the South-West Midland Texts* (Arizona Center for Medieval and Renaissance Studies, 2003); and Dance, "*Ealde æ, niwæ laʒe*," 149-182.

probably not widely known or understood by the common person. By actively developing

terminology suitable for specifying and delineating legal actions, the medieval people

composing law were part of an effort to differentiate early English law from the Roman law

that had previously been present in the kingdoms, and their other Continental counterparts.

As we have seen, the early English were unique in that they continued to compose their royal

codes in the vernacular, and for that, they needed their own legal language. The use of Old

English for the royal law codes persisted until the mid-eleventh century; however, codes after

the Norman Conquest shifted to being written in Latin, or Law French. Ivona Coghlan

describes Law French as "a bizarre mix of French, Latin, Anglo-Saxon and whatever other

languages happened to be hanging around."[577] Although the earlier codes were still of interest

and continued to be referenced, the language itself and the Old English terminology

specifically were no longer as relevant. In the twelfth century, legal writers and historians

both translated and interpreted the earlier laws from Old English into Latin. Of particular

relevance is Q, the traditionally accepted name for the writer of the *Quadripartitus*.[578] Q

translated the majority of the Old English laws into Latin, and, in doing so, provided us with

insight into how the laws were understood at the time — and more specifically, whether and

how the Old English legal terms were understood by twelfth-century writers.

Translated law becomes "the linguistic adjustment between cultures," especially by a

conquering culture to the one conquered.[579] Along with Q, we have the composers of

Consiliatio Cnuti and *Instituta Cnuti*, two more twelfth-century translations of early English

law. These translate many of the same royal codes that are in the *Quadripartitus*, specifically

I-II Cnut and various laws of Æthelred, allowing for side-by-side comparisons. How did

[577] Ivona Coghlan, "Law French – When Law and Language Collide," *The Law Bod Blog: News and Chat from the Bodleian Law Library* (31 May 2018):
http://blogs.bodleian.ox.ac.uk/lawbod/2018/05/31/law-french-when-law-and-language-collide/
[578] For more on the manuscripts of the *Quadripartitus*, see Chapter 1 and Appendix A.
[579] Bruce O'Brien, "The *Instituta Cnuti* and the Translation of English Law," in *Anglo-Norman Studies 25: Proceedings of the Battle Conference 2002*, ed. John Gillingham (Boydell & Brewer, 2003), 181. For more on the post-Conquest role of Latin and French alongside English, and their relationship to trauma, see Elaine Treharne, *Living Through Conquest: The Politics of Early English, 1020-1220* (Oxford University Press, 2012).

these translators treat unfamiliar Old English terminology? I am interested here in the terms that were not derived from Latin and denote something specific to the early English laws, whether that is how oaths break (*berstan*), the royal pleas (*mundbrice, hamsocn, forsteal*), or delineating social status (*cynescipe*). Each of these translated works treat their Old English source material — and, therefore, the vernacular legal terminology — differently. These variances show the multitude of approaches the translators took with their source material and reflect their diverging goals. As we will see below, the translator of *Quadripartitus* chooses to Latinize many of the Old English terms. The translator of the early twelfth-century *Leges Henrici Primi* employs the same strategy, while simultaneously electing to include personal knowledge of how the law operated. By contrast, the translator of *Instituta Cnuti* mostly translates the vernacular terminology, although the original wording in particularly difficult phrases is maintained. Finally, *Consiliatio Cnuti* is a classicizing translation that includes almost none of the original Old English terminology.[580]

Whereas ninth- and tenth- century rulers had used the vernacular as a way of differentiating themselves and their kingdoms from their Continental counterparts — as I argued in Chapters 2 and 3 — after 1066, Old English was rarely used in legal documentation. However, my investigation shows the persistence of Old English terminology that delineates royal authority. In particular, formulaic paired phrases that defined the jurisdictional rights that the early English kings claimed continue to appear in later medieval manuscripts. These are alliterative phrases we see repeatedly in early medieval charters and wills, especially when it comes to the listing of protections and privileges.[581] For instance, *sac and soc,* which is often the paired phrase that opens legal bounds, indicates the right to hold a court; *toll and team* indicates the right of a landowner to issue a fee, or toll, for activities on

---

[580] See discussions on translations in O'Brien, "*Instituta Cnuti*," and Jay Gates, "English Legal Discourse in *Quadripartitus*," in *Languages of the Law in Early Medieval England: Essays in Memory of Lisi Oliver*, eds. Stefan Jurasinski and Andrew Rabin (Peeters, 2019), 241-261.
[581] For more on these, see the mention in Chapter 5.

the property and to hold a court to resolve financial disputes. *Infangeneþeof and outfangeneþeof* are the rights of a lord to proclaim summary judgement on a thief, or other criminal, seized on the property. While not all of these are paired phrases, they are all terms delineating the king's jurisdictional authority (whether aspirational or not). Other terms that frequently appear are *griþbrice* and *friðbrice,* both terms for a breach in the peace, *burhbrice,* which is specifically a breach of the home, and *hamsocn,* which indicates a violent raid on someone's property. Finally, *forsteal* is an assault while blocking someone's progress on the king's road. While not exclusive, these are some of the many rights the king claims, and all of them are important legal terms. Scholars such as Tom Lambert, Patrick Wormald, and Carole Hough have analyzed many of these terms in the past few decades, delving into questions of how law was envisioned and implemented.[582] I extend that conversation into the later Middle Ages as I query how long the terms remained used in manuscripts written post-Conquest and whether the terminology remained unchanged. What happens to words like these when the texts are translated and discussed by writers who are not native speakers of Old English?

While we have seen examples of how Old English terminology is transmitted in early medieval England, and then how it is transmitted to and influences medieval Scandinavian writing, we can also look further afield, both temporally and geographically. Old English terms did not vanish after 1066. Angelika Lutz, writing on the subject of language contact following martial conquests, noted that "Lexical borrowing occurs mostly from the superstrate into the substrate, typically from lexical fields having to do with the execution of power, e.g. in warfare, in legal and administrative acts, and in all sorts of daily affairs."[583] While we would therefore expect to see French and Latin dominate in the legal language, I

---

[582] Wormald, *English Law,* 279 and 353, in particular; Thomas Lambert, "Royal Protections And Private Justice: A Reassessment Of Cnut's 'Reserved Pleas,'" in *English Law Before Magna Carta,* eds. Stefan Jurasinski, Lisi Oliver, and Andrew Rabin (Brill, 2010), 157; also Lambert, *Law and Order*; Carole Hough, "The Widow's Mund in Æthelberht 75 and 76," *The Journal of English and Germanic Philology* 98, no. 1 (1999): 3; see also F. W. Maitland, *Domesday Book and Beyond* (Cambridge University Press, 1897), 283; Julius Goebel, Jr., *Felony and Misdemeanor: A Study in the History of Criminal Law* (University of Pennsylvania Press, 1976), 365.
[583] Lutz, "Norse Loans," 318.

argue here that particulars of Old English legal terms that define royal authority were too enticing to do away with entirely. As these vernacular terms are Old English inventions, they have no parallel in either Law French or Latin, thereby filling a niche when administrators and legal writers looked to integrate the pre-existing vernacular codes after the Norman invasion. By centering this question of how people treated these terms, we will see, when translating Old English texts, that oftentimes they left the terms untouched.

Q is well aware of the role being a translator plays in the interpretation of the earlier codes. In the prologue to Cnut's laws, Q faithfully translates the source material and includes a self-complimentary note that the code is *diligenter ac fideliter in latinum translata, compendiosa brevitate cum simplicitate lucida* [diligently and faithfully translated into the Latin, clear in the brevity of its composition and simplicity].[584] Recognizing the prologue as a place of authority, Q adds approval of the Latin translation. Despite this presumed clarity, Q's efforts have varying degrees of success. In some instances, Q happily translates vernacular legal terms for which there are equivalent Latin terms. For example, compare the two versions of a clause from II Cnut side-by-side:

> MS G: ***Manslagan 7 manswaran***, *hadbrecan 7 æwbrecan gebugan 7 gebetan, oððe of cyððe mid synnan gewitan.*[585]

> *Quad*: ***Homicide***, ***periuri***, *sacrorum ordinum contemptores, adulteri peniteant et emendent, aut cum peccatis suis a cognitione (sua) discedant.*[586]

Q gives the Latin terms *homicide* and *periuri* for the Old English *manslagan* and *manswaran*, as both legal systems have equivalent words for homicide and perjury, making this a

---

[584] I Cn Prol.; *Gesetze*, 1:278. Rabin, *Old English Legal Writing,* 232.

[585] II Cn 6; *Gesetze,* 1:312. I have left certain quotations untranslated in this chapter where I compare the word treatment in different languages in order to maintain the focus on the translator's efforts, not the meaning in modern English. Where the modern English translation is relevant to the discussion, I will continue to provide a translation. I have bolded the relevant diction for ease of comparison.

[586] II Cn 6; *Gesetze,* 1:313.

one-to-one translation. Other twelfth-century translators, such as those of *Instituta Cnuti* and *Consiliatio Cnuti,* treat this similarly. When one-to-one translations are available into Latin, translators seize the opportunity as the simplest method of translation. However, this also means that we do not see those Old English terms persist after the switch to Latin legal writing.

But when equivalent terms are not immediately available or clear, translators take different paths in their works. When the respective components of a compound term can be parsed individually, then Q translates them separately and literally. For instance, in Chapter 4 we saw that *cynescipe* was translated as *regius dignitatas*. Moreover, we saw the term *folcriht* [people's law] used in the prologue to I Edward; Q translates the term as *jus publicum*.[587] This is indeed literally what the Old English term means, though it is difficult to tell if the parsed translation would have been understood the same way or held the same weight in the Latin; I have replicated the different translations of *folcriht* in Figure 7 below. Through the law codes, we saw various rulers appeal to *folcriht* in their claims to authenticity and authority. Would readers have known that *jus publicum* was not a general descriptor but instead the specific understanding of rule and custom that had not been confined to parchment? This type of etymological translation causes connotation to be lost and the authority of the term to lose strength. In this way, Old English legal terminology formed of compound components provides a level of difficulty that does not tend to be acknowledged by later translators, such as Q. Moreover, these legal compounds seem at first glance the easiest to translate; the literal translation of these terms is often preserved in the Latin text through the efforts of translators like Q, who frequently parsed the component parts and translated them individually. However, it also means that there is far less consistency because of the polysemy of many words, a continuum of meaning, as in the second part of the compound *folcriht* where Q

---

[587] I Edw Prol.; *Gesetze,* 1:138-40.

maintains no regularity in its translation. In II Athelstan, *folcriht* becomes *recto publico,* where *riht* is translated by the etymologically-related word *rectus* (right), while in another place it is translated with *publico iure* from *jus* (law), emphasizing another aspect of *riht*.[588] In II Edmund, *folcrihtes laga* becomes *populi lagam*.[589] This is something we see happen with other translators too. For example, in the Mirce law, the translator of *Inst. Cn.* turns *folcriht* into *secundum iustitiam*.[590] There is no consistency either within or across texts of how to translate parsed compound terms. Critically, by breaking up a term into its components and translating them separately, the understanding of the word as being a specific term, rather than a description of a law, is lost. Instead, by choosing to keep a term untranslated it is much easier to acknowledge that it is a specific term relegating a distinct legal right.

Figure 7: Twelfth-century translations of *folcriht*

Code	Latin
I Edw Prol.	*jus publicum*
II As 9	*recto publico*
II As 23	*publico iure*
II Em 7	*populi lagam*
Mirce (*Inst. Cn.*)	*secundum iustatiam*

Moreover, there are multiple instances in the *Quadripartitus*, where Q forgoes translating the Old English entirely. Jay Gates has shown how in IV Æthelred, Q took the phrase *ouerhyrnessam meam* "[the fine for] insubordination to me" and Latinized it, rather than directly translating it.[591] The code states: *Et precipimus, ne quiz pecuniam puram et recte appendentem sonet, monetetur in quocumque portu monetetur in regno meo, super* **ouerhyrnessam meam**.[592] [And we command that no one shall refuse pure money of correct

---

[588] II As 9 and 23; *Gesetze,* 1:154 and 1:162.
[589] II Em 7; *Gesetze,* 1:189.
[590] Mirce 3.
[591] Gates, "English Legal Discourse," 242-3.
[592] IV Atr 6; *Gesetze,* 1:232; cf. IV Atr 9.2; *Gesetze,* 1:236.

weight, coined in whatever town in my kingdom, under penalty of a fine for insubordination to me.] This term is Latinized several clauses later in the same code, and is also Latinized in *Leges Henrici*. This is a potent example, as this was a technical term and specifically indicated insubordination to the king, and the subsequent fine that he could levy. As Alice Taylor has described, the fine was often referred to as "*cyninges oferhyrnesse*," or, in the case of laws written from the king's point of view, "*oferhyrnesse meam*."[593] The term *oferhyrnesse* only appears in legal texts, including charters, and never in any literary works. As Gates notes, the term is also used without explanation; as he describes it, "It is possible the term was so recognizable that there was no need to translate, or, conversely, it was so technical that translation would have distorted its meaning."[594] Regardless, the Latinization of this vernacular term suggests that there was no direct Latin equivalent, showing once again the development of legal language specific to the early English.

Q consistently Latinizes legal terminology. In the prologue to VI Æthelstan, which we saw in Chapter 3, the bishops and reeves in London swear oaths: *mid weddum gefæstnod on urum friðgegyldum* [with pledges confirmed in our peace guild].[595] Q Latinizes but does not translate the term for a peace guild, *friðgegyldum*, in *Quadripartitus*, and the clause becomes: *edixerunt et iureiurando confirmauerunt in suo **friðgildo**…* [he decreed and confirmed with an oath in his *friðgild*]. Connected with *oferhyrnesse*, this was a legal term indicating that the peace guild could levy their own *oferhyrnesse* if a victim of theft abandoned the pursuit of a thief.[596] The only word left untranslated by Q in the prologue, it bears a special heft; there must have been something unique about the *friðgegyldum* since the word "guild" is elsewhere consistently translated as *societas*. The integration of vernacular elements into Latin texts

---

[593] Alice Taylor, "*Lex Scripta* and the Problem of Enforcement: Anglo-Saxon, Welsh, and Scottish Law Compared," in *Legalism: Community and Justice,* eds. Fernanda Pirie, Judith Scheele (Oxford University Press, 2014), 55-6, and n. 20.

[594] Gates, "English Legal Discourse," 243.

[595] VI As Prol.; *Gesetze*, 1:173.

[596] VI As 7; *Gesetze*, 1:177.

post-Conquest has a parallel in southern France in the tenth through twelfth centuries. There, *latin farci*, otherwise known as "stuffed Latin," saw the incorporation of Occitan words into Latin documents.[597] Translation is never a simple act, and in this case, there is also no way to easily translate the legal terms that have been coined and honed over the past centuries to provide an exact meaning for various efforts towards royal jurisdiction.

