

## **PLEASE NOTE**

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## **THE ANGLO-SAXON JUDICIARY**

by

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### **PRE-AMBLE**

You may like to know that most of what I am going to say to this afternoon is in my handout, so you have a better than usual excuse for going to sleep during my paper! I am flattered (but sorry) that there are not enough copies of the handout. I did the number I was asked for, but I have a master copy if St Catherine's College has a photocopier. I am also sorry for those of you who are flying home about the length of the handout: I hope I have not landed you with excess baggage.

Mr Chairman, ladies and gentlemen,

Everyone knows that the Common Law is judge made law. Nowadays it is often contrasted with Statute law or with the codified Civil Law. Historically, though, what made the Common Law common was that fact that it was the system of law which was common to the whole of England, as distinct from the various local customary laws from which the common law was drawn. It is not always realized that the Common Law can be traced back through these customary laws to Anglo-Saxon times and to Anglo-Saxon law - but I am sure that in so learned an audience as this I need hardly make this point.

My paper will look at the evidence principally of the surviving Anglo-Saxon legal texts (wills, charters, writs and laws) for evidence of the Anglo-Saxon judiciary and how it operated in particular areas. It will look specifically at 4 questions:-

- (a) What evidence is there as to who the Anglo-Saxon judiciary were and in which courts they sat?
- (b) What evidence do we have for how they approached giving their judgments? How can we interpret the charters which record the result of a law suit?
- (c) What evidence do the Anglo-Saxon legal documents give of granting powers to judges, eg sake and soke, toll and team, and infangenetheof? To whom exactly were they granted? Was it always to a judge?
- (d) Can we say in what respects the Anglo-Saxon judges differed from modern judges?

### **PRELIMINARY POINTS**

It is important to remember that there was no unified legal system in Anglo-Saxon England. For one thing there was no 'common law' in those days, as I mentioned at the outset. Although the Anglo-Saxon kings issued many laws codes, Anglo-Saxon law was fundamentally customary law. Also the law during that period was no only Anglo-Saxon law, but Viking law, which was enforced in the Danelaw.

We know from other sources that there were at least five forms of public court in Anglo-Saxon England, in addition to the local baronial courts. These were:-

#### 1. THE WITENA GEMOT

*Gemot* means a meeting or assembly. It is also used to mean court. It is the word from which the modern English *moot* comes. These still exist at the Inns of Court in London and elsewhere.

*Wita* means councillor. The Witan were the King's councillors and the Witena Gemot was a meeting of the King's Council. It was this body which developed into the *Curia Regis* of post-Conquest Norman times and by direct lineal succession into the Privy Council, which continues to this day. There are those who argue (rightly or wrongly) that the House of Lords is also a successor of the Witena Gemot, but I shall not get into this question this afternoon as you all want your suppers.

#### 2. THE SCIRGEMOT

*Scir* means and is the modern English word 'shire'. *Scirgemot* thus means 'shire-meeting' or 'shire-court'. The shire (though immortalised by J.R.R. Tolkien - and we must remember that we are in Oxford this afternoon) was the Wessex unit of local government. Berkshire, Hampshire, Wiltshire, Somersetshire, Dorsetshire and Devonshire were all ancient shires of Wessex. When England became unified after the Viking raids of the 9th century the Wessex unit of local government became extended to the rest of the country.

Laws of King Edgar (repeated by laws of King Cnut) require the presence of the diocesan bishop at a shire-moot. The presence of the local Earl was also required. More details are in Appendix II. This was logical, because the shire was broadly co-terminous with the diocese and thus the chief ecclesiastical officer and the chief secular officer were there, probably as presiding judges.

### 3. THE HUNDREDGEMOT

*Hundred* was a secular district within the shire. So *Hundredgemot* means the 'Hundred-Moot' or the 'Hundred Court'.

### 4. THE FOLCGEMOT

*Folc* means 'people'. So the *Folcgemot* is a meeting of the people of a town or district.

### 5. THE BURHGEMOT

Boroughs had their own courts and assemblies.

There were no separate ecclesiastical courts in Anglo-Saxon England. Indeed this was one of the promises which William the Conqueror offered the Pope in return for his blessing on his conquest, namely to establish separate ecclesiastical courts in England. So even in those days everything had its price - as I was taught when I began to encounter contract law in practice rather than in the classroom.

More extensive details will be found in Appendix II.

In the Anglo-Saxon legal documents at which I have looked, I have found no specific references to the Hundred-Moot or to the Folc-Moot, or to any private courts, manorial or whatever they may be. This may well be because the cases which went there were not sufficiently important (or more likely did not involve sufficiently important people) to make those documents - rather

like modern cases not being sufficiently important to make the law reports. As the old saying goes, 'It is not what you know, but who you know'. Equally I have found no specific references to the Borough-Moot. The same reason is less plausible here, but probably correct. I have found no helpful references in the Anglo-Saxon wills. There are extensive references in the Anglo-Saxon writs but none of them say clearly which court they relate to. These are set out in detail in Appendix III. There are five Anglo-Saxon charters, which I have found and which act as a kind of Anglo-Saxon law report and do give us some interesting and useful information. They are all quoted in Appendix III with translation and notes.

### **(A) WHO WERE THE ANGLO-SAXON JUDGES?**

#### **IN WHICH COURTS DID THEY SIT?**

What evidence is there as to who the Anglo-Saxon judiciary were and in which courts they sat?

Charter 5 is clearly a case in the Witena Gemot. Who were the judges? It seems fairly clear from the words 'Ūa gerihte Wulfred arcebiscop ⁊ 7 alle 1a wiotan' (l.14) 'Then determined Archbishop Wulfred and all the Witan' that the decision was that of the entire Witan and thus that they were all judges. Apparently the Archbishop Wulfred was presiding over the Witan, rather than the King, and thus he was the presiding judge. Why is not clear.

Charter 66 is clearly a case in the shire-moot. Initially it began in the Witena Gemot with the King presiding, and (presumably) all the Witan making the decision. The case was settled in the shire-moot: so no-one actually made a decision. It was the three Witan who brokered the settlement, Bishop Aethelsige, and Bishop Aescwig, and Abbot Aelfric, which suggests that they were the presiding judges. We are told that '7 eal sio scir' 'and all the shire' were present. This implies, but does not prove that they would have been judges too in any decision which was made. It is also interesting that there is no mention of Aelfric, Bishop of Ramsbury, being present, as Berkshire was probably in his diocese and the laws of King Edgar (repeated in the laws of King Cnut) require the presence of the diocesan bishop at a shire-moot. It is also interesting that there is no mention of the presence of the local Earl Aelfric, which was also required. One possible reason for this is that this shire-moot was operating under the authority of the Witena Gemot. Another is that Earl Aelfric was a witness and thus disbarred from presiding and that the case took place during a vacancy in the see between Sigeric's translation to Canterbury and Aelfric's enthronement at Ramsbury: see Robertson, *op. & ed. cit.* in Appendix

VI (Select Bibliography), p.381. Perhaps this is why delegated authority was needed from the Witena Gemot.

Charter 69 is unclear as to which court it is in. It might have been the shire-moot, but this is nowhere stated. It seems unlikely to have been the Witena Gemot as such, but it might have been some form of sub-committee of that court. It seems that the presiding judge here is Archbishop Aelfric, supported by the thegns of East Kent and West Kent, and that they operate under the authority of the King.

Charter 78 was clearly in the shire-moot. Bishop Aethelstan seems to have been the presiding judge, as he asked who was to speak for the mother. It is difficult to determine exactly what form of adjudication (in the modern sense) took place here. Apparently the case was not settled by agreement between the mother and the son. There is no evidence of this: quite the contrary. The mother orally and before witnesses refutes her son's claim, but we are told no more than that. It seems that the mother disinherited her son of any patrimony he might have otherwise received and the shire-moot thoroughly approved. One might construe this as an example of rough justice and of how the Anglo-Saxons thought a mother ought (or perhaps ought not) to be treated. So far as one can tell, though, the whole shire-moot participated in the judgment and were thus judges.

Charter 83 is clearly in the shire-moot. The judges seem to have been 'Alderman Leofwine and Hakon and Leofric and all the shire'. If so, all the shire-moot were involved in making any decision.

### **(B) ANGLO-SAXON JUDGMENTS**

What evidence do we have for how they approached giving their judgments? How can we interpret the charters which record the result of a law suit?

This is a difficult question to answer, as none of the five charters actually records a judgment in the way in which a modern law report would do.

The fact that there are five charters shows that Anglo-Saxon judgments were not always oral. Indeed Charter 88 reveals a judgment being recorded in writing in a gospel-book. Gospel-books would have been regarded as very holy in those days.