However, Q does fairly well when choosing to translate rather than Latinize. Clearly, Q understands Old English even if struggles are occasionally apparent. If we examine the term *berstan*, which we know to have specific legal connotations, we can see how Q treats the various occurrences and contexts. For instance, as we saw in Chapter 5, in a clause on breaking oaths, Q translates *berstan* as the Latin *frango*. The Old English reads: *gif þæt geswutelod wære oððe him að **burste**, oððe **ofercyðed** wære…* but the Latin becomes: *si manifestum sit, vel eis juramentum **fregerit**, vel **overcythed** fuerit….*[598] The Latin verb *frangere* "to break or shatter" also has a secondary meaning of "to vanquish, to defeat utterly." Here, Q uses *frangere* to provide that visual emphasis on the bursting of the oath. However, the accompanying verb *ofercyðan* provides a challenge as it is not easy to parse, despite the component forms, as it connotes an oath that is of stronger testimony or with a greater number of compurgators than someone else's. After *berstan* is translated, the accompanying *ofercyðan* is Latinized. If we examine the equivalent clauses where *berstan* appears in the Old English, we see that Q inconsistently translates the verb as *frangere*; I have provided a visual breakdown of this in Figure 8 below. In addition to I Edward, the Latin verb makes an appearance in I Æthelred, and two in II Cnut.[599] However, in II Æthelred, the phrase is *ðonne berst se team* becomes *tunc deficit aduocatio*, where the oath "falls" instead of

---

[597] David Trotter, "'Stuffed Latin:' Vernacular Evidence in Latin Documents," in *Language and Culture in Medieval Britain: The French of England c.1100-c.1500*, ed. Jocelyn Wogan-Browne et al. (York Medieval Press, 2009), 153; cf. J. Belmon and F. Vielliard, "Latin farci et occitan dans les actes du XIe siècle," *Bibliothèque de l'École des Chartes* 155 (1997): 149-83.

[598] I Ew 3; *Gesetze*, 1:140.

[599] I Ew 3; I Atr 1.13; II Cn 8.2, 22. See *Gesetze*, 1:140, 1:218, and 1:315.

"bursts."[600] Likewise, in VI Æthelred, the oath fails (*postquam uestigium deerit*) and in II Cnut, the summons fails (*qui si fallat*).[601] While Q understands the literal meaning of *berstan*, the context and its explicit connection to the breaking of oaths is lost in its translation into Latin. Because the literal meaning stripped of its connotations is clear in Old English, and there is no equivalent term in Latin, the verbs used in the translations vary.

As we saw in Chapter 5, other forms of *berstan*, such as *aetberstan*, are more literary and have flexible interpretations, which are not implicitly tied to oath-breaking. Q translates these terms with even less consistent verbs. In III Edgar, *aberste* becomes *aufugiat*; in II Æthelred, *ætberstan* becomes *evadere*.[602] In *Inst. Cn*, *ætberstan* becomes *fregerit*, and in *Cons. Cn.*, it becomes *infregerit*, while the clause is omitted entirely in *Quad*.[603] This also means that since *berstan* is always translated, it does not persist as an Old English term in Latin texts. The instances above demonstrate some of the difficulties translators had when it came to Old English terminology; oftentimes, they took the most literal path forward, parsing and translating words, or inputting descriptions in the place of the word itself.

Table 8: Translations of *berstan* in *Quadripartitus*

	Old English	*Quadripartitus*
I Ew 3	*gif þæt geswutelod wære oððe him að burste, oððe ofercyðed wære…*	*si manifestum sit, vel eis juramentum fregerit, vel overcythed fuerit….*
II Atr 9.3	*ðonne berst se team*	*tunc deficit aduocatio*
VI Atr 4	*syððan him spor burste*	*postquam uestigium deerit*
II Cn 8.2	*gyf seo lad þonne berste*	*quodsi purgatio fregerit*
II Cn 19.2	*gyf se þonne berste*	*qui si fallat*

---

[600] II Atr 9.3; *Gesetze*, 226.
[601] VI Atr 4; *Gesetze*, 234.
[602] III Eg (D) 6.1; II Atr 2.1; See *Gesetze*, 1:202-3 and 1:222.
[603] I Cn 2.3; *Gesetze*, 1:280-1.

II Cn 22	*naðor ne burste ne að ne ordal*	*et neutrum ei fregerit uel iuramentum uel ordalium*
III Eg	*aberste*	*aufugiat*
II Atr	*ætberstan*	*evadere*

The Latinization of vernacular terms shows how difficult some of these terms were. The earlier term, *oferhyrness* — of which there are only 17 occurrences in the *DOE*, and all in legal contexts — is unique to Old English, and there was no convenient or straightforward equivalent Latin legal term. Curiously, though, Q does not choose to include a definition alongside this Latinization. Does this mean that the term was still in use and that the translator considered it the best term for the job, even without context? Other legal terms, such as *wergild*, are also Latinized (*weregyldus*) but mostly not translated, suggesting an expectation of familiarity from the audience. However, as we saw earlier, Q does the same for *friðgegylda*, which only has one extant occurrence in the corpus, making it unlikely that Q's audience would have been familiar with the term without a definition. Q's choice to Latinize rather than translate the term, and, at the same time, leaving it bereft of a definition, may actually be revealing Q's unfamiliarity with the original vernacular term itself. After all, in other places Q does leave other Old English terms untranslated, yet provides context and definitions alongside their Latinization. Gates gives a number of examples where Latinization is intermingled with the original Old English legal terminology. For instance, in a clause on the expected *wergild* for those of various social ranks, Q writes:

> *Twelfhyndes hominis iusiurandum contraualet sex uillanorum iusiurandum; qui, si twelfhynde man (-dus homo) uindicari deberet, plene uindicaretur in VI ceorlis, et eius weregildum est VI ceorlorum weregildum.*[604]

---

[604] Að 1; for more on this clause, see Jay Gates, "English Legal Discourse," 248.

[The oath of a 200-shilling man is equal to the oath of six villeins; therefore, if a

200-shilling man (*douze* man) ought to be remitted, he will be fully remitted in six

churls, and his wergild is the wergild of six churls.]

This example is a mix of several languages, accompanied by several translation techniques.

Gates points out how Q works in a combination of French and Latin (-*dus homo*) to clarify

twelfhynde man, the Old English term for a person of a rank high enough to garner 200

shillings in *wergild*.[605] This provides additional clarification to the audience of *Quad.*, as a

French-speaking audience would have appreciated the further description if they were not

familiar with the Insular Saxon method of *wergild*-based social status. In this translation, Q

combines several different techniques to deal with Old English terms. *Wergild* is left

untranslated — though it is given the Latinizing treatment (*weregildum*) — as either

self-evident or well-known enough to be clear. Q relies on both the Old English term *ceorlus*

and the Latin equivalent *villanus* interchangeably.[606] As a legal term, the meaning of *ceorl*

varied in the different periods and areas of early medieval England; however, a *ceorl* was

generally considered the lowest status of free man. The Old English law, *Að*, is similar to

Norðleoda laga, and the laws of Æthelberht and Alfred, in that it demarcates a *ceorl* as

having a *wergild*-value usually equal to a sixth of a thegn.[607] In using the term

interchangeably with *villanus*, Q assumes that both are familiar to a literate audience.

Mostly, though, Q leaves the vernacular terminology untouched. If we return to my

earlier argument and take another look at II Cnut, we see all the terms for royal protections

remain in Old English despite Q's translation of the rest of the clause into Latin. Compare the

Old English clause in II Cnut to the twelfth-century efforts of the three most prominent

translators:

---

[605] Gates, "English Legal Discourse," 248-9.
[606] Gates, "English Legal Discourse," 249.
[607] See *Að* 1, *Northu.* 6, Abt 15.1, and Af 1.39-40; cf. *DOE* "*ceorl*."

G: *Ðis syndon þa gerihta, þe se cingc ah ofer ealle men on Wessexan: þæt is*

mundbryce *7* **hamsocne***,* **forsteal** *7 flymena fyrmðe 7 fyrdwite, bhutan he hwæne ðe*

furðor gemæðrian wylle...[608]

Quad.: *Hec sunt iura, que rex habet super omnes homines in Mitcenis et Westsexa:*

mundbrece *(id est infractionem pacis),* **hamsocnam** *(id est inuasionem mansionis),*

forsteal *(id est prohibitionem itineris) et fyrdunga (id est expeditionem)...*

Inst. Cn: *He sunt consuetudines regis, quas habet super omnes homines in Westsexe:*

forisfacturam, quam Angli uocant **mundbrece***,* **hamsocne***, hoc est inuasio in propria*

domo aut infra curiam causa alicuius mali, **foresteal***, quod nos possumus dicere*

contrastationem, causa mali; ferdþite, quod nos possumus dicere dimissionem belli…

Cons. Cn.: *De iure domini regis. Hee sunt rectitudines, quas rex habet super omnes*

homines in Westsexia; que sunt: monte fractura, domi inuasio, obstitus, exercitus

reatus, nisi cui rex misereri uoluerit.

As previously mentioned, *mundbrece, hamsocn,* and *forsteal* are the three primary royal

protections.[609] Codifying these offenses was a politically savvy move that explicitly tried to

expand the influence of the king through offering a broad range of public protections. As

Lambert noted, "these royal protections would have...covered some of the main locations

where people met one another and spent their time," making it a delicate matter where to seek

---

[608] II Cn 12; *Gesetze* 1:316.
[609] Maitland titled them the "reserved pleas of the crown" meaning offenses of particular royal interest. Lambert suggests that a term used by Julius Goebel, "the *gerihta*," would be more neutral; however, Maitland's terminology has had an enduring influence on the scholarly literature. I call them royal protections due to their nature. See F. W. Maitland, *Domesday Book and Beyond,* 283; and Goebel, *Felony and Misdemeanor,* 365; cf. Lambert, "Royal Protections and Private Justice," 157.

revenge on someone without offending the king.[610] Slowly but surely, the kings had increased

the field of their influence and regulated the land and spaces around them.

This is not a one-off decision either: Q consistently decides that the terms should

remain in Old English in the Latin translation. For instance, in II Edmund, Q once more

leaves the terms for these protections untouched: *Item diximus de **mundbryce** et **hamsocna**;*

qui deinceps haec egerit, perdat omne quod habebit, et sit in arbitrio regis, an vitam

habeat.[611] These royal protections are all specifically Old English terms to deal with

transgressions against royal authority, as they increase the scope of the crown's power into

daily and domestic life. Q Latinizes the terms and provides in-line definitions that were not

present in the original Old English: *mundbrece* is described as an infraction of the peace,

hamsocn as a home invasion, and *forsteal* as the blocking of travel. Providing these

definitions for the readers means that Q did not expect the audience to already know the

terms, but, again, considered them the best term for the job. There are no identical terms

under Roman law, and therefore no easy one-to-one translations into Latin. This is also the

most appropriate place for in-line definitions, as this clause is the first one in the vernacular

texts to use the term *mundbryce* instead of the earlier form of *mundbyrd* [protection value].[612]

Whitelock notes that "this term means the violation of anyone's right of protection over

others, but here it is clearly the king's right which is meant."[613] There is no indication prior to

Edmund's reign that the king's protection could be bestowed by anyone other than the king.

Yet, Edmund's legislation suggests this may have changed during his time. In describing a

---

[610] Lambert, *Law and Order*, 184.

[611] Compare to: *Eac we cwædon be mundbrice and be hamsocnum, se þe hit ofer þis do, þæt he þolige ealles þæs þe he age, and si on cyninges dome, hwæðer he lif age.* [Also, we have declared that, concerning *mundbryce* and *hamsocn*, anyone who commits it after this is to forfeit all that he owns, and it is to be for the king to decide whether he may keep his life.] II Em 6; *Gesetze,* 1:186.

[612] Wormald implies that the earlier term *borges bryce*, used in Alfred's laws, is replaced by *mundbryce* in equivalent clauses in Cnut's code. Wormald, *The Making of English Law,* 353, n. 427. Pons-Sanz supports this, noting that Wulfstan was inspired by Af 3-3.2 when writing II Cn 58-58.2 and pointing out the lexical similarity between the two clauses. Pons-Sanz, *Norse-derived Vocabulary,* 149. I follow Wormald in translating *mundbyrd* as "protection value" as it makes the compound explicit.

[613] Whitelock, *EHD,* 428, n.2.

scene where feuding parties could perform a ceremony that placed them under the king's

protection, Lambert wrote that the "novel terminology of *mundbryce*...saw the king's

protection go from being something dependent on a personal grant by the king himself to

being available locally from royal agents."[614] This protection was granted especially in the

case of preventing the resumption of feuds. The specificity of this incident explicitly linked it

to the king's *mund,* which was invoked at the start of *wergild* negotiations to guarantee

payment; illicit forms of vengeance became an affront to the king and necessitated

penalization.[615] The delegation of authority was extended in Edmund's code, which focused

on royal protections. The circle of the king's influence spread as the code increased royal

power and gifted his agents the ability to grant royal protection on his behalf. The king now

had a mobile force that could travel the country and act as his stand-in, his eyes and ears,

where their presence indicated the king's. There is no reason to think the protection offered

by the royal agents rather than the king himself was treated any differently in Edmund's time.

However, the *Leges Henrici Primi* indicate a double standard later on; transgressing the

protection offered by the king himself resulted in the culprit's mutilation whereas

transgressing protection offered in the name of the king by royal officials, such as the reeves

we saw in Chapter 2, only warranted a £5 fine.[616] By Latinizing these legal terms, Q places an

additional emphasis on them as terms, rather than descriptions, and thereby helps propagate

them in later works. Unlike *folcriht* or *berstan,* which are both translated by writers, the

choice to Latinize the royal protections means we continue to see them used after the

emergence of Law French and Latin as the predominant languages for legal writing.

By using royal authority to develop new laws, the kings increased their reach and

successfully made Old English legislation substantially different from the Continental

equivalents. This, in turn, fed back into their authority. We continue to see this uniqueness

---

[614] II Em 7.3; *Gesetze,* 1:188-190. Lambert, *Law and Order,* 185.
[615] II Em 6, 7.3; *Wer* 4. See *Gesetze,* 1:188-90.
[616] Hn 79.3-4; cf. I Ew.

recognized by those writing about the law, although not always in a positive manner. While

not specifically about Old English, Clovis Brunel questions the overall competency of

translators who rely on vernacular terminology, writing "the editors of acts began to use the

vernacular in the middle of Latin phrases when their own ignorance did not permit them to

otherwise express their thoughts."[617] However, that is not necessarily what we are seeing in

these twelfth-century Latin translations of the vernacular. Although the Latinization of

friðgegylda leaves questions about the linguistic adequacy of the translator, these were also

deliberate choices on the part of the translator. I agree with Bruce O'Brien, who argues that:

> The inclusion of some Old English terms, then, may reflect the translator's belief that
> a legal text needed to be grounded in its source language, just as other translators were
> grounding the authority of their texts.[618]

The translator of *Instituta Cnuti* chooses to Latinize also, providing some definitions in-line

again, albeit phrased differently than in *Quadripartitus*. This is something we see often from

this translator, who does retain select terms in Old English — though less often than Q — but

usually favors translation where possible. The translator of *Consiliatio Cnuti* employs a

different method and forgoes any identifying legal terms altogether. Instead, the translator

describes the rights of the crown as covering fracturing the peace, home invasions,

obstruction, and so on, without using any of the vernacular terminology. This translator had a

different goal entirely and wanted to "reflect the unity of a kingdom's law supporting the

unity of its kingship."[619] The translator inserted an addition to the prologue from Cnut's point

of view, writing that *quatinus sicut uno rege ita et una lege uniuersum Anglie regnum*

regeretur" [as the entire kingdom of England is ruled by one king, so also should it be by one

---

[617] "Les rédacteurs des actes ont d'abord employé la langue vulgaire au milieu de phrases latines, quand leur ignorance ne leur permettait pas d'exprimer autrement leur pensée." Clovis Brunel, "Les premiers exemples de l'emploi du provençal dans les chartes," *Romania* 48 (1922): 337-8. Translation courtesy of Sophie Diamond.
[618] O'Brien, "The *Instituta Cnuti*," 190.
[619] O'Brien, "The *Instituta Cnuti*," 187-8.

law].[620] Again, the translator recognizes the prologue as a space of authority and co-opts

Cnut's own. In promoting one law, the translator justifies the Latin translation and also the

incorporation of elements and clauses from other laws without acknowledgement.