The evidence cited above points to the whole assembly participating in the judgment, presumably by majority vote. Presumably it was some kind of Athenian democracy. If so, there could not be a reasoned judgment such as a modern judge sitting alone and without a jury would produce. There could only be a decision, which the presiding judge would announce. Anyone present might well have been able to divine what the reasons for that decision were from the discussion which took place, but the evidence of the Anglo-Saxon charters suggests that (understandably perhaps) this was not recorded. In Charter 69, for example, the hint is that the reason why a settlement was advocated was the weight of the evidence, though this is not explicitly stated. In Charter 78, for example, there is evidence that the whole moot disapproved of the way the son was treating his mother.

### **(C) ANGLO-SAXON JUDGES' POWERS**

What evidence do the Anglo-Saxon legal documents give of granting powers to judges, eg *sake and soke*, *toll and team*, and *infangenetheof*? To whom exactly were they granted? Was it always to a judge?

The evidence for this part of my paper comes from the Anglo-Saxon writs. It is set out in tabulated form in Appendix IV.

The evidence set out makes it clear that almost always the grantor of the power was the King. The grantees were never judges as such. Predominantly the grantees were monastic institutions. It seems pretty clear that the main point of the grant was the revenues which the grant would raise in terms of fines and the like. Whether those revenues came from the normal public courts or from special private courts is not clear. The writs do not answer this question and scholars disagree.

The nature of the rights granted does not answer the question, but it gives us a few clues. The rights are not just rights to levy taxes, toll and the like. They can and do involve more serious aspects of the Anglo-Saxon justice system. The key example of this is *infangenetheof*, or the right to hang one's own thieves. Even in Anglo-Saxon times, this right could (presumably) only have been exercised after some kind of judicial trial. This suggests that either the judicial side of proceedings was exercised by a public court, or, if it was done by a private court, it must have been properly constituted as a court.

#### **(D) ANGLO-SAXON JUDGES v. MODERN JUDGES?**

Can we say in what respects the Anglo-Saxon judges differed from modern judges?

1. There was no full-time legal profession in Anglo-Saxon England, as there is to-day. Therefore there was no pool of trained lawyers from which the judges could be drawn, whether by promotion or otherwise.
2. There was no legal education in Anglo-Saxon England in anything remotely resembling the modern sense. The nearest equivalents to schools and universities were the monasteries.
3. There would have been no rules of professional conduct in the modern sense, though presumably episcopal judges would have been subject to ecclesiastical discipline. See also point 4 below. Presumably too episcopal judges would have been expected to maintain Christian standards of conduct in all they did, including their judicial functions. Whether they did or not, is a separate issue!
4. Human rights in the modern sense would have been unknown.
5. The lay Anglo-Saxon judges would not have been able to cope with the complexities and intricacies of, for example, a modern Chancery or commercial case. Educated judges, such as the Bishops, would have had a better chance. I would not say that the Anglo-Saxon legal documents which I have studied are the most complex I have encountered in almost 30 years in practice, but there are things which could puzzle a layman.

Were there any similarities?

1. Most of the proceedings would have been oral. Though it is arguable that this is being whittled away to-day, oral proceedings have always been an integral part of English legal proceedings.
2. Legal proceedings, then as now, would have been directed to the resolution of disputes.
3. The process by which this was done would have been by a judicial adjudication in court rather than by any modern process of conciliation or mediation. That procedure too would have

been more akin to a modern court hearing than to a modern arbitration. Having said that the evidence of the charters for the presiding judge encouraging a settlement has modern overtones and a hint of modern mediation and conciliation procedures, and this is something I have known modern judges encourage.

4. Charter 66 provides possible evidence of a presiding judge being disbarred from sitting because he was a witness in the case. The same principle holds good to this day.

### **CONCLUSION**

I propose to close where I began by saying that I do not know whether or not the alcoholic bar has been open during my paper, but I hope it has provided some form of call to the Anglo-Saxon Bar!

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### **APPENDIX I - ABSTRACT**

Everyone knows that the Common Law is judge made law. Nowadays it is often contrasted with Statue law or with the codified Civil Law. Historically, though, what made the Common Law common was that fact that it was the system of law which was common to the whole of England, as distinct from the various local customary laws from which the common law was drawn. It is not always realized that the Common Law can be traced back through these customary laws to Anglo-Saxon times and to Anglo-Saxon law - but I am sure that in so learned an audience as this I need hardly make this point.

My paper will look at the evidence principally of the surviving Anglo-Saxon legal texts (wills, charters, writs and laws) for evidence of the Anglo-Saxon judiciary and how it operated in particular areas. It will look specifically at 4 questions:-

- (a) What evidence is there as to who the Anglo-Saxon judiciary were and in which courts they sat?
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- (d) Can we say in what respects the Anglo-Saxon judges differed from modern judges?

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### **APPENDIX II - THE ANGLO-SAXON COURTS**

The following are the major Anglo-Saxon Courts of which we know:-

1. THE WITENA GEMOT



*Gemot* means a meeting or assembly. It is also used to mean court. It is the word from which the modern English *moot* comes. This word is still used for mock trials for law students at the Inns of Court and elsewhere.

*Wita* means councillor. The Witan were the King's councillors and the Witena Gemot was a meeting of the King's Council. It was this body which developed into the *Curia Regis* of post-Conquest Norman times and by direct lineal succession into the Privy Council, which continues to this day. There are those who argue (rightly or wrongly) that the House of Lords is also a successor of the Witena Gemot.

There is an interesting question as to whether the king was the fountain of justice, as he later became. I have yet to find a direct statement to this effect.

Another interesting question is whether the king actually sat as a judge in Anglo-Saxon times: cf & contrast *The Prohibitions del Roy* (1607) (where it was held that James I could not try cases in person).

The Witena Gemot would not have been quite like the modern Privy Council, in that there would have been no cases arising from outside the jurisdiction.

## 2. THE SCIRGEMOT

*Scir* means and is the modern English word 'shire'. *Scirgemot* thus means 'shire-meeting' or 'shire-court'. The shire, though immortalised by J.R.R. Tolkien) was the Wessex unit of local government. Berkshire, Hampshire, Wiltshire, Somersetshire, Dorsetshire and Devonshire were all ancient shires of Wessex. When England became unified after the Viking raids of the 9th century the Wessex unit of local government became extended to the rest of the country. The newly created shires were normally named after the principal town in the shire, eg Buckinghamshire, Oxfordshire. County was the Norman word and came in with the Norman Conquest, though without ousting completely the Saxon word, which survives to this day. For this reason it is tautologous and wrong to refer to, for example, \*the County of Oxfordshire.

Though in England the two words, county and shire are effectively synonymous, historically the Norman word, county, means the area ruled over by a count. The word count derives from the sub-Roman *comes bellorum* (or 'companion of wars'), which was a military title. It corresponds to the German *Graf*.

II Edgar 5, 2 (which is repeated in II Cnut 18, 1) requires the presence of the diocesan bishop at a shire-moot. The presence of the local Earl was also required.

It is possible to argue that the shire-moot is the direct lineal precursor of the modern county court.

It is interesting to compare the following words:-

(a) 'Duchy' which historically meant the area ruled over by a duke of Latin *dux* (meaning leader) (cf the Grand Duchy of Luxembourg; cf & contrast the Duchy of Cornwall). The word duke derives from the sub-Roman *dux bellorum* (or 'leader of wars'), which again was a military title. NB: There are those who think that King Arthur was in fact a *comes bellorum* or a *dux bellorum* in the sub-Roman period.

(b) 'Principality' which historically is the area ruled over by a (reigning) prince (cf Fürstentum Liechtenstein; cf & contrast the Principality of Wales). The word prince derives from the Latin *princeps* (meaning 'first' or 'foremost'). It is also the word used to refer to the Roman emperors.

(c) 'Kingdom' means the area ruled over by a king.

(d) 'Empire' (which was regarded as being at the top of the pinnacle) means the area ruled over by an emperor.

The word *scir* could also be used to refer to a diocese, and *scirbisceop* meant diocesan bishop. This use is interesting when one considers the bishop's role as a judge in the *scirgemot*. It is also worth remembering that there tended to be a considerable correspondence between the original Wessex secular shires and ecclesiastical dioceses: for example the dioceses of Winchester served Hampshire; the diocese of Sherborne (founded in 705; first Bishop St Aldhelm, 705-

709; moved to its modern location of Salisbury after the Conquest) was founded to serve Wessex west of Selwood Forest, but later came to serve Dorset; the diocese of Wells served Somerset; the diocese of Crediton (moved to Exeter after the Conquest) served Devonshire; and the Diocese of St Germans (later subsumed into the diocese of Exeter, until the founding of the see of Truro in the 19th century) served Cornwall after its conquest under King Athelstan. Other Old English words for diocese include *bisceopsir* (lit. 'bishop's scire', in other words the same word but made specific to the bishop).