The composer of *Leges Henrici Primi* — likely Q — also leaves vernacular legal

terms untranslated, but takes the extra step of often providing Latin definitions for the Old

English terms. This occurs far more often in the *Leges* than in any of the other

twelfth-century legal translations. For instance, in the section covering homicides in the

king's army, burough, or town, the scribe writes:

> *Forstal est si quis ex transuerso incurrat uel in uiam expectet et assalliat inimicum*
>
> *suum; set si post eum expectet uel euocet, ut ille reuertatur in eum, non est forestal, si*
>
> *se defendat...*[621]

> [*Forsteal* is when someone runs back or waits on the road and assails his enemy; but
>
> if he follows him, and his enemy turns around to face him, it is not *forsteal* if he
>
> defends himself.]

This type of description of the legal terminology is far less common in *Quad., Inst. Cn., or*

Con. Cn., and makes it clear that the translator did understand the Old English word, but did

not expect the audience to do so. Despite the official change of legislation from the

vernacular to Latin or Law French, vernacular terms like these persisted. Especially for kings

wanting to build on the legacy and authority of their predecessors, the invocation of

previously established laws is an effective way of validating their authority, as we saw in

Chapters 2 and 3. In fact, more than 100 Old English legal terms are included in the *Leges*

Henrici Primi; while this post-Conquest legal code is written in Latin, the inclusion of the

---

[620] *Cons. Cn* Proem 1; Liebermann, *Consiliatio Cnuti*, 1.
[621] *Leges Henrici Primi* 80.4; *Gesetze,* 1:596.

Old English terms allows for the composer to build on previously established laws.[622] This is explicitly recognized in the translators adjusting the prologues to suit their own purposes. The addition of these terms means that they were still of use to legal writers, even if the terms were not commonly in use and even if the reader was not expected to immediately know what they referred to.

As we have seen, when translating the legal texts into Latin, the translators employed specific strategies for dealing with the vernacular legal terminology. First, they looked for equivalent terms in Roman law; *manslagan* and *manswaran* are easily turned into their equivalents *homicide* and *periuri*. However, often there was simply no equivalent term. In these instances where translators encountered difficult terminology, they first looked for etymological translations. Terms like *folcriht* were broken into their separate components and translated, giving literally correct translations even if it obscured the sense of the word as a specific term for a legal right rather than a general descriptor of a law. This is a logical technique, with the result that the terms we see broken into compound components are the terms with the greatest variance in their translations, and often forming calques. Translators were not consistent in what words they use time-after-time for these words, either in a text itself or across texts. Readers unfamiliar with the word *folcriht* would not have understood it to be a specific term when confronted with *jus publicum, recto publico,* and *publico iure* in different clauses. If a difficult vernacular term was not a compound, then translators either Latinized it (like *forsteal*), sometimes providing it with a definition (like *hamsocn*), or eliminated the term altogether, describing the legal right instead (like *Con. Cn.* does).

Unfamiliar Terms and Legal Glosses

---

[622] Don C. Skemer, "*Expositio Vocabulorum*: A Medieval English Glossary as Archival Aid," *Journal of the Society of Archivists* (1998): 63-75. Thanks to Stefan Juraskinski for bringing this article to my attention.

Medieval England, following the Norman Conquest, was still very much a multilingual society. Manuscripts like Lambeth Palace Library MS 110 reveal how scribes were often operating in more than one language. There, beginning on f. 69 and ending f. 83, are days of the week penned in the margins, written in Anglo-Norman French and tracking the scribe's progress alongside the Latin text. This type of multilingualism was common in the English scriptoria; however, translators and scribes were no longer native speakers of the Old English vernacular that filled the early medieval legal codes. In the twelfth century, translators like Q were already worrying over the comprehensibility of Old English legal terms after the gradual replacement of the vernacular in everyday life with Anglo-Norman and Middle English, and with Law French and Latin for legal documentation. Yet, some of the Old English terminology continued to persist in later medieval law. It was therefore imperative for translators to understand the terms and a number of coping strategies developed, as previously demonstrated. Unfamiliar with some of these vernacular terms, the translators logically turned to legal glosses. As Nicholas Karn states, the appearance of legal glosses "coincided with the advent of writings designed to convey the technical knowledge and expertise [legal advocates] would need."[623] Indeed, we know that the translator of *Con. Cn.* selectively used a legal gloss to assist in translations: O'Brien describes how the translator, in consulting a gloss, committed a rookie error in translating a list of tariffs for injured body parts, and turned *landbræde* [loin] into *assatura renum* [roast kidneys].[624] The fine for injuring someone's roast kidneys most assuredly is not included in Alfred's royal code.

We have a number of extant legal glosses available to us today. One *expositio vocabulorum* includes a prologue describing the language as that "contained in the laws of

[623] Nicholas Karn, "*Quadripartitus, Leges Henrici Primi* and the Scholarship of English Law in the Early Twelfth Century," in *Anglo-Norman Studies XXXVII: Proceedings of the Battle Conference* (Boydell Press, 2015), 150.
[624] O'Brien, "The *Instituta Cnuti*," 191.

King Ine, of Alfred, of Æthelstan, of Æthelred and of kings Edward and Cnut."[625] Then, in Lambeth Palace Library MS 179, a composite manuscript starting in the thirteenth century and spanning the later Middle Ages, someone wrote an in-depth glossary of 31 legal terms used in charters.[626] The text, pictured in Figure 9 below, is written in Anglo-Norman and glosses legal language developed in early medieval England, amongst others. In assessing the manuscript, I discovered that these were primarily legal terms relating to the king's jurisdictional rights, and above the column of defined terms, the scribe provides an explanatory prologue as to gloss's purpose:

> *Verba anglica usitata in cartis anglicorum Regum anglie. Adhuc apposita in cartis modernorum exposita ab Alexandro Archid. Sarum quod continentur in legibus reg.*[627]

> [English words used in the scrolls of the English kings of England. Still included in the modern scrolls nowadays as recorded by Alexander Archid. Salisbury, which are contained in the laws of the kings.]

The very first term defined is *mundbreche,* which is followed shortly by *hamsokne, forstal, infongeneþef, sake, sokne, tol, tyem,* among others. These are the very same paired legal phrases that we saw earlier. Is it any surprise that it is the royal protections that persisted?

---

[625] Stefan Jurasinski, "English Law before the Conquest," in *The Cambridge Companion to Medieval Law and Literature*, eds. Sebastian Sobecki and Candace Barrington (Cambridge University Press, 2019), 14. The legal glossary described by Jurasinski is London, The National Archives, MS E 164/2. f. 302v.

[626] For more on this manuscript, see Arendse Lund, "Henry and the Tides of Time," *A Monument of Fame*, December 16, 2018, https://lambethpalacelibrary.wordpress.com/2018/12/16/henry-and-the-tides-of-time/

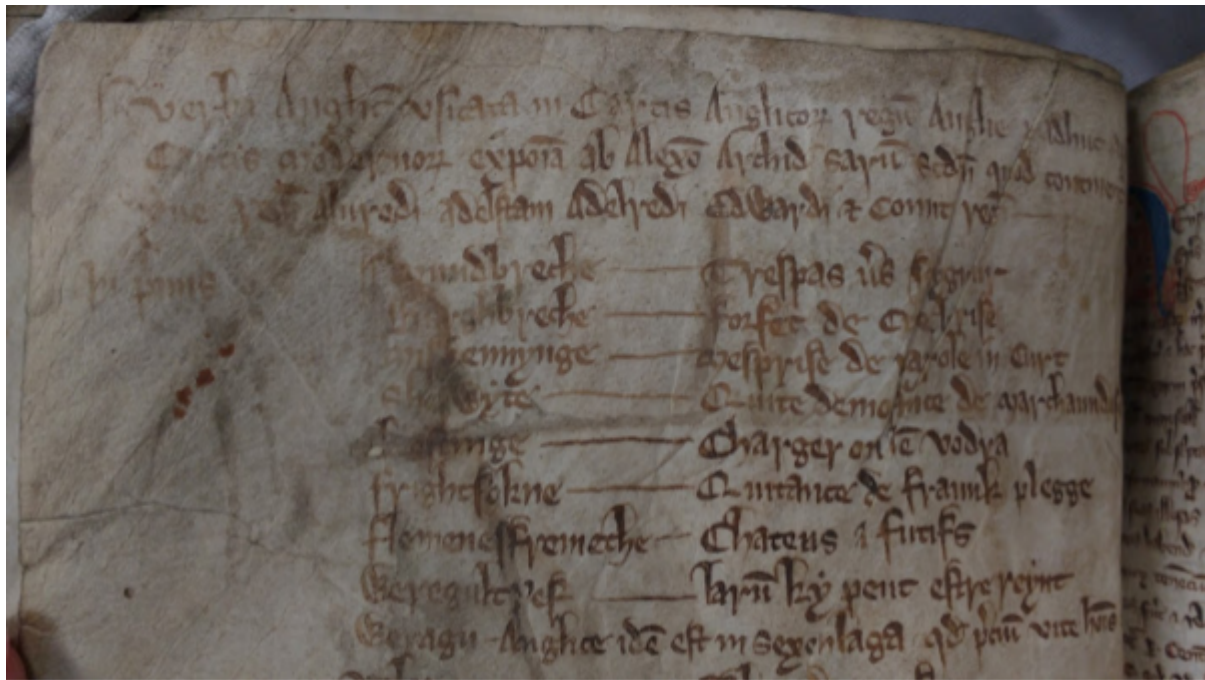[627] Lambeth Palace Library MS 179, f. 104v.

Figure 9: An Anglo-Norman glossary (Lambeth Palace Library MS 179, f. 104v)

This glossary is included alongside twelfth- and fourteenth-century English legal

statutes. The majority of the contents are written in Latin, although there are some French

texts, such as the *Summa Fet Asauer* and the *Brevia Placitata.* Many of the statutes deal with

land rights; also included are the Magna Carta and the Charter of the Forest, among others.

These were the most prominent English statutes of the previous century, brought together for

reference and as working texts. The inclusion of this Anglo-Norman glossary is therefore a

critical component of understanding legal history in medieval England and the relevance of

this continues well past the thirteenth and fourteenth centuries.[628] The reason the manuscript

exists in this form today is thanks to William Sancroft, Master of Emmanuel College,

Cambridge (1662-65) and later Archbishop of Canterbury (1677-1690). He spent his years as

the Archbishop arranging, rearranging, organizing, reorganizing, binding and rebinding

Lambeth Palace Library's manuscript collection. In doing so, Sancroft created composite

---

[628] The manuscript as it exists today is a composite work consisting of four separate codicological units, containing: 1) "the Histories," thirteenth-century copies of Henry of Huntingdon's *Historia Anglorum* and William of Malmesbury's *De Gestis Pontificum Historia Abbreviata*; 2) thirteenth- and fourteenth-century Statutes of England; 3) the Life of Sir Thomas More, dated to 1599; and 4) a mid-sixteenth-century recording of the life and death of Cardinal Wolsey. This Anglo-Norman glossary falls in the second codicological unit, with the Statues of England, a distinct codicological unit, with a different layout, scribal hand, and quire structure.

manuscripts, binding similar texts together. Those efforts included this manuscript, which he assembled and bound into its current form. By organizing these works together, Sancroft combined legal history with relevant English legislation, and, in doing so, he assembled a manuscript of clear legal importance for his contemporaries. The earliest works may start in the thirteenth century, but the latest text ends only 78 years before his term begins as Archbishop. By changing the physical form and contents in this way, he "modernized" the manuscript, bringing the relevance of the works up to his time. In assembling this up-to-date reference on English legal history, the Anglo-Norman gloss was included as an essential component. The gloss's existence and its continued relevance show that the words were not easily translated. However, its inclusion here indicates it was still considered legally meaningful, even in Sancroft's time, and helpful for understanding the legal texts bound with it.[629]

By continuing to use and gloss these Old English terms, scribes preserved them in English law. The beauty of the Lambeth gloss is its conciseness. By limiting itself to 31 legal terms, the scribe was choosing the terms most likely to cause problems in comprehension when reading charters. Moreover, Sancroft included the gloss with the legal texts as a matter of relevance. Other writers approached the problem of these untranslatable words in a different way. For instance, Henry de Bracton (c. 1210-1268), an English cleric and jurist, wrote "On the Laws and Customs of England" (*De Legibus et Consuetudinibus Angliae*). Bracton famously combined elements of Roman and canon law to emphasize the mental requisites of criminality: action and intent determine that a criminal act has been committed. This marks the beginning of a moral *mens rea* concept in criminal law, and his writings strongly influenced the direction of the English common law. In writing his *De Legibus*, he defines and describes many of the Old English legal rights and terminology. Bracton writes:

---

[629] This Lambeth glossary is not included in Skemer's collated edition, which is based on 21 manuscript copies, including one version found in Lambeth Palace Library MS 166, f. 120r-v. Skemer's edition is useful for comparison, however, and can be found in "*Expositio Vocabulorum*," 68-73.

Item erit idem si quis **hamsoken**, *quæ dicitur invasio domus contra pacem in domo*

sua se defenderit, et invasor occisus fuerit, impersolutus remanebit si ille quem invasit

aliter se defendere non potuit.[630]

[Likewise, where one defends himself against **hamsocn** — which is the entering of a

house in a breach of the peace — in his own house, and the intruder is killed, he will

be free of liability if he who killed was not able to defend himself in any other way.]

In another thirteenth-century manuscript, Lambeth Palace Library MS 92, we see these terms

included with sample writs issued by a body with administrative or judicial jurisdiction. This

is an early example of case law, where precedent and previous rulings inform future rulings;

Bracton frequently included cases to make exemplars of particularly fine logic and his book

introduced many thirteenth- and fourteenth-century lawyers to the concept of case law.[631]

While citing the Old English terminology lent authenticity and authority to Bracton's work, it

was also essential for Bracton and his readers — legal advocates themselves — to have and

understand the terminology in reference to the laws of Edward and Cnut that were included.

While Bracton included many of these terms as a matter of course, he was not explicitly

setting out to define the terminology, but rather to provide an explanation of English law and

history, writ large. Instead that task fell to others. Notes in the *Red Book of the Exchequer*, a

manuscript compilation of precedents for the English Exchequer begun in the

thirteenth-century, provide limited definitions of Old English terms, including "forfeit" for

sac.[632] More extensively, in 1253, Henry III was forced to provide Latin definitions for three

Old English terms previously used in King Richard's charter to the Abbey of St John the

---

[630] *Bracton Online,* Harvard Law School Library (2003), 2:408,
https://amesfoundation.law.harvard.edu/Bracton/index.html.
[631] Four such sample writs can be found in Lambeth Palace Library, MS 92, f. 274r. For another example of Bracton, see MS 93. These MSS are mentioned but not used in the Rolls edition.
[632] Skemer, "*Expositio Vocabulorum*," 66. See also, *The Red Book of the Exchequer*, Rolls Series, no. 99, 3 vols., ed. Hubert Hall (His Majesty's Stationery Office, 1896).

Baptist, in order to clarify their meaning and prevent legislative confusion.[633] A century after

Q, we still see writers engaging with these terms.

Bracton remained the definitive legal text for several centuries and copies of his work

in both manuscript and printed form are relatively common. Examining multiple manuscript

copies at Lambeth Palace Library, I noticed a preponderance of marginalia notes written over

extended periods of time, while a printed version at Yale's Beinecke Library lacks the same

marks of close engagement by readers. With a long manuscript transmission history, *De

Legibus et Consuetudinibus Angliae* was first printed in 1569, relatively late considering its

established history and relevance in law. The Beinecke book, a first edition, treats its

vernacular terminology in a way not done by the earlier Lambeth manuscripts of Bracton's

work. For instance, the Old English terms in the Beinecke book are easy to spot: these legal

words have been printed in a different font, giving it the appearance of being bolded. This

applies to none of the Latin — legal terminology or otherwise — allowing me to compile a

comprehensive list of vernacular terms relied on in the course of the medieval English law

book.[634] Many of these are terms we have seen before in the glosses; in fact, many overlap

with the Lambeth gloss. At a glance, the most common Old English terminology to be

repeatedly used in the Beinecke book is *infangeneþeof* and *utfangeneþeof*.[635] Bracton also

explicitly recognizes and lists out the king's jurisdictional rights; take this passage on f. 122v:

> *...vel si sit aliquis qui de concessione domini regis talem habeat libertatem, sicut **Sock
> & Sack, Tolnetum, Team, hinfangthefe 7 hutfangthefe**...[636]*

---

[633] Skemer, "*Expositio Vocabulorum*," 66.