The other Old English words which are used to mean 'diocese' are *bisceoprice* (lit. 'the bishop's kingdom'; and the modern word 'bishopric') and *bisceopseld* and *bisceopstol* (v.i., which also mean the bishop's seat or throne, and thus to a degree corresponds with the modern word 'see'). It is interesting to compare the modern word 'see' with the Old English ones. 'See' derives from Latin *sedes*, meaning 'seat', which refers to the Bishop's chair or *kagevdra*. The chair in the ancient world was the symbol of authority (cf a modern professorial chair) and the modern word 'cathedral' is the church in which the bishop sets up his chair. It seems that this word developed its meaning over time from the physical chair to the area over which the person who sat in that chair exercised authority. It seems too that the Anglo-Saxons looked at the secular area, rather than at the symbol of authority. There are two words in Old English for the bishop's chair or throne, and it is *bisceopseld* (lit. the bishop's seat) and *bisceopstol* (lit. the bishop's stool).

The other modern word 'diocese' is thought to derive from the Greek *διοικησις*, meaning housekeeping (*οικος* meaning house or home), management, government. The Latin equivalent, though (*diocesis*) was used in Cicero's letters to mean a district under a governor, which (in ecclesiastical terms) is what a diocese is.

Finally it is interesting to note that in traditional legal drafting shires shires are referred to as, for example, 'the County of Buckingham'. This is easy where there is a county town. It is more difficult for the ancient Wessex shires. However, 'the County of Hants' appears on Jane Austen's memorial in Winchester Cathedral. 'The County of Berks' and 'the County of Wilts' appear in 19th century law reports. 'The County of Dorset' and 'the County of Devon' flow quite naturally. The Laws of King Edgar (iii. 5. 1.) ordered that the scirgemot meet twice a year and the Burhgemot three times a year.

### 3. THE HUNDREDGEMOT

*Hundred* was a secular district within the shire. So *Hundredgemot* means the 'Hundred-Moot' or the 'Hundred Court'.

We have an ordinance of King Edgar (a.d.959-975), quoted in Stubbs (*op. & ed. cit.* in Appendix VI (Select Bibliography), p.80-2) provides inter alia that:-

- (a) The Hundred shall meet every four weeks;
- (b) That every man shall do justice to another.
- (c) That thieves should be pursued.
- (d) That there be fines, forfeiture and outlawry for those who ignore the dooms of the Hundred.
- (e) That the *folcrist* be pronounced in ewvery suit (as in any other moot), tha ta term be fixed for its fulfilment wiht a fine for default.

### 4. THE FOLCGEMOT

*Folc* means 'people'. So the *Folcgemot* is a meeting of the people of a town or district.

The first reference to the word *folcgemot* in thr Anglo-Saxon Laws is under King Alfred: see Laws of Alfred, cc. 22, 34, 38.1

### 5. THE BURHGEMOT

Boroughs had their own courts and assemblies.

The Laws of King Edgar (iii. 5. 1.) ordered that the Burhgemot meet three times a year, and the scirgemot twice a year.

Stenton (*op. & ed. cit.* in Appendix VI (Select Bibliography), p.532) thinks that by the early 11th century there was a distinction between *burhriht* (the specialised law of the borough) and *landriht* (the ordinary law).

## RIDERS

There were no separate ecclesiastical courts in Anglo-Saxon England. Indeed this was one of the promises which William the Conqueror offered the Pope in return for his blessing on his conquest, namely to establish separate ecclesiastical courts in England.

Canon law in Anglo-Saxon times was in its infancy. The *Corpus Iuris Canonici* and the *Jus Commune*, which originated with *Decretum Gratiani Concordia Discordantium Canonum* of Gratian (who was known as 'the Father of Canon Law') in c.1150 was still in the future. There would have been collections of (very likely) local canons, but nothing universal: see *Halsbury's Laws of England*, Vol.14, Ecclesiastical Law, #305. There is evidence in the dark ages of pastoral questions being referred to the Bishop (eg St Boniface) for advice, but these would not have been legal matters requiring a court's decision. Presumably any doctrinal question would have had to be referred to a Bishop, either directly or sitting as an ecclesiastical judge.