[634] See Beinecke Library, P75 B726 +569, for Henry Bracton, *Henrici de Bracton de Legibus & Consuetudinibus Angliæ Libri Quinq; in Varios Tractatus Distincti, ad Diuersorum et Vetustissimorum Codicum Collationem, Ingenti Cura, Nunc Primũ Typis Vulgati: Quorum Quid Cuiq; Insit, Proxima Pagina Demonstrabit* (Richard Tottell, 1569).

[635] For all occurrences of "bolding," see folios 40r, 120v, 122v, 124v, 125r, 125v, 128v, 135r, 144v, 147r, 150v, 154v, 185r, 206v, 279r, 401r, 434v.

[636] Beinecke Library, P75 B726 +569, f. 122v.

[...or if someone who has the freedom of the grant of king, such as ***saca & soc, toll,***

team, infangeneþeof and ***utfangeneþeof***...]

Here we see those same paired phrases again. Now, though, their alliteration serves to

emphasize the foreignness of their sound and their treatment by the printer makes them stand

out all the more sharply. The distinctive font used to separate the Old English terms is also

only used for the rare instance of Middle English, such as at the top of f. 185r where a phrase

is emphasized: *He ne es clothes worthe that es enes guilty of oth broken.*[637] The manuscript

versions of Bracton do not employ similar methods to distinguish Old English terminology.

The printed edition, even farther removed from the early English period, explicitly recognizes

the Old English terminology as uncommon and treats it as such.
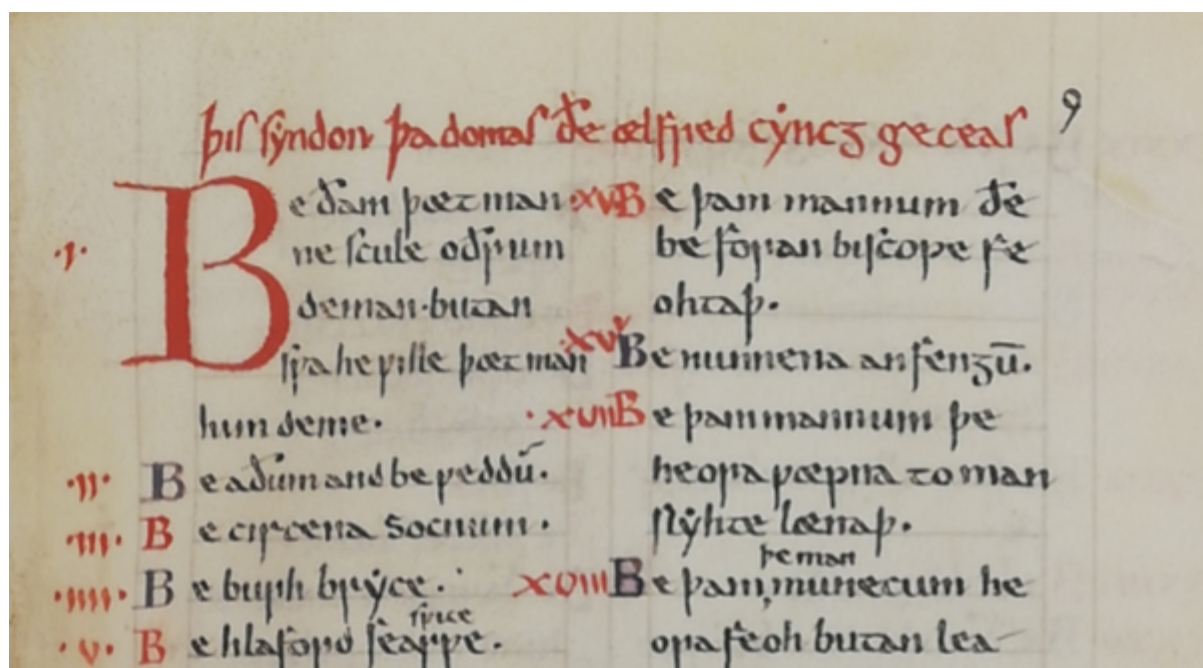
Figure 10: Elizabeth Elstob's facsimile of King Alfred's laws (British Library, MS Harley 6523, f. 9r)

A century and a half after the first printing of Bracton's *De Legibus*, Elizabeth Elstob

(1683-1756) became the first person to publish an Old English grammar in modern

English.[638] Titled *The Rudiments of Grammar*, her expository grammar allowed readers to

---

[637] Beinecke Library, P75 B726 +569, f. 185r; see also 40r.
[638] For more on Elizabeth Elstob and her contributions to the field of early English studies, see Andrew Rabin, "Elizabeth Elstob, Old English Law, and the Origin of Anglo-Saxon Studies (1767)," in *Rosarium Amicitiae:*

teach themselves Old English. She opens by reproaching those "Desiring to be Teachers of the Law, understanding neither what they say, nor whereof they affirm" and are thereby unable to understand Old English.[639] She cites the necessity of learning the language, for "The Gospels, the Psalms, and a great part of the Bible are in Saxon, so are the Laws and Ecclesiastical Canons, and Charters of most of our Saxon Kings."[640] Elstob was well read in early English law; she borrowed the *Textus Roffensis* for several years as she meticulously completed facsimile reproductions of it by hand, such as the one seen in Figure 10 above.[641] Moreover, either she or her brother transcribed the legal text known as *Judex*, as well as readings for several other early English law codes, which can be found in Beinecke Library, Takamiya MS 129.[642] Her grammar, a concise work of not even 70 pages, was applicable to anyone studying the law. She cites Bracton and Selden, and many of her examples are those of legal terminology. Case in point, when she describes substantive nouns, her descriptors include:

> Some end in *dom* or *dome*, which Denotes Power, or Office, or some Quality or Condition of Life, either with Authority or Jurisdiction, or without it; as, *Cynedome*, the Power and Authority of a King, as also the Place in which he exercise that Power; in English Kingdom… Others end in *ric*, or *rice*, which signifies Power or Office; as, *cyneric*, Kingdom.[643]

Essays in Honor of Christina von Nolcken, ed. S. Rowley (Arizona Center for Medieval & Renaissance Studies, 2017), 311-351; S. F. D. Hughes, "Elizabeth Elstob (1683-1756) and the Limits of Women's Agency in Early-Eighteenth-Century England," in *Women Medievalists and the Academy*, ed. J. Chance (University of Wisconsin Press, 2005), 3-24; Anna Smol, "Pleasure, Progress, and the Profession: Elizabeth Elstob and Contemporary Anglo-Saxon Studies," *Studies in Medievalism* 9 (1997): 80–97.

[639] Elizabeth Elstob, *The Rudiments of Grammar for the English-Saxon Language* (Bowyer & King, 1715), iv.

[640] Elstob, *Grammar*, vi.

[641] These are now held by the British Library, and catalogued as Harley MS 1866 and Harley MS 6523. See Mechtild Gretsch, "Elizabeth Elstob: A Scholar's Fight for Anglo-Saxon Studies," *Anglia* 117 (1999): 163-300, and 481–524. Also, Jacqueline Way, "'Our Mother-Tongue:' The Politics of Elizabeth Elstob's Antiquarian Scholarship," *Huntington Library Quarterly* 78, no. 3 (2015): 417-440.

[642] Her initials are also on the collation note of the Beinecke manuscript, dated 4 September 1714.

[643] Elstob, *Grammar*, 13-14.

She also includes the terms *þegnscype*, "Thainship, the Office and Dignity of a Thain" and

rænne, "which signifies Law, or Counsel: So that words of this Composition do generally

import somewhat of Regularity and Government."[644] Even the example sentences she gives

towards the end of her grammar evoke the law: "*Gif hpa him rites bidde*, if any one desire

Justice, or Right to be done to him."[645] Including this clause, an excerpt from Ine 8, shows

just how much the grammar is geared towards legal study. The uses were clear. In a letter to

Sir Herbert Croft, the future U.S. President Thomas Jefferson (1743-1826) wrote how there

was great advantage "to the English student generally, and particularly the student of law"

from learning Old English; he himself wrote his ideas "on the blank leaves of my Elstob's

Anglo-Saxon grammar."[646] He espoused the study of Old English, specifically for an

understanding of legal terminology. Without a grasp of the language, many legal words were

impenetrable. He advised that "I was led to set a due value on the study of the Northern

languages, & especially of our Anglo-Saxon while I was a student of the law, by being

obliged to recur to that source for explanation of a multitude of Law-terms."[647] Both the legal

glossaries and Thomas Jefferson's letter highlight the same issues: the difficulty in translating

these terms, particularly the absence of an equivalent Latin legal term, led to scribes, then

later translators, historians, and writers transcribing the word in their texts. This helped to

propagate the words, and allowed them to further endure.

The perseverance of these legal terms and the recognition that Old English was

critical to understanding them leads us to questions of how modern English law — both

British and American — relates to the early English past. Law involves formal learning, as

evidenced by these terms that lay people, certainly many centuries after the Conquest and in a

---

[644] Elstob, *Grammar*, 15.

[645] Elstob, *Grammar*, 63.

[646] "From Thomas Jefferson to Sir Herbert Croft, 30 October 1798," Founders Online, National Archives, https://founders.archives.gov/documents/Jefferson/01-30-02-0385. Original source: *The Papers of Thomas Jefferson, vol. 30, 1 January 1798–31 January 1799*, ed. Barbara B. Oberg (Princeton University Press, 2003), 568-571.

[647] "From Thomas Jefferson to Sir Herbert Croft, 30 October 1798," National Archives.

country removed, by Thomas Jefferson's time, would not have understood. The persistence of

these Old English terms implies patterns of use and citation in ongoing legislative efforts.

What legal writers worked so hard to create, to differentiate themselves from Latin writings,

had a much longer lifespan than perhaps anyone envisioned. This does not stop with

Jefferson's time either. As recently as 1991, there was a case where a man, after being alerted

to a robbery, pursued and wrestled with the two thieves in an attempt to delay them till the

police arrived.[648] The ruling cited II Cnut 29.1, where if anyone encountered a thief and

willfully let him escape he had to pay the thief's *wergild* as compensation; alternately, if

anyone heard the outcry and neglected to act, then he had to pay the king's *oferhyrnesse*. The

case, State v. Nall, in South Carolina, specifically cited the term *oferhyrnesse* for context and

justification for the man's action. Around a millennium after the term's first attested use, we

find the word still actively used in legal proceedings.[649]

Suggestions for Future Scholarship

While the prologues serve to outline the ideal version of the legal program, it is the long life

of these Old English terms that show the reality of its execution. These terms were powerful

vehicles for royal authority, and their endurance suggests an interest in them that extends

beyond translation difficulties. Regardless of how much authority an early English ruler

actually had, the legal writings had a longer, more far-reaching influence than anyone at the

time could have imagined. In the absence of a vernacular epilogue from a royal code, let me

conclude by returning to the prologue to Ine's code. Where it says the king wishes to

establish true law and true statutes, the author was not specifically talking about developing

and promulgating legal language, and yet that is what happened. The terms justifying royal

---

[648] State v. Nall, 304 S.C. 332 (1991):
https://law.justia.com/cases/south-carolina/court-of-appeals/1991/304-s-c-332-2.html.

[649] Modern dictionaries also still include the royal pleas. The online Merriam-Webster Dictionary, which is regularly updated to reflect modern usage, includes "hamesucken" (*hamsocn*), "mund" (*mund*), and "grith" (*grið*). It also includes "forstall" (*forsteal*), though the word has been marked as an archaic usage. See *Merriam-Webster.com Dictionary,* accessed September 26, 2020, https://www.merriam-webster.com/dictionary/.

authority persisted. Indeed, the preservation of legal terms through translation reveals the long and enduring reach of royal power. It also indicates an enduring interest in the past and in English culture. *Hamsocn*, *forsteal*, *mundbryce,* which are all legal terms that gave the kings more authority, at least textually, survived. These were the terms that expanded royal authority to the home, to the road, and to cover any type of breach of protection. Even the paired terms present in charters — *sac* and *soc,* with its governance of manorial disputes, and *toll* and *team,* governing a lord's ability to enact and collect fines — have a long afterlife covering jurisdictional disputes. Is it any wonder that later monarchs — and the legal writers composing on their behalf — were interested in maintaining these legal rights that increased their power, allowed them to collect fines, and enlarged their realm of influence in their kingdoms?

Over the course of this dissertation, I have raised issues and flagged lacunae in our scholarly knowledge. Surveying the chapters' themes, we can see that legal language appeared in texts traditionally considered legal as well as those considered literary. On the one hand, these labels allow us to handily group large numbers of texts together for the purposes of the canon, and this form of terminological shorthand implies the purpose of the text. However, by virtue of that same convenient shorthand, works become siloed. I would like to add my voice to those calling for greater study of legal texts by literary scholars, as there is much to be learned from how those works were envisioned, structured, and written, from a propaganda and narrative perspective. Literary techniques abound in legal and administrative documents, as writers sought to make them as authoritative as possible through invoking authority, defining legal bounds, and claiming royal power. Likewise, this overlap between the genres means that many of the legal terms we have examined appear in literary texts bearing that same legal connotation developed through the law codes. There is much to be gained by examining these terms in their fuller context across the corpus, not just

their appearance in legal documents. Although this has inherent difficulties, manuscript dating foremost among them, tracing these legal terms and their development can tell us a great deal about how law developed in the Middle Ages. Moreover, if we can assemble a mass of later lexical iterations, this in turn can even help us date the manuscripts in which they appear. Regardless, tracking the development of these terms in the Early Middle Ages, and their persistence post-Conquest into the Late Middle Ages, is certain to expand our understanding of legal writings and how Old English legal codes were subsumed or incorporated into the legislative efforts of the Anglo-Normans.

There is much work yet to be done on the transmission of legal language and I have pointed towards areas where further research can be conducted. In particular, I have traced terms related to *cyne* through the works of Æthelwold, Ælfric, and Wulfstan; however, I have no doubt that these influential men were responsible for the spread of more legal language. An analysis of the linguistic corpus, combined with manuscript research, should shed further light on this. Moreover, the influence of Old English on Old Norse and other medieval Scandinavian languages is understudied, and I have shown with my case study on *berstan* that it is possible — and indeed likely — that there are many other Old English-derived terms to be found in the Scandinavian legal languages. There is room for further research in this area, as there are many legal terms that could be traced. But, as the Old English maxim goes, one must wait for that which cannot be hastened.[650]

---

[650] *Mon sceal...gebidan þæs he gebædan ne mæg,* Maxims I: 103-4.

Bibliography

Editions and Translations

Attenborough, F. L, ed., *The Laws of the Earliest English Kings*. New York: Russell & Russell, 1963.

Baker, Peter, ed. *Anglo-Saxon Chronicle 8: MS F*. Suffolk, UK: D.S. Brewer, 2004.

Baker, Peter, and Michael Lapidge, eds. *Byrhtferth's Enchiridion*. Early English Text Society. Oxford: Oxford University Press, 1995.

Bately, Janet M. ed. *The Anglo-Saxon Chronicle: A Collaborative Edition. Volume 3, MS A.* Oxford: D. S. Brewer, 1986.

Baxter, Stephen, et al., eds. *Prosopography of Anglo-Saxon England* (PASE): http://www.pase.ac.uk.