## APPENDIX III - ANGLO-SAXON 'LAW REPORTS'

### V. LAWSUIT ABOUT WOOD-PASTURE

+ In nomine trino diuino qui est deus benedictus in sicula amen. ƿy gere 1e wís from Cristes geburde agin ³ eahta hund Winter ³ 7 XXV ³ 7 ifterre indictio wís in rime ³ 7 wís Beorn-wulfes rice Mercna cyninges ³ 1a wís sinodlic gemot on 1ire meran stowe .e mon hate1 Clofeshous on 1am se siolfa Cyning Biornwulf ³ 7 his biscopas ³ 7 his aldormen ³ 7 alle 1a wioton 1isse 1iode 1ir gesomnade weron ³ 1a wís tiolo micel sprec ymb wuduleswe to Su1tune ongigum West on Scirhylte ³ waldon 1a swangerefan 1a leswe for.ur gedrifan 7 1one wudu ge1iogan ³ 1onne hit ald geryhta weron ³ 1onne cui. se biscop ³ and 1ara hira wiotan 1it hio him neren maran ondeta 1onne hit arided wís on c1elbaldes dige 1rim hunde swina mist ³ 7 se biscop 7 .a higen ahten twide 1is wudu 7 1is mistes1 ³ Ua gerihte Wulfred arcebiscop ³ 7 alle 1a wiotan 1et se biscop 7 1a higen moston mid a1e gecythan 1et hit sua ariden were on c1elbaldes dage ³ 7 him mare to ne sohtel ³ And he 1a sona se biscop bewiddade Eadwulfe .im aldormen 1is a1es biforan allum 1im wiotum ³ 7 him mon 1one gelidde ymb XXX nihta to 1im biscop-stole it Wigoerna-Ceastre1 ³ In 1a tiid wís Hama Suangerefa to Su.tune ³ 7 he rid .it he wís it Ceastre ³ and 1one aa. gesih ³ 7 gesceawade sua hine his aldormon heht Eadulf ³ 7 he hine hwe1re ne grette ³ hii sunt nomina et uocabula qui in synodali concilio fuerunt con-gregati.

+++	Signum manus ³ Biorn-	+	Cynred episc\.	+ Aldred
+	Wig-	1.25		
	wulfi regis Merc.	+	Torhtelm prior	helm
+	Wulfred arc\episc\ ³ con-	+	Eanmund ab\b\.	+ Heahberht ³ episc\.
	sen\ hanc condicionem.	+	Wihtred ab\b\.	+ Eadgar pr\.
+	Oe.elwald episc\ cōsen\.	+	Cudwulf ab\b\.	+ Wigberht pr\.
+	Hri.hun episc\ con-	+	Eanmund ab\b\.	+ Heahstif pr\.
	sen\.	+	Ea.berht dux	+ Brada pr\.
+	Heaberht episc\ cōsen\.	+	Biorno. dux	+ Cu.bald pr\.

+ Bionna episc\ <i>coisen</i> \.	+ Sigred dux	+ Regngar pr\.	
+ Eadwulf episc\ <i>coisen</i> \.	+ Cu.red dux	+ Cu.berht pr\.	
+ Wilfre episc\ <i>coisen</i> \.	+ Eadwulf dux	+ Ecgmund pr\.	1.35
+ Wig.egn episc\ <i>coisen</i> \.	+ Mucul dux	+ Ecgmund pr\	
+ Alhstan episc\ <i>coisen</i> \.	+ Uhtred dux	+ Heahferh. diac\.	
+ Humberht episc\ <i>coisen</i> \.	+ Alhheard dux	+ Wighelm diac\.	
+ Ceolberht episc\.	+ Bolam + Bynna	+ Erneberht diac\.	

Ond alre o.erra priuosta butan 1issum misse-priostum efen LX. [p.8]

## TRANSLATION

In the name of the Divine Trinity, Who is God blessed for ever, Amen. In the year which is 825 winters from Christ's birth, and during the second Indiction, and during the reign of Beornwulf, King of Mercia, there was a synodical meeting at the famous place which they call Clofesho, and there the same King Beornwulf, and his Bishops, and his Aldermen, and his Councillors [lit. Witan] of this nation were assembled. Then there was a notable law-suit about wood-pasture at Sinton, towards the west in Scirhylte. The reeves in charge of the swineherds wanted to extend the pasture further, and include more of the wood than the ancient rights allowed [lit. were]. Then said the Bishop and the Witan that they would not admit liability for more than had been appointed in Aethelbald's day, [ie] mast for 300 swine; and the Bishop and the community would have two thirds of the wood and the mast. Then determined Archbishop Wulfred and all the Witan that the Bishop and the community could declare on [lit. with] oath, that it was so appointed in Aethelbald's day, and that they were not trying to obtain more; and the Bishop at once provided security to Eadwulf the Alderman for the oath before all the Witan; and it was produced within 30 nights, at the Bishop's palace at Worcester. At that time Hama was Swinereeve at Sinton; and he rode till he was at Worcester; and he saw and observed the oath, as his Alderman Eadwulf ordered him, and he did not challenge it. These are the names and designations of those who were assembled in the synodical council. ...