Bosworth, Joseph. *An Anglo-Saxon Dictionary Online.* Edited by Thomas Northcote Toller, Christ Sean, and Ondřej Tichy. Prague: Charles University, 2014. https://bosworthtoller.com/42423

Bracton Online, Harvard Law School Library (2003), 2 vols.: https://amesfoundation.law.harvard.edu/Bracton/index.html.

Bracton, Henry. *Henrici de Bracton de Legibus & Consuetudinibus Angliæ Libri Quinq; in Varios Tractatus Distincti, ad Diuersorum et Vetustissimorum Codicum Collationem, Ingenti Cura, Nunc Primũ Typis vulgati: Quorum Quid Cuiq; Insit, Proxima Pagina Demonstrabit.* London: Richard Tottell, 1569.

Brøndum-Nielsen, Johannes, and Poul Johannes Jørgensen, eds. *Danmarks Gamle Landskabslove med Kirkelovene I-VIII*. Copenhagen: Det Danske Sprog- og Litteraturselskab, Gyldendal, 1933-1961.

Cameron, Angus, Ashley Crandell Amos, Antonette diPaolo Healey et al., eds. *Dictionary of Old English: A to I online*, ed. (Dictionary of Old English Project, 2016). Available at: https://www.doe.utoronto.ca.

Christiansen, Eric, ed. *The Works of Sven Aggesen, Twelfth-Century Danish Historian*. Viking Society for Northern Research Text Series 9, edited by Peter Foote and Anthony Faulkes. University College London for the Viking Society for Northern Research, 1992.

Colgrace, Betram, and Mynors, R.A.B. eds. *Bede's Ecclesiastical History of the English People.* Oxford: Clarendon Press, 1969.

Coxe, Henry, ed. *Chronica sive Flores Historiarum, I.* London: Sumptibus Societatis, 1841.

Cubbin, Geoffrey, ed. *Anglo-Saxon Chronicle 6: MS D.* Suffolk, UK: D.S. Brewer, 1996.

Darlington, Reginald R., and P. McGurk (eds.), P. McGurk and Jennifer Bray (trans.), *The Chronicle of John of Worcester: The Annals from 450–1066,* Vol 2. Oxford Medieval Texts. Oxford: Clarendon Press, 1995.

Dennis, Andrew, Peter Foote, and Richard Perkins, eds. *Laws of Early Iceland: Grágás, The Codex Regius of Grágás, I-II.* Manchester: University of Manchester Press, 2000.

de Salis, Ludovicus Rudolfus, ed. "Leges Burgundionum." In *Monumenta Germaniae Historica, Leges Nationum Germanicarum,* 1.2.1. Hahn, 1892.

Doane, Alger Nicolaus, Sarah Larratt Keefer, and David Rollason, eds. *Anglo-Saxon Manuscripts in Microfiche Facsimile: Manuscripts of Durham, Ripon, and York,* Medieval & Renaissance Texts & Studies 14. Arizona: Arizona Center for Medieval and Renaissance Studies, 2007.

Downer, L. J., ed. *Leges Henrici Primi.* Oxford: Clarendon Press, 1972.

Egilsson, Sveinbjörn, Jón Sigurðsson and Finnur Jónsson, eds. *Edda Snorra Sturlusonar,* 3 vols. in 4. Copenhagen, 1848-87.

"Electronic Sawyer: The Electronic Sawyer." Esawyer.org.uk. (2008). Earlyenglishlaws.ac.uk (2009).

Finberg, H. P. R., ed. *The Early Charters of Wessex.* Leicester: Leicester University Press, 1964.

Finsen, Vilhjálmur, ed. *Grágás efter det Arnamagnæanske Haandskrift Nr. 334 fol., Staðarhólsbók og en Række andre Haandskrifter.* 1883; reprint, Denmark: Odense University Press, 1974.

Flower, Robin, and Hugh Smith, ed. *The Parker Chronicle and Laws.* London: Early English Text Society, 1941, repr. 1973.

"From Thomas Jefferson to Sir Herbert Croft, 30 October 1798," Founders Online, National Archives, https://founders.archives.gov/documents/Jefferson/01-30-02-0385. Original source: *The Papers of Thomas Jefferson, vol. 30, 1 January 1798–31 January 1799,* edited by Barbara B. Oberg, 568-571. Princeton: Princeton University Press, 2003.

Gelling, Margaret, ed. *The Early Charters of the Thames Valley.* Leicester: Leicester University Press, 1979.

Gertz, M. Cl., ed. *Lex Castrensis, Scriptores Minores Historiæ Danicæ. 1* (Copenhagen, 1917-18; repr. 1970).

Hall, G. D. G., ed. *The Treatise on the Laws and Customs of the Realm of England, Commonly Called Glanvill.* Oxford Medieval Texts. Oxford: Clarendon Press, 1993.

Hall, Hubert. *The Red Book of the Exchequer,* Rolls Series, no. 99, 3 vols., His Majesty's Stationery Office, 1896.

Harmer, Florence E., ed. *Anglo-Saxon Writs.* Manchester: Manchester University Press, 1952.

Hart, C., ed. *The Early Charters of Northern England and the North Midlands.* Leicester: Leicester University Press, 1975.

Holmbäck, Åke, and Elias Wessén, eds. *Svenska Landskapslagar: Tolkade och förklarade för Nutidens Svenskar, I-V.* Stockholm: Hugo Gebers Förlag, 1933-46.

Irvine, Susan, ed., *The Anglo-Saxon Chronicle MS E, The Anglo-Saxon Chronicle: A Collaborative Edition.* Cambridge: D.S. Brewer, 2004.

Jost, Karl, ed. *Die 'Institutes of Polity, Civil and Ecclesiastical': Ein Werk Erzbischof Wulfstans von York.* Schweizer anglistische Arbeiten 47. Bern, 1959.

Kelly, S.E., ed., *Charters of St. Augustine's Abbey Canterbury and Minster-in-Thanet.* Oxford: Oxford University Press, 1995.

Kennedy, Alan, ed.. "Cnut's Law Code of 1018." *Anglo-Saxon England* 11 (1983): 57-81.

Keyser, R. and P.A. Munch, eds. *Norges Gamle Love indtil 1387.* Christiania, 1846-90.

Krapp, George Philip, ed.. *The Vercelli Book,* Anglo-Saxon Poetic Records, II. New York: Columbia University Press, 1932.

Krapp, George Philip, and Elliot Van Kirk Dobbie, eds. *The Exeter Book,* Anglo-Saxon Poetic Records, III. New York: Columbia University Press, 1936.

Kroman, Erik, and Erik Kroman, eds. *Danmarks Gamle Love paa Nutidsdansk: Skaanske Lov. Det Danske Sprog- og Litteraturselskab.* Copenhagen: Munksgaard, 1945.

Kroman, Erik, ed. *Den Danske Rigslovgivning indtil 1400. Det Danske Sprog- og Litteraturselskab.* Copenhagen: Munksgaard, 1971.

Larsen, Laurence M., ed. *The Earliest Norwegian Laws: Being the Gulathing Law and the Frostathing Law,* New York: Columbia University Press, 1935.

Lee, Stuart D., ed. *Ælfric's Homilies on 'Judith', 'Esther' and 'The Maccabees'* (1999), http://users.ox.ac.uk/~stuart/kings

Liebermann, Felix, ed. *Consiliatio Cnuti, eine Übertragung angelsächsischer Gesetze aus dem Zwölften Jahrhundert*. Halle: Max Niemeyer, 1893.

Liebermann, Felix, ed. *Die Gesetze der Angelsachsen*. 3 vols. Halle: Max Niemeyer, 1903-16.

Liebermann, Felix, ed. *Quadripartitus. Ein englisches Rechtsbuch von 1114*. Halle: Max Niemeyer, 1892.

Liljegren, G., ed. *Svenskt Diplomatarium, Vol 1-2,* Stockholm: 1829-1837.

Luard, Henry Richards, ed. *Cambridge Library Collection - Rolls Vol. 1*. Cambridge: Cambridge University Press, 2012.

Maitland, Frederic William, ed. *Bracton's Note Book, 3 vols.* Cambridge: Cambridge University Press, 1887.

Magennis, Hugh, ed. *The Anonymous Old English Legend of the Seven Sleepers and its Latin Source*. Durham Medieval Texts 7. Duham: Durham University, 1994.

Mynors, R. A. B., R. M. Thomson, and M. Winterbottom, eds. *William of Malmesbury: Gesta Regum Anglorum, Oxford Medieval Texts*, Vol. I. Oxford: Clarendon Press, 1998.

O'Brien, Bruce. ed. *God's Peace & King's Peace: The Laws of Edward the Confessor*. Pennsylvania: University of Pennsylvania Press, 1999.

O'Brien O'Keeffe, Katherine, ed. *Anglo-Saxon Chronicle 5: MS C*. Suffolk, UK: D.S. Brewer, 2001.

Oliver, Lisi, ed. *The Beginnings of English Law*. Toronto: University of Toronto Press, 2002.

Olrik, J., and H. Ræder, eds. *Saxonis Gesta Danorum*. Copenhagen: Levin & Munksgaard, 1931.

Peele, Christine, ed. *Guta Law: The Law of the Gotlanders*. Viking Society for Northern Research. University College London, Viking Society, 2009.

Rabin, Andrew, ed. *Archbishop Wulfstan of York: Old English Legal Writings.* Dumbarton Oaks Medieval Library 66. Boston: Harvard University Press, 2020.

Rabin, Andrew, ed. *The Political Writings of Archbishop Wulfstan of York.* Manchester: Manchester University Press, 2014.

Robarts, W., ed. *The Will of King Alfred; Reprinted from the Oxford ed. of 1788. With a Preface, and Additional Notes.* London: W. Pickering, 1828.

Robertson, A.J., ed. *Anglo-Saxon Charters,* 2d ed. Cambridge: Cambridge University Press, 1956.

Robertson, A. J., ed. *The Laws of the Kings of England from Edmund to Henry I.* Cambridge: Cambridge University Press, 1925.

Sawyer, Peter, ed. *Anglo-Saxon Charters: An Annotated List and Bibliography*. London: Royal Historical Society, 1968.

Sisam, Cecilia and Kenneth, eds. *The Salisbury Psalter.* Early English Text Society 242. Oxford: Oxford University Press, 1959.

Skeat, W. W., ed. *Ælfric's Lives of Saints,* Early English Text Society. London: N. Trübner, 1881.

Somerville, Robert, and Brasington, Bruce C., eds. *Prefaces to Canon Law Books in Latin Christendom*. New Haven: Yale University Press, 1998.

State v. Nall, 304 S.C. 332 (1991): https://law.justia.com/cases/south-carolina/court-of-appeals/1991/304-s-c-332-2.html.

Sveinbjørnsson, Þórður, ed. *Járnsíða eðr Hákonarbók.* Havniæ: Sumptibus Legati Arnæmagnæani, 1847.

Symons, Thomas, ed. *Regularis Concordia Anglicae Nationis Monachorum Sanctimonialiumque / The Monastic Agreement of the Monks and Nuns of the English Nation*. London: Thomas Nelson, 1953.

Tamm, Ditlev, and Helle Vogt, eds. *The Danish Medieval Laws: The Laws of Scania, Zealand and Jutland*. Oxfordshire, UK: Routledge, 2016.

Thorne, S.E., ed. *Henry de Bracton: De Legibus et Consuetudinibus Angliae,* 4 vols. London: Selden Society, 1968–1977.

Tschan, F. J., ed. *Adam of Bremen, History of the Archbishops of Hamburg-Bremen*. New York: Columbia University Press, 2002.

Van Kirk Dobbie, Elliot, ed. *Beowulf and Judith*. The Anglo-Saxon Poetic Records, IV. New York: Columbia University Press, 1953.

Whitelock, Dorothy, ed. *Anglo-Saxon Wills*. Cambridge: Cambridge University Press, 1930.

Whitelock, Dorothy, M. Brett, and C. N. L. Brooke, eds. *Councils and Synods with Other Documents Relating to the English Church, 871–1204,* 2 vols. Oxford: Clarendon Press, 1981.

Whitelock, Dorothy, ed. *English Historical Documents, Volume I: c. 500-1042.* London: Eyre & Spottiswoode, 1955; repr. 1979.

Wilcox, Jonathan, ed. *Ælfric's Prefaces.* Durham Medieval Texts 9. Durham, England: Durham University Press, 1995.

Zoega, G. T., ed. *A Concise Dictionary of Old Icelandic.* Toronto: University of Toronto Press, 2004.

Zupitza, Julius, ed. *Ælfrics Grammatik und Glossar.* Berlin: 1880. 2nd edn. with contributions by H. Gneuss. Berlin, 1966.

Secondary Sources

Abels, Richard. *Alfred the Great: War, Kingship, and Culture in Anglo-Saxon England.* New York: Longman, 1998.

Abels, Richard. "Cowardice and Duty in Anglo-Saxon England." *Journal of Medieval Military History* 4 (2006): 29-48.

Abels, Richard. "'The crimes by which Wulfbad ruined himself with his lord:' The Limits of State Action in Late Anglo-Saxon England." *Reading Medieval Studies* XL (2014): 42-53.

Adams, Henry. "The Anglo-Saxon Courts of Law." In *Essays in Anglo-Saxon Law,* edited by Henry Adams, et al., 1-54. Boston: Little, Brown, and Company, 1905.

Alford, John A. "Literature and Law in Medieval England." *PMLA* 92, no. 5 (1977): 941-51.

Alonso, Roberto Torre, and Gema Maíz Villalta, "Hapax Legomena and the Productivity of the Old English Weak Verb Suffixes." *Nordic Journal of English Studies* 13, no. 3 (2014): 188-211.

Amodio, Mark C. *The Anglo-Saxon Literature Handbook.* New York: John Wiley & Sons, 2013.

Árnason, Vilhjálmur. "Morality and Social Structure in the Icelandic Sagas." *The Journal of English and Germanic Philology* 90, no. 2 (1991), 157- 174.

Baayen, Harald, and Rochelle Lieber, "Productivity and English Derivation: A Corpus-based Study." *Linguistics* 29 (1991): 801-843.

Barrow, Julia. "The Ideology of the Tenth-Century English Benedictine 'Reform.'" In *Challenging the Boundaries of Medieval History: The Legacy of Timothy Reuter*, edited by Patricia Skinner, 141-154. Turnhout: Brepols, 2009.

Barrow, Julia. "Wulfstan and Worcester: Bishop and Clergy in the Early Eleventh Century." In *Wulfstan, Archbishop of York: The Proceedings of the Second Alcuin Conference*, edited by Matthew Townend, 141-59. Turnhout: Brepols, 2004.

Batley, Janet M. "Alfred as Author and Translator." In *A Companion to Alfred the Great*, edited by Nicole Guenther Discenza and Paul E. Szarmach, 111-142. Leiden: Brill, 2015.

Baxter, Stephen. "Archbishop Wulfstan and the Administration of God's Property." In *Wulfstan, Archbishop of York: the Proceedings of the Second Alcuin Conference*, edited by Matthew Townend, 161-205. Turnhout: Brepols, 2004.

Baxter, Stephen. *The Earls of Mercia: Lordship and Power in Late Anglo-Saxon England*. Oxford: Oxford University Press, 2007.

Belmon, J. and F. Vielliard, "Latin farci et occitan dans les actes du XIe siècle." *Bibliothèque de l'École des Chartes* 155 (1997): 149-83.

Bethurum, Dorothy. "Regnum and Sacerdotium in the Early Eleventh Century." In *England before the Conquest: Studies in Primary Sources Presented to Dorothy Whitelock*, edited by Peter Clemoes and Kathleen Hughes, 129-147. Cambridge: Cambridge University Press, 1971.

Bethurum, Dorothy. "Stylistic Features of the Old English Laws," *Modern Language Review* 27 (1932): 263-279.