## POINTS TO NOTE

1. It is odd to have a judgment recorded in a charter.
2. Who were the judges? L1.5-7 make it clear that they were the Witena Gemot. It seems fairly clear from the words 'Ūa gerihhte Wulfred arcebiscop ⁊ alle 1a wiotan' (L1.14) 'Then determined Archbishop Wulfred and all the Witan' that the decision was that of the entire Witan and thus that they were all judges. This charter is thus an example of a case being heard in the highest court in Anglo-Saxon England, the Witena Gemot.
3. Apparently the Archbishop Wulfred was presiding over the Witan, rather than the King, and thus he was the presiding judge. Yet it is clear that all the Witan participated in making the decision.
4. It is not clear why this case was heard by the Witena Gemot.
5. This charter displays a number of interesting points of legal procedure, eg how oaths were used to ensure that justice was done, and to establish *bona fides*.

## LXVI. RECORD OF A LAWSUIT BETWEEN WYNFLAED AND LEOFWINE

+ Her cy1 on 1ysum gewrite hu Wynflid gelidde hyre gewit-

nesse it Wulfamere beforan c<sup>3</sup>elrede cybinge <sup>3</sup> 1= wis 1on ne  
 Sigeric arcebiscope <sup>3</sup> 7 Orbyrht biscope <sup>3</sup> 7 clfric ealderman 7  
 clf<sup>1</sup>ry<sup>1</sup> 1is cyninges modor <sup>3</sup> 1= hi wiron ealle to gewitnesse  
 1it clfric sealde Wynflide 1= land it Hacceburnan <sup>3</sup> 7 it  
 Bradabfelda ongean 1= land it Deccet <sup>3</sup> 1a sende se cyning 1ir  
 rihte be 1a m arcebiscope <sup>3</sup> 7 be 1a m 1e 1ir mid hi m to gewitnesse  
 wiron to Leofwine 7 cydon hi m 1is <sup>3</sup> 1a nolde he butan hit  
 man sceote to scitgemote <sup>3</sup> 1a dyde man swa <sup>3</sup> 1a sende se cyning  
 be cluere abbude his onsegel to 1a m gemote it Cwicelmeshliwe 1.10  
 7 grette ealle 1a witan 1e 1ir

1.5

~~1 in  
 7e st Wulfgar abbd <sup>3</sup> 7 Wulfstan arce <sup>3</sup> 7 fle 1ara 1ellinga  
 diacon <sup>3</sup> 7 Eadwine <sup>3</sup> 7 Eadric <sup>3</sup> 7 Aelfhelm <sup>3</sup> 7 Aelfhelm <sup>3</sup> 7 clfwine <sup>3</sup> 7  
 clfweard <sup>3</sup> 7 Eadwold <sup>3</sup> 7 Eadric <sup>3</sup> 7 Aelfgar <sup>3</sup> 7 Eadgyfu abbu-  
 canoran <sup>3</sup> 7 hyre swustor <sup>3</sup> 7 hyre dohtor <sup>3</sup> 7 clfgy[fu 7 hyr]  
 dohtor <sup>3</sup> 7 Wulfwyn <sup>3</sup> 7 1elgyfu <sup>3</sup> 7 Aelfwaru <sup>3</sup> 7 Aelfgyfu <sup>3</sup> 7  
 1elflid <sup>3</sup> 7 menig god 1egen <sup>3</sup> 7 god wif 1e we ealle atellan ne  
 magon 1= [1ir] for 1com eal se fulla ge on weru m ge on wifu m.  
 1a swidon 1a wita 1e 1ir wiron 1e betere wire 1= man 1ene  
 a 1a 1e 1ete 1on ne hine man sealde <sup>3</sup> for 1an 1ir sy 1an nar  
 freondscype nire <sup>3</sup> 7 man wolde biddan 1is reafleace 1= he hit  
 sciolde agyfan 7 forgyldan <sup>3</sup> 7 1a m cyninge his wer <sup>3</sup> 1a let he [p.136]  
 1one a 1 weg <sup>3</sup> 7 sealde c<sup>1</sup>elsige biscope unbesacen land on  
 hand 1= he 1anon for 1 sy 1an 1iron ne sprice <sup>3</sup> 1a 1hte man  
 hyre 1= hio scio de bringan his fider gold 7 stof for eal 1= hio  
 hi de <sup>3</sup> 1a dyde hio swa dorste hyre a 1e gebiorgan <sup>3</sup> 1a 1is  
 he 1ag 1on 1a m gehealden butan hio sceolde swerian 1= his 1hta  
 1ir ealle wiron <sup>3</sup> 1a cw 1 hio 1= hio ne mihte hyre d 1es 1e he  
 his <sup>3</sup> 7 1yses wis clgas 1is c 1inges gete 1a to gewitnesse <sup>3</sup> 7  
 Byrhtic <sup>3</sup> 7 Leofric it Hwitecyran <sup>3</sup> menig god ma 1a to eacan  
 hi m [p.138]~~