Blackburn, M. "English Dies Used in the Scandinavian Imitative Coinages." *Hikuin* 11 (1985): 101-24.

Blair, John. *The Church in Anglo-Saxon Society*. Oxford: Oxford University Press, 2005.

Bloom, Harold. *The Anxiety of Influence: A Theory of Poetry*. 2nd ed., Oxford: Oxford University Press (1997).

Booij, Geert, and Matthias Hüning "Affixoids and Constructional Idioms." In *Extending the Scope of Construction Grammar*, edited by Ronny Boogaart, Timothy Colleman, Gijsbert Rutten, Cognitive Linguistics Research 94, 77-106. Berlin: Walter de Gruyter, 2014.

Bolton, Timothy. *Cnut the Great.* New Haven: Yale University Press, 2017.

Bolton, Timothy. *The Empire of Cnut the Great: Conquest and the Consolidation of Power in Northern Europe in the Early Eleventh Century*. Leiden: Brill, 2009.

Bonser, Wilfrid. "Anglo-Saxon Laws and Charms Relating to Theft." *Folklore* 57, no. 1 (1946): 7-11.

Brasington, Bruce C. "Prologues to Medieval Canon Law Collections as a Source for Jurisprudential Change to the Eve of the Investiture Contest." *Frühmittelalterliche Studien* 28 (1994): 228-42.

Bredehoft, Thomas. *Early English Meter.* Toronto: University of Toronto Press, 2005.

Brink, S. "The Creation of a Scandinavian Provincial Law: how was it done?" *Historical Research* 86 (2013): 432-42.

Brodeur, Arthur Gilchrist. *The Art of Beowulf.* Berkeley: University of California Press, 1959.

Brunel, Clovis. "Les premiers exemples de l'emploi du provençal dans les chartes," *Romania* 48 (1922): 335-364.

Buczek, Katarzyna. "Old Frisian and Anglo-Saxon Legal Texts. A Stylistic Comparison." *Academic Journal of Modern Philology* 1 (2012): 7-12.

Caie, Graham D. "Text and Context in Editing Old English: The Case of the Poetry in Cambridge, Corpus Christi College 201." In *The Editing of Old English*, edited by D. G. Scragg and Paul C. Szarmach, 155-62. Cambridge: D. S. Brewer, 1999.

Campbell, A. "An Old English Will." *JPEG* 37 (1938): 133-152.

Campbell, James, and Patrick Wormald. *The Anglo-Saxons*. New York: Penguin, 1982.

Chaney, William A. *The Cult of Kingship in Anglo-Saxon England: The Transition from Paganism to Christianity.* Manchester: Manchester University Press, 1970.

Chapman, Don. "Composing and Joining: How Anglo-Saxons Talked About Compounding." In *Verbal Encounters: Anglo-Saxon and Old Norse Studies for Roberta Frank*, edited by Antonina Harbus and Russell Poole, 39-54. Toronto: University Toronto Press, 2005.

Chapman, Don, and Ryan Christensen, "Noun-adjective Compounds as a Poetic Type in Old English." *English Studies* 88, no. 4 (2007): 447-464.

Chapman, Don. "Stylistic Use of Nominal Compounds in Wulfstan's Sermons." PhD diss., University of Toronto, 1995.

Clayton, Mary. "The Old English Promissio Regis." *Anglo-Saxon England* 37 (2008): 91-150.

Coghlan, Ivona. "Law French – When Law and Language Collide." *The Law Bod Blog: News and Chat from the Bodleian Law Library* (31 May 2018): http://blogs.bodleian.ox.ac.uk/lawbod/2018/05/31/law-french-when-law-and-language-collide

Crystal, David. *The Stories of English.* New York: The Overlook Press, 2005.

Cubitt, Catherine. "The Politics of Remorse: Penance and Royal Piety in the Reign of Æthelred the Unready." *Historical Research* 85 (2011): 179-92.

Curtius, Ernst Robert. *European Literature and the Latin Middle Ages*. trans. Willard R. Trask. Princeton, NJ.: Princeton University Press, 1990.

Dance, Richard. "*Ealde æ, niwæ laȝe*: Two Words for 'Law' in the Twelfth Century." *New Medieval Literatures* 13 (2011): 149-82.

Dance, Richard. "Sound, Fury, and Signifiers." In *Wulfstan, Archbishop of York: The Proceedings of the Second Alcuin Conference,* edited by Matthew Townend, 29-61. Turnhout: Brepols, 2004.

Dance, Richard. *Words Derived from Old Norse in Early Middle English: Studies in the Vocabulary of the South-West Midland Texts*. Tempe: Arizona Center for Medieval and Renaissance Studies, 2003.

Davis-Secord, Jonathan. *Joinings: Compound Words in Old English Literature.* University of Toronto Press, 2016.

Davis, R. H. C. "Alfred and Guthrum's Frontier." *The English Historical Review* 97, no. 385 (1982): 803-10.

Dearnley, Elizabeth. *Translators and Their Prologues in Medieval England*. Suffolk, UK: Boydell & Brewer, 2016.

de Jong, Mayke. *The Penitential State: Authority and Atonement in the Age of Louis the Pious, 814–840*. Cambridge: Cambridge University Press, 2009.

de Jong, Mayke. "What was Public about Public Penance? *Paenitentia Publica* and Justice in the Carolingian World." In *La Giustizia nell'alto Medioevo* (secoli IX–XI). Settimane di Studio del Centro italiano di Studi sull'alto Medioevo, 2 vols., 1997.

Dempsey, George T. "Legal Terminology in Anglo-Saxon England: The Trinoda Necessitas Charter." *Speculum* 57 (1982): 843-49.

Discenza, Nicole Guenther. "'Wise Wealhstodas': The Prologue to Sirach as a Model for Alfred's Preface to the 'Pastoral Care.'" *The Journal of English and Germanic Philology* 97, no. 4 (1998): 488-99.

Dumville, David N. "The West Saxon Genealogical Regnal List and the Chronology of Early Wessex." *Peritia* 4 (1985): 21-66.

Durkin, Philip. *Borrowed Words: A History of Loanwords in English*. Oxford: Oxford University Press, 2014.

Earl, James W. "King Alfred's Talking Poems." *Pacific Coast Philology* 24, no. 1/2 (1989): 49-61.

Eichel, Andrew. "Patristic Precedent and Vernacular Innovation: The Practice and Theory of Anglo-Saxon Translation." PhD diss., University of Tennessee, Knoxville, 2016: https://trace.tennessee.edu/cgi/viewcontent.cgi?article=5206&context=utk_graddiss.

Elliot, M. D. "New Evidence for the Influence of Gallic Canon Law in Anglo-Saxon England." *The Journal of Ecclesiastical History* 64 (2013): 700-730.

Elstob, Elizabeth. *The Rudiments of Grammar for the English-Saxon Language.* London: Bowyer & King, 1715.

Firth, Matthew. "London Under Danish Rule: Cnut's Politics and Policies as a Demonstration of Power." *Eras Journal* 18 (2017): 1-20.

Firth Green, Richard. "Literature and Law." In *A Companion to Medieval English Literature and Culture, c. 1350–c. 1500*, edited by Peter Brown, 292-306. New Jersey: Wiley-Blackwell, 2009.

Firth Green, Richard. "Medieval Literature and Law." In *The Cambridge History of Middle English Literature*, edited by David Wallace, 407-431. Cambridge: Cambridge University Press, 1998.

Foot, Sarah. *Monastic Life in Anglo-Saxon England, c. 600-900.* Cambridge: Cambridge University Press, 2009.

Foot, Sarah. *Æthelstan: The First King of England*. New Haven: Yale University Press, 2011.

Frank, Roberta. "King Cnut in the Verse of his Skalds." In *The Reign of Cnut: King of England, Denmark and Norway*, Studies in the Early History of Britain, edited by Alexander R. Rumble, 106-124. London: Leicester University Press, 1994.

Fruscione, Daniela. "*Riht* in Earlier Anglo-Saxon Legislation: A Semasiological Approach." *Historical Research* 86 (2013): 498–504.

Fulk, Robert D. "Pragmatic and Stylistic Functions of Binomials in Old English." In *Binomials in the History of English: Fixed and Flexible,* edited by Joanna Kopaczyk and Hans Sauer, 27-40. Cambridge: Cambridge University Press, 2017.

Fulk, Robert D. "The Moral System of 'Hrafnkels saga Freysgoða.'" *Saga Book of the Viking Society* 22 (1986-89): 1-32.

Galloway, Andrew. "Middle English Prologues in Readings." *Readings in Medieval Texts,* edited by David F. Johnson and Elaine Treharne. Oxford: Oxford University Press, 2005.

Gameson, Richard. *The Manuscripts of Early Norman England (c. 1066-1130).* London: British Academy, 1999.

Gates, Jay Paul. "*Ealles Englalandes Cyningc*: Cnut's Territorial Kingship and Wulfstan's Paronomastic Play," *The Heroic Age* 14 (2012): n.p. www.heroicage.org/issues/14/toca.php.

Gates, Jay Paul. "English Legal Discourse in *Quadripartitus*." In *Languages of the Law in Early Medieval England: Essays in Memory of Lisi Oliver,* edited by Stefan Jurasinski and Andrew Rabin, 241-261. Leuven: Peeters, 2019.

Genette, Gerard. *Paratexts: Thresholds of Interpretation*. Translated by Jane E Lewin. Cambridge: Cambridge University Press, 1997.

Gneuss, Helmut. *Handlist of Anglo-Saxon Manuscripts. Medieval and Renaissance Texts and Studies* 241. Phoenix, Arizona: Arizona Center for Medieval and Renaissance Studies, 2001.

Gneuss, Helmut. "The Origin of Standard Old English and Æthelwold's School at Winchester." *Anglo-Saxon England* 1 (1972): 63-85.

Gobbitt, Thomas. "Anglo-Saxon Legal Texts in Cambridge, Corpus Christi College, MS. 383." *Historical Research* 86 (2013): 536-549.

Gobbitt, Thomas. "Audience and Amendment of Cambridge, Corpus Christi College 383 in the First Half of the Twelfth Century." *Skepsi* 2, no. 1 (2009): 6-22.

Godden, Malcolm. "Prologues and Epilogues in the Old English Pastoral Care, and Their Carolingian Models." *The Journal of English and Germanic Philology* 110, no. 4 (2011): 441-73.

Goebel, Jr., Julius. *Felony and Misdemeanor: A Study in the History of Criminal Law.* Pennsylvania: University of Pennsylvania Press, 1976.

Gretsch, Mechthild. "Elizabeth Elstob: A Scholar's Fight for Anglo-Saxon Studies," *Anglia* 117 (1999), 163-300, and 481–524.

Gretsch, Mechthild. "Winchester Vocabulary and Standard Old English: The Vernacular in Late Anglo-Saxon England." *Bulletin of the John Rylands Library* 83 (2001): 41-87.

Griffith, Mark. "Extra Alliteration on Stressed Syllables in Old English Poetry: Types, Uses and Evolution." *Anglo-Saxon England* 74 (2020): 69-176.

Grimm, Jacob. *Deutsche Rechtsaltertümer.* Leipzig, 1899.

Grimm, Jacob. *Von der Poesie im Recht, in Zeitschrift für Geschichtliche Rechtswissenschaft,* II. Nicolai, 1816

Hare, Michael. "Cnut and Lotharingia: Two Notes." *Anglo-Saxon England* 29 (2000): 269-72.

Harte, Jeremy. "Language, Law, and Landscape in the Anglo-Saxon World." *Journal of Archaeology, Consciousness and Culture* 8.1 (2015): 51-67.

Helle, Knut. *Gulatinget og Gulatingslova.* Leikanger: Skald, 2001.

Henry, Robert L. "Forms of Anglo-Saxon Contracts and Their Sanctions." *Michigan Law Review* 15, no. 7 (1917): 552-65.

Hermanson, Lars, and Alan Crozier, "Friendship and Social Formation in the High Middle Ages." In *Friendship and Social Formation in the High Middle Ages,* 41-110. Leiden: Brill, 2019.

Hofstetter, Walter. "Winchester and the Standardization of Old English vocabulary." *Anglo-Saxon England* 17 (1988): 139-161.

Holberg, Ludvig. *Dansk Rigslovgivning: Forholdet mellem Vederlagslov og Rigslov: Rigslovene i Perioden 1241-1282.* Copenhagen: Gad, 1889.

Hough, Carole A. "The Widow's *Mund* in Æthelberht 75 and 76." *The Journal of English and Germanic Philology* 98, no. 1 (1999): 1-16.

Hough, Carole A. "Legal and Documentary Writings." In *A Companion to Anglo-Saxon Literature,* edited by Philip Pulsiano and Elaine Treharne, 170-187. Oxford: Blackwell, 2001.

Hough, Carole A. "Place-Name Evidence Relating to the Interpretation of Old English Legal Terminology." *Leeds Studies in English* 27 (1996): 19-48.

Howe, Nicholas. "The Cultural Construction of Reading in Anglo-Saxon England." In *Old English Literature: Critical Essays*, edited by R. M. Liuzza, 1-22. New Haven: Yale University Press, 2008.

Hughes, S. F. D. "Elizabeth Elstob (1683-1756) and the Limits of Women's Agency in Early-Eighteenth-Century England." In *Women Medievalists and the Academy*, edited by J. Chance, 3-24. Wisconsin: University of Wisconsin Press, 2005.

Irvine, Susan. "The Alfredian Prefaces and Epilogues." *A Companion to Alfred the Great*, edited by N. Guenther Discenza and P. E. Szarmach. 143-70. Leiden: Brill, 2015.

Jesch, Judith. "*Knútr* in Poetry and History." In *International Scandinavian and medieval studies in memory of Gerd Wolfgang Weber*, edited by Michael Dallapiazza, 234-259. Trieste: Parnaso, 2000.

Jolliffe, J. E. A. *The Constitutional History of Medieval England, from the English Settlement to 1485*. London: Adams and Charles Black, 1937.

Joy, Eileen. "The Old English Seven Sleepers, Eros, and the Unincorporable Infinite of the Human Person." In *Anonymous Interpolations in Ælfric's Lives of Saints*, edited by Robin Norris, 71-96. Kalamazoo, MI: Medieval Institute Publications, 2011.

Jurasinski, Stefan. "English Law before the Conquest." In *The Cambridge Companion to Medieval Law and Literature*, edited by Sebastian Sobecki and Candace Barrington, 3-16. Cambridge: Cambridge University Press, 2019.

Jurasinski, Stefan. *The Old English Penitentials and Anglo-Saxon Law*. Studies in Legal History. Cambridge: Cambridge University Press, 2015.

Jurasinski, Stefan. "Violence, Penance, and Secular Law in Alfred's Mosaic Prologue," *Haskins Society Journal* 22 (2011): 25-42.

Karn, Nicholas. "*Quadripartitus*, *Leges Henrici Primi* and the Scholarship of English Law in the Early Twelfth Century." In *Anglo-Norman Studies XXXVII: Proceedings of the Battle Conference*, 149-160. Suffolk, UK: Boydell Press, 2015.

Kennedy, A. G. "Disputes about *Bocland*: The Forum for their Adjudication." *Anglo-Saxon England* 14 (1985): 175-195.

Ker, Neil R. *Catalogue of Manuscripts Containing Anglo-Saxon*. Oxford: Clarendon Press, 1957.

Ker, Neil R. *English Manuscripts in the Century after the Norman Conquest*. Oxford: Clarendon Press, 1960.

Keynes, Simon. "An Abbot, an Archbishop, and the Viking Raids of 1006-7 and 1009-12," *Anglo-Saxon England* 36 (2007): 151-220.

Keynes, Simon. *An Atlas of Attestations in Anglo-Saxon Charters, c. 670-1066*. Cambridge: University of Cambridge, 1998.

Keynes, Simon. "Cnut's Earls." In *The Reign of Cnut, King of England, Denmark and Norway*, edited by Alexander Rumble, 43-88. Leicester: Leicester University Press, 1994.

Keynes, Simon. "Edgar, Rex Admirabilis." In *Edgar, King of the English 959–975: New Interpretations,* edited by Donald Scragg, 3-59. Suffolk: Boydell Press, 2008.

Keynes, Simon. "Edward, King of the Anglo-Saxons." In *Edward the Elder, 899–924*, edited by N. J. Higham and D. H. Hill, 40-66. London: Routledge, 2001.

Keynes, Simon. "Royal Government and the Written Word in Late Anglo-Saxon England." In *The Uses of Literacy in Early Medieval Europe,* edited by R. McKitterick, 232-44. Cambridge: Cambridge University Press, 1990.

Keynes, Simon. *The Diplomas of King Æthelred 'the Unready,' 978-1016: A Study in Their Use as Historical Evidence*. Cambridge: Cambridge University Press, 1980.

Keynes, Simon. "Wulfstan I." In *Blackwell Encyclopedia of Anglo-Saxon England*, edited by Donald Scragg, John Blair, Michael Lapidge, Simon Keynes, 492-3. Oxford: Blackwell, 2001.

Kilgour, Frederick G. *The Evolution of the Book*. Oxford: Oxford University Press, 1998.

Kirby, D. P. *The Earliest English Kings*. New York: Psychology Press, 1991.

Knowles, David. *The Monastic Order in England: A History of its Development from the Times of St. Dunstan to the Fourth Lateran Council, 940–1216,* 2nd reprint ed. Cambridge: Cambridge University Press, 1976.

Kohnen, Thomas. "Directives in Old English." In *Speech Acts in the History of English*, edited by Andreas H. Jucker and Irma Taavitsainen, 27-44. Amsterdam: John Benjamins Publishing, 2008.

Laing, Gregory L. "Bound by Words: Oath-taking and Oath-breaking in Medieval Iceland and Anglo-Saxon England." PhD diss., Western Michigan University, 2014.

Langbroek, Erika. "Die Sprache von Bernardus Rordahusim in der Niederdeutschen Apokalypse der Baseler Handschrift F.VII.12, folio 211r-217r." In *Advances in Old Frisian Philology, Amsterdamer Beiträge zur älteren Germanistik* 64, edited by Rolf H. Bremmer Jr., Stephen Laker and Oebele Vries, 185-211. Leiden: Brill, 2007.

Lambert, Thomas Benedict. "Protection, Feud and Royal Power: Violence and its Regulation in English Law, c. 850 – c. 1250." PhD diss., Durham University, 2009.

Lambert, Thomas Benedict. "Royal Protections And Private Justice: A Reassessment Of Cnut's 'Reserved Pleas.'" In *English Law Before Magna Carta,* edited by Stefan Jurasinski, Lisi Oliver, and Andrew Rabin. Leiden: Brill, 2010.

Lambert, Thomas Benedict. "Theft, Homicide and Crime in Late Anglo-Saxon Law." *Past Present* 214 (2012): 3-43.

Lapidge, Michael. "Oda." In *The Blackwell Encyclopaedia of Anglo-Saxon England,* edited by Michael Lapidge, John Blair, Simon Keynes, Donald Scragg, 339-340. Oxford: Blackwell Publishing, 2001.

Lapidge, Michael, John Crook, Robert Deshman and Susan Rankin, *The Cult of St Swithun: Winchester Studies 4.ii, The Anglo-Saxon Minster of Winchester*. New York: Clarendon Press, 2003.

Lapidge, Michael, and Helmut Gneuss, *Anglo-Saxon Manuscripts: A Bibliographical Handlist of Manuscripts and Manuscript Fragments Written or Owned in England up to 1100.* Toronto: University of Toronto Press, 2014.

Laurence, J. "The Anglo-Saxon Legal Procedure." In *Essays in Anglo-Saxon Law,* edited by Henry Adams, et al., 183-305. Boston: Little, Brown, and Company, 1905.

Lawson, M. K. *Cnut: England's Viking King*. Stroud: Tempus, 2004.

Lawson, "Archbishop Wulfstan and the Homiletic Element in the Laws of Æthelred II and Cnut," *English Historical Review* 107, no. 424 (1992): 565-586.

Lazzari, Loredana. "The Scholarly Achievements of Æthelwold and His Circle." In *Form and Content of Instruction in Anglo-Saxon England in the Light of Contemporary Manuscript Evidence: Papers Presented at the International Conference, Udine, 6-8 April 2006. Federation Internationale des Instituts d'Etudes Medievales Textes et Études du Moyen Age*, 39, edited by Patrizia Lendinara, Loredana Lazzari and Maria Amalia D'Aronco, 309-348. Turnhout: Brepols, 2007.

Lees, Clare. *Tradition and Belief: Religious Writings in Late Anglo-Saxon England*. Minnesota: University of Minnesota Press, 1999.

Lejeune, Philippe. *Le Pacte Autobiographique*. Paris: Seuil, 1975.

Lenker, Ursula. "Booster prefixes in Old English – an Alternative View of the Roots of ME Forsooth." *English Language and Linguistics* 12, no. 2 (2008): 245-265.

Lenker, Ursula. "The Monasteries of the Benedictine Reform and the "Winchester School:" Model Cases of Social Networks in Anglo-Saxon England?" *European Journal of English Studies* 4, no. 3 (2000): 225-238;

Lenz, Karmen. *Ræd and Frofer: Christian Poetics in the Old English Froferboc Meters*, Consterus New Series 195. New York: Rodopi, 2012.

Lewis, William Draper. "The Anglo-Saxon Law Suit." *The American Law Register and Review* 42, no. 11 (1894): 769-77.

Lefroy, A. H. F. "Anglo-Saxon Period of English Law." *The Yale Law Review* 26 (1917): 388-394.

Lindow, John. *Comitatus, Individual and Honor: Studies in North Germanic Institutional Vocabulary.* Berkeley: University of Berkeley Press, 1975.

Lionarons, Joyce Tally. *The Homiletic Writings of Archbishop Wulfstan*, Anglo-Saxon Studies 14. Suffolk, UK: D. S. Brewer, 2010.

Lodge, H. Cabot. "The Anglo-Saxon Land Law." In *Essays in Anglo-Saxon Law*, edited by Henry Adams, et al., 55-119. Boston: Little, Brown, and Company, 1905.

Lowe, K. A. "*Swutelung/swutelian* and the Dating of an Old English Charter (Sawyer 1524)." *Notes & Queries* 38 (1991): 450-452.

Loyn, H. R. "The King and the Structure of Society in Late Anglo-Saxon England." *History* 42, no. 145 (1957): 87-100.

Lund, Arendse. "Henry and the Tides of Time." *A Monument of Fame* (December 16, 2018): https://lambethpalacelibrary.wordpress.com/2018/12/16/henry-and-the-tides-of-time/

Lutz, Angelika. "Norse Loans in Middle English and their Influence on Late Medieval London English." *Anglia* 135, no. 2 (2017): 317-357.

MacQueen, Hector. "Expectations of the Law in 12th and 13th Century Scotland." *Tijdschrift voor Rechtsgeschiedenis* 70 (2002): 279-290.

Maddicott, J.R. "London and Droitwich: c.650-750: Trade, Industry and the Rise of Mercia." *Anglo-Saxon England* 34 (2005): 7-58.

Maddock, David. "The Composite Nature of *Andreas*," *Humanities* 8 (2019): 1-23.

Magnússon Ólsen, Björn. *Den Tredje og Fjærde Grammatiske Afhandling i Snorres Edda*. Copenhagen: Fr. G. Knudtzon, 1884.

Maitland, Frederic William. *Domesday Book and Beyond.* Cambridge: Cambridge University Press, 1897.

Marsden, Richard. "The Will of Ælfgifu." In *The Old English Reader,* 2nd ed., edited by Richard Marsden, 128-131. Cambridge: Cambridge University Press, 2015.

Matzinger-Pfister, R. *Paarformel, Synonymik und Zweisprachiges Wortpaar. Zur Mehrgliedrigen Ausdrucksweise der Mittelalterlichen Urkundensprache* Zurich: Juris, 1971.

McCann, Katherin. *Anglo-Saxon Kingship and Political Power: Rex gratia Dei.* Wales: University of Wales Press, 2018.

Miller, William Ian. "Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland." *The American Journal of Legal History* 28, no. 2 (1984): 95-134.

Miller, William Ian. "Ordeal in Iceland." *Scandinavian Studies* 60, no. 2 (1988): 189-218.

Minnis, Alastair. *Medieval Theory of Authorship: Scholastic Literary Attitudes in the Later Middle Ages.* Pennsylvania: University of Pennsylvania Press, 2010.

Mitchell, Bruce. "The Relation between Old English Alliterative Verse and Ælfric's Alliterative Prose." In *Latin Learning and English Lore: Studies in Anglo-Saxon Literature for Michael Lapidge,* vol. 2., edited by Katherine O'Brien O'Keeffe and Andy Orchard, 349-62. Toronto: University of Toronto Press, 2005.

Momma, Haruko. "Rhythm and Alliteration: Styles of Ælfric's Prose up to the Lives of Saints." In *Anglo-Saxon Styles,* edited by Catherine E. Karkov and George Hardin Brown, 253-269. New York: State University of New York, 2003.

Momma, Haruko. *The Composition of Old English Poetry.* Cambridge: Cambridge University Press, 1997.

Murdoch, Brian. "Old Frisian Law and Frisian Freedom Ideology." *Amsterdamer Beiträge Zur Älteren Germanistik* 49 (2007): 179-214.

Müller, Jörg. "Forschungsstand und Aktuelle Aufgabenplanung in der Vorgratianischen Kanonistik." *Österreichisches Archiv für Kirchenrecht* 43 (1994): 225-40.

Napran, Laura, and E. van Hout. *Exile in the Middle Ages: Selected Proceedings from the International Medieval Congress, University of Leeds, 8-11 July 2002,* in International Medieval Research 13, Turnhout: Brepols, 2004.

Niles, John D. "Compound Diction and the Style of Beowulf." *English Studies* 62, no. 6 (1981): 489-503.

Niles, John D. "The Myth of the Feud in Anglo-Saxon England." *Journal of English and Germanic Philology* 114, no. 2 (2015): 163-200.

O'Brien, Bruce. "Pre-Conquest Laws and Legislators in the Twelfth Century." In *The Long Twelfth-Century View of the Anglo-Saxon Past,* edited by Martin Brett and David A. Woodman, 229-72. New York: Routledge, 2016.

O'Brien, Bruce. "The *Instituta Cnuti* and the Translation of English Law." In *Anglo-Norman Studies 25: Proceedings of the Battle Conference 2002,* edited by John Gillingham, 153-175. Suffolk, UK: Boydell & Brewer, 2003.

O'Brien O'Keeffe, Katherine. "Death and Transformations: Thinking through the 'End' of Old English Verse." In *New Directions in Oral Theory,* edited by M. C. Amodio, Medieval and Renaissance Texts and Studies, 149-178. Tempe: Arizona Center for Medieval and Renaissance Studies, 2005.

Oliver, Lisi. "C*yninges Fedesl*: The King's Feeding in Æthelberht, ch. 12," *Anglo-Saxon England* 27 (1998): 31-40.

Oliver, Lisi. "Legal Documentation and the Practice of English Law." In *The Cambridge History of Early Medieval English Literature,* edited by Clare Lees, 499-530. Cambridge: Cambridge University Press, 2013.

Oliver, Lisi. "Sick-Maintenance in Anglo-Saxon Law." *The Journal of English and Germanic Philology* 107, no. 3 (2008): 303-26.

Orchard, Andy. "Artful Alliteration in Old English Song and Story." *Anglia* 113 (1995): 429-63.

Orchard, Andy. "Wulfstan as Reader, Writer, Rewriter." In *The Old English Homily: Precedent, Practice, and Appropriation*, edited by Aaron J, Kleist, Studies in the Early Middle Ages 17, 311-41. Turnhout: Brepols, 2007.

Ordower, Henry. "Exploring the Literary Function of Law and Litigation in 'Njal's Saga.'" *Cardozo Studies in Law and Literature* 3, no. 1 (1991): 41-61.

Owen-Crocker, Gale. *The Four Funerals in Beowulf.* Manchester: Manchester University Press, 2000.

Overholser, Lee Charles. "A Comparative Study of the Compound Use of *Andreas* and *Beowulf.*" PhD diss., University of Michigan, 1971.

Pappenheim, Max. *Die Altdänischen Schutzgilden: ein Beitrag zur Rechtsgeschichte der Germanischen Genossenschaft.* Breslau: W. Koebner, 1885.

Parker, Eleanor. "*Havelok* and the Danes in England: History, Legend, and Romance." *Review of English Studies* 67, no. 280 (2016): 428-447.

Pennington, Kanneth. "Medieval Law." In *Medieval Studies: An Introduction*, edited by James M. Powell, 333-352. New York: Syracuse University Press, 1992.

Pollock, Frederick. "Anglo-Saxon Law." *The English Historical Review* 8, no. 30 (1893): 239-71.

Pollock, Frederick. "Cosmopolitan Custom and International Law." *Harvard Law Review* 29, no. 6 (1916): 565-81.

Pollock, Frederick, and Frederic William Maitland, *The History of English Law before the Time of Edward I, 2d ed.* Cambridge: Cambridge University Press, 1968.

Pons-Sanz, Sara M. *Lexical Effects of Anglo-Scandinavian Linguistic Contact on Old English*. Turnhout: Brepols, 2013.

Pons-Sanz, Sara M. *Norse-Derived Vocabulary in Late Old English Texts: Wulfstan's Works, a Case Study*. Denmark: University Press of Southern Denmark, 2007.

Poole, Russell Gilbert. *Viking Poems on War and Peace: A Study in Skaldic Narrative*. Toronto Medieval Texts and Translations, vol. 8. Toronto: University of Toronto Press, 1991.

Pope, John C. "Ælfric's Rhythmical Prose." In *Homilies of Ælfric: A Supplementary Collection*, vol. 1. Edited by John C. Pope. Early English Text Society 259, 105-136. Oxford: Oxford University Press, 1967.

Posner, Richard A. *Law and Literature: A Misunderstood Relation.* Boston: Harvard University Press, 1988.

Pratt, David. *The Political Thought of King Alfred the Great*, Cambridge Studies in Medieval Life and Thought. Cambridge: Cambridge University Press, 2007.

Rabin, Andrew. "Archbishop Wulfstan's Canon Law Collection." *Old English Newsletter* 46, no. 1 (2016): 1-10.

Rabin, Andrew. "Archbishop Wulfstan's 'Compilation of Status' in the *Textus Roffensis.*" In *Textus Roffensis: Law, Language, and Libraries in Early Medieval England*, edited by Bruce O'Brien and Barbara Bombi, 175-92. Turnhout: Brepols, 2015.

Rabin, Andrew. "Elizabeth Elstob, Old English Law, and the Origin of Anglo-Saxon Studies (1767)." In *Rosarium Amicitiae: Essays in Honor of Christina von Nolcken*, edited by S. Rowley, 311-351. Tempe: Arizona Center for Medieval & Renaissance Studies, 2017.

Rabin, Andrew. "Felix Liebermann and Die Gesetze der Angelsachsen." In *English Law Before Magna Carta*, edited by Stefan Jurasinski, Lisi Oliver, and Andrew Rabin, 1-8. Leiden: Brill: 2010.

Rabin, Andrew. "Female Advocacy and Royal Protection in Tenth-Century England: The Legal Career of Queen Ælfthryth." *Speculum* 84, no. 2 (2009): 261-88.

Rabin, Andrew. "Gang Violence in Anglo-Saxon Law: The Problem of *hlóþ-sliht*." *Notes and Queries* (October 16, 2016): 1-6.

Rabin, Andrew. "Holy Bodies, Legal Matters: Reaction and Reform in Ælfric's Eugenia and Ely Privilege." *Studies in Philology* 110, no. 2 (2013): 220-265.

Rabin, Andrew. "Law and Justice." In *The Blackwell Handbook of Anglo-Saxon Studies*, edited by Jacqueline Stodnick and Renee Trilling, 85-98. Oxford: Blackwell, 2012.

Rabin, Andrew. "Medieval Law." In *Oxford Bibliographies in British and Irish Literature*, edited by Andrew Hadfield, 1-68. New York: Oxford University Press, 2015.

Rabin, Andrew. "The Wolf's Testimony to the English: Law and the Witness in the 'Sermo Lupi Ad Anglos.'" *The Journal of English and Germanic Philology* 105, no. 3 (2006): 388-414.

Rabin, Andrew. "Wulfstan at London: Episcopal Politics in the Reign of Æthelred." *English Studies* 97, no. 2 (2016): 186-206.

Rener, Frederick M. *Interpretatio: Language and Translation from Cicero to Tyler*. Amsterdam: Rodopi B.V., 1989.

Richards, Mary P. *Texts and Their Traditions in the Medieval Library of Rochester Cathedral Priory*. Philadelphia: American Philosophical Society, 1988.

Richards, Mary P. "The Dictionary of Old English and Old English Legal Terminology." *The Dictionary of Old English: Retrospects and Prospects*, 57-61. Kalamazoo, MI: Medieval Institute, 1998.

Richards, Mary P. "The Manuscript Contexts of the Old English Laws: Tradition and Innovation." In *Studies in Earlier Old English Prose*, edited by Paul E. Szarmach, 171-92. New York: State University, 1986.

Rivers, Theodore John. "Widows' Rights in Anglo-Saxon Law." *The American Journal of Legal History* 19, no. 3 (1975): 208-15.

Roach, Levi. *Æthelred the Unready*. New Haven: Yale University Press, 2016.

Roach, Levi. *Kingship and Consent in Anglo-Saxon England, 871-978. Assemblies and the State in the Early Middle Ages.* Cambridge: Cambridge University Press, 2013.

Robinson, J. Armitage. *The Saxon Bishops of Wells: A Historical Study in the Tenth Century*. British Academy Supplemental Papers IV. London: British Academy, 1918.

Rumble, Alexander R. *Leaders of the Anglo-Saxon Church: From Bede to Stigand*. Suffolk, UK: Boydell & Brewer, 2012.

Russom, Geoffrey. *Old English Meter and Linguistic Theory.* Cambridge: Cambridge University Press, 1987.

Schwyter, J. R. *Old English Legal Language: The Lexical Field of Theft*. Copenhagen: Odense University Press, 1996.

Schwyter, J. R. "Syntax and Style in the Anglo-Saxon Law-Codes." In *Verschriftung – Verschriftlichung: Aspekte des Medienwechsels in verschiedenen Kulturen und Epochen,* edited by C. Ehler and U. Schaefer, 189-231. Tübingen: Gunter Narr, 1998.

Schoeck, R. J. "Early Anglo-Saxon Studies and Legal Scholarship in the Renaissance." *Studies in the Renaissance* 5 (1958): 102-10.

Shields-Más, Chelsea. *The Reeve in Late Anglo-Saxon England*. PhD diss., University of York, 2013.

Sievers, E. *Metrische Studien IV, Die altschwedischen Upplandslagh nebst Proben formverwandter germanischer Sagdichtung, in Abhandlungen der phil.-hist. Klasse der königl. Sächsischen Gellschaft der Wissenschaften* 35, i-ii. Leipzig, 1918-19.

Skemer, Don C. "*Expositio Vocabulorum*: A Medieval English Glossary as Archival Aid." *Journal of the Society of Archivists* (1998): 63-75.

Skyum-Nielsen, Niels. "Saxo som kilde til et par centrale institutioner i samtiden," *Saxostudier* (1975): 174-8.

Smith, Scott Thompson. *Land and Book: Literature and Land Tenure in Anglo-Saxon England*. Toronto: University of Toronto Press, 2012.

Smol, Anna. "Pleasure, Progress, and the Profession: Elizabeth Elstob and Contemporary Anglo-Saxon Studies." *Studies in Medievalism* 9 (1997): 80–97.

Snook, Ben. *The Anglo-Saxon Chancery: The History, Language and Production of Anglo-Saxon Charters from Alfred to Edgar*. Suffolk, UK: Boydell & Brewer, 2015.

Stafford, Pauline. "Church and Society in the Age of Ælfric." In *The Old English Homily and Its Backgrounds*, edited by Paul Szarmach and Bernard F. Huppe, 11-42. New York: State University of New York Press, 1978.

Stafford, Pauline. "The Laws of Cnut and the History of Anglo-Saxon Royal Promises." *Anglo-Saxon England* 10 (1981): 173-190.

Stafford, Pauline. *Unification and Conquest: A Political and Social History of England in the Tenth and Eleventh Centuries*. Oxfordshire, UK: Routledge, 1989.

Stenton, F. M. *Anglo-Saxon England,* 3rd ed. Oxford: Oxford University Press, 1971.

Stevenson, William Henry. *Asser's Life of King Alfred, together with the Annals of Saint Neots, Erroneously Ascribed to Asser*. Oxford: Clarendon Press, 1904.

Stryker, W. G. "The Latin-Old English Glossary in MS Cotton Cleopatra A.III." PhD diss., Stanford University, 1951.

Suzuki, Seiichi. *The Meters of Old Norse Eddic Poetry*. *Common Germanic Inheritance and North Germanic Innovation.* Berlin: Walter de Gruyter, 2013.

Taylor, Alice. "Lex Scripta and the Problem of Enforcement: Anglo-Saxon, Welsh, and Scottish Law Compared." In *Legalism: Community and Justice,* edited by Fernanda Pirie, Judith Scheele, 47-75. Oxford: Oxford University Press, 2014.

Thornbury, Emily. *Becoming a Poet in Anglo-Saxon England.* Cambridge: Cambridge University Press, 2014.

Tite, Colin. *The Early Records of Sir Robert Cotton's Library: Formation, Cataloguing, Use.* London: British Library, 2003.

Townend, Matthew. "Contextualising the *Knútsdrápur*: Skaldic Praise-Poetry at the Court of Cnut." *Anglo-Saxon England* 30 (2001): 145-179.

Townend, Matthew. "Viking Age England as a Bilingual Society." *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, edited by D. M. Hadley and J. D. Richards, Studies in the Early Middle Ages 2, 89-105. Turnhout: Brepols, 2000.

Treharne, Elaine. *Living Through Conquest: The Politics of Early English, 1020-1220*. Oxford: Oxford University Press, 2012.

Treharne, Elaine. "Scribal Connections in late Anglo-Saxon England." In *Texts and Traditions of Medieval Pastoral Care: Essays in Honour of Bella Millett*, edited by Cate Gunn and Catherine Innes-Parker, 29-46. Suffolk, UK: Boydell and Brewer, 2009.

Treharne, Elaine M. "The Production and Script of Manuscripts containing English Religious Texts in the First Half of the Twelfth Century." In *Rewriting Old English in the Twelfth Century,* edited by Mary Swan and Elaine M. Treharne, 11-39. Cambridge: Cambridge University Press, 2000.

Treschow, Michael. "The Prologue to Alfred's Law Code: Instruction in the Spirit of Mercy." *Florilegium,* 13 (1994): 79-110.

Trips, Carola. *Lexical Semantics and Diachronic Morphology: The Development of -hood, -dom and -ship in the History of English,* Linguistische Arbeiten 527. Berlin: Walter de Gruyter, 2009.

Trotter, David. "'Stuffed Latin:' Vernacular Evidence in Latin Documents." In *Language and Culture in Medieval Britain: The French of England c. 1100-c. 1500,* edited by Jocelyn Wogan-Browne et al., 153-163. York: York Medieval Press, 2009.

Upchurch, Robert K. "Catechetic Homiletics: Ælfric's Preaching and Teaching During Lent." In *A Companion to Ælfric,* edited by Hugh Magennis and Mary Swan, 270-346. Leiden: Brill, 2009.

Updegraff, Derek. "Ælfric, Alliterative Linking, and the Idea of a Vernacular Verse Line." *Pacific Coast Philology* 53, no. 1 (2018): 23-42.

Wacks, Raymond. *Law: A Very Short Introduction*. New York: Oxford University Press, 2008.

Waite, G. "The Preface to the Old English Bede: Authorship, Transmission, and Connection with the West Saxon Genealogical Regnal List." *Anglo-Saxon England* 44 (2015): 31-93.

Wanley, Humphrey. *Librorum vett. Septentrionalium, qui in Anglsa Biblioth. Extant, Catalogus Historico-criticus*. Oxford, 1705.

Wassenhoven, Dominik. "The Role of the Bishop in Anglo-Saxon Succession Struggles." In *Leaders of the Anglo-Saxon Church: From Bede to Stigand,* edited by Alexander R. Rumble, 97-107. Suffolk, England: Boydell Press, 2012.

Way, Jacqueline. "'Our Mother-Tongue:' The Politics of Elizabeth Elstob's Antiquarian Scholarship." *Huntington Library Quarterly* 78, no. 3 (2015): 417-440.

Weisberg, Robert. "The Law-Literature Enterprise." *Yale Journal of Law & the Humanities* 1, no. 1 (1989): Art. 4, 1-67.

Whaley, Diana. *The Poetry of Arnórr Jarlaskáld: An Edition and Study.* Turnhout: Brepols, 1998.

White, James B., *The Legal Imagination.* Boston: Little, Brown & Co., 1973.

Whitelock, Dorothy. "Archbishop Wulfstan, Homilist and Statesman." *Transactions of the Royal Historical Society*, 4th ser., 24 (1942): 25-46.

Whitelock, Dorothy. "Wulfstan and the Laws of Cnut." *The English Historical Review* 63, no. 249 (1948): 433-52.

Whitelock, Dorothy. "Wulfstan's Authorship of Cnut's Laws," *English Historical Review* 70 (1955): 72-85.

Williams, Ann. *Kingship and Government in Pre-Conquest England, c.'500'– 1066*. New York: St Martin's Press, 1999.

Wilkins, Katrina M. "On Esther." *Journal of Languages, Texts, and Society* 2 (2018): 130-53.

Wimmer, Ludvig F. A. *Kongelige Danske Videnskabernes Selskabs Forhandlinger* (Copenhagen, 1899).

Wormald, Patrick. "Anglo-Saxon Law and Scots Law." *The Scottish Historical Review* 88, no. 226 (2009): 192-206.

Wormald, Patrick. "Æthelred the lawmaker." In *Ethelred the Unready*, edited by David Hill, 47-80. Michigan: University of Michigan Press, 1978.

Wormald, Patrick. "Giving God and King Their Due: Conflict and Its Regulation in the Early English State." In *Legal Culture in the Early Medieval West: Law as Text, Image, and Experience*, 333-358. London: Hambledon Press, 1999.

Wormald, Patrick. "Inter cetera bona - genti suae: Law-Making and Peace-Keeping in the Earliest English Kingdoms." *Settimane dello studio del Centro italiano di studi sull'alto medioevo* 42 (1995): 963-96.

Wormald, Patrick. *Legal Culture in the Early Medieval West: Law as Text, Image and Experience*. London: Hambledon Press, 1999.

Wormald, Patrick. *Papers Preparatory to the Making of English Law: King Alfred to the Twelfth Century, vol. II: From God's Law to Common Law.* Edited by Stephen Baxter and John Hudson (Early English Laws Project, 2014) <http://www.earlyenglishlaws.ac.uk/reference/wormald/>.

Wormald, Patrick. *The Making of English Law: King Alfred to the Twelfth Century.* Oxford: Blackwell, 1999.

Yorke, Barbara. "Æthelwold [St Æthelwold, Ethelwold] (904x9–984), abbot of Abingdon and bishop of Winchester." Oxford Dictionary of National Biography (23 Sep. 2004), accessed 12 Mar. 2020.

Yorke, Barbara. "Joint Kingship in Kent c. 560 to 785." *Archaeologia Cantiana* 99 (1983): 1-19.

Yoshino, Kenji. "What's Past is Prologue: Precedent in Literature and Law." *Yale Law Journal* 104 (1994): 471-510.

Young, Ernest. "The Anglo-Saxon Family Law." In *Essays in Anglo-Saxon Law*, edited by Henry Adams, et al., 121-82. Boston: Little, Brown, and Company, 1905.

Zinkeisen, Frank. "The Anglo-Saxon Courts of Law." *Political Science Quarterly* 10, no. 1 (1895): 132-44.

Zumthor, Paul. "Intertextualite et Mouvance." *Littérature* 41 (1981): 8-16.

Appendix A: Manuscript List

The manuscripts are ordered alphabetically by shelf number. For a descriptive list by library,

see Chapter 1.

A	British Library, Harley MS 55
B	Cambridge, Corpus Christi College MS 383
C	Cambridge, Corpus Christi College MS 265
D	Cambridge, Corpus Christi College MS 201
E	Cambridge, Corpus Christi College MS 173
F	British Library, Cotton MS Nero E.i
G	British Library, Cotton MS Nero A.i
H	Rochester Cathedral Library, MS A.3.5
K	British Library, Cotton MS Claudius A.iii
Lh	Lambeth Palace Library MS 92
Lm	Lambeth Palace Library MS 179
Ma	Cambridge, Corpus College Cambridge, MS 258
Mb	Cambridge, Corpus College Cambridge, MS 70
N	British Library, Cotton MS Domitian viii
Oc	Oxford, Oriel College, MS 46
Ot	British Library, Cotton MS Otho B.xi
P	Manchester, John Rylands Library MS Lat 420
Quad.	*Quadripartitus*
R	British Library, Royal MS 11.B.ii
S	British Library, Add MS 49366
T	British Library, Cotton MS Titus A.xxvii
U	Manchester, John Rylands Library, MS Lat 155
V	British Library, Add MS 14252
W	British Library, Cotton MS Claudius D.ii.
York Gospels	York Minster MS. Add. 1

Appendix B: *Cyne* Terminology

The terms below each use "*cyne*" as a prefixoid and are listed in descending order by number of occurrences.

Term	Definition	Occurrences
cynelic	royal	130
cynedom	royal authority	80
cynehelm	crown	80
cynerice	kingdom	75
cynehlaford	royal lord	55
cynestol	royal seat	40
cynesetl	royal seat	30
cynecynn	royal family	26
cynegyrd	royal sceptre	18
cynescipe	kingship / royal dignity	17
cynebearn	royal child	14
cynelice	royally	13
cyne-þrymm	royal majesty	10
cynewiþþan	royal necklace	8
cynegod	very good	5
cyneboren	of royal birth	4
cynehad	kingship	4
cynehelmian	to crown	4
cynerof	very brave	4
cynewise	royal business	4
cynebot	king's compensation (payment made for the slaying of the king to the people)	3
cynebotl	royal dwelling	2
cynegold	royal crown	2
cynegyrela	royal apparel	2
cyneham	royal dwelling	2
cynemann	king	2

cynereaf	royal apparel	2
cynewurðe	majestic	2
cynewynne	best of lords	2
cynebend	royal crown	1
cynegyld	king's compensation (payment made for the slaying of the king)	1
cynehof	royal dwelling	1
cynelicnes	kingliness	1
cynemearc	mark indicating royalty	1
cyneriht	royal right	1
cynesacerdlic	very priestly	1
cyneseld	royal hall	1
cynestræt	king's highway	1
cyneþrymlic	glorious as a king	1
cynegewæde	royal robe	1
cyneword	royal word	1
cynebeald	very bold	1
cyneleofe	beloved lord	1