1.25

1.5

**TRANSLATION**

Here is stated in this instrument, how Wybflaed produced her witnesses, at Woolmer, be  
 King Aethelred, that is then Archbishop Sigeric, and Bishop Ordbriht, and Alderman Ael  
 and Aelfthyth, the King's mother, who were all witnesses that Aelfric gave Wynflaed the land at  
 Hagbourne, and at Bradfield, in return for the land at Datchet. Then sent the King straight  
 to the Archbishop, and to those who were witnesses with him, to Leofwine [the  
 Archbishop], and told him about this. Was he willing [to agree], unless it was referred  
 to the Shiremoot. This they thus did: the King his seal, by Abbot Aelfhere, to the  
 moot at Cuckamsley, and greeted all the witnesses who were assembled there, who were Bishop  
 Aethelsige, and Bishop Aescwig, and Abbot Aelfric, and all the shire; and asked and o  
 that they should settle the case between Wynflaed and Leofwine, as justly as they though right.  
 and Archbishop Sigeric sent his declaration [to the Shire-moot], and Bishop Ordbriht  
 [sent] his. Then they informed Wynflaed that she might prove her title. Then she prod  
 proof of ownership, with Aelfthryth, the King's mother, who is then first Abbot Wulfgar,  
 and Wulfstan priest, and Aefic, the Aetheling's steward, and Edwin, and Eadhelm, and Aelfhelm,  
 and Aelfwine, and Aelfweard, and Eadwold, and Eadrig, and Aelfgar, and Abbess Eadgifu, and  
 Abbess Leofrun, and Aethelhild, and Eadgyfu, and her sister, and her daughter, and  
 Aelfgifu her daughter, and Wulfwin, and Aelfwaru, and Aelfgifu, and

Aethelflaed, and many good thegns, and good women, all of whom we cannot set out, so that the full complement is forthcoming, both men and women. Then said the Witan who were there that it would be better if the oath were dispensed with rather than administered, because thereafter friendship would cease, and he [ie Leofwine] would be asked to return the plunder and pay compensation and his wergild to the King. Then he dispensed with the oath, and gave to Bishop Aethelsige the land uncontested [and said] that he would thereafter make no claim on it. Then they told her [ie Wynflaed] to bring out her father's gold and silver, all that she had. Then did she [as little] as she dared, to protect her oath. Then he was not satisfied with it, unless she should swear that all his property was there. She said that she could not do so for her part or for his. And these were the witnesses: Aelfgar, the King's reeve, and Brihtric, and Leofwine of Whitchurch, and many good men in addition to them.

### **POINTS TO NOTE**

1. This is not a law report in the modern sense. It is a record of a case.
2. Who was the judge? It is quite clear from 1.9 that the case was actually heard in the Shire-moot, though apparently from what precedes the dispute was initially brought before the Witenagemot. Though this is not specifically stated, why else would the King be presiding, as apparently he was? Presumably this is an Anglo-Saxon instance of a case being transferred from one court of laws to another. Yet it becomes more complicated. Why does the King send his seal? Why are there three witan there? The three witan could have been there to represent the Witenagemot to keep an eye on what transpired. The sending of the seal, though, is likely to be more significant. It suggests that the King was delegating authority from the Witenagemot to the Shire-moot to hear the case. Perhaps that is why three Witan were present. Also the instructions from the King for determining the case (ll.13f.) support this approach.
3. The charter gives some interesting insights into Anglo-Saxon legal proceedings. It shows how they employed a multiplicity of witnesses to prove the question at issue.
4. The use of and dispensation with the oath is interesting. It is an example of the Anglo-Saxons using oral evidence on oath in legal proceedings. More interestingly it seems to be the Witan who advocated dispensing with the oath. Was this because they were in some sense presiding judges? Apparently from what follows, they were advocating a settlement of the case between the parties and in their best interests, rather than making a legal ruling. But even so, this is entirely consonant with their being presiding judges.
5. It is also interesting that there is no mention of Aelfric, Bishop of Ramsbury, being present, as Berkshire was probably in his diocese and III Edgar 5, 2 (which is repeated in II Cnut 18, 1) requires the presence of the diocesan bishop at a shire-moot. It is also interesting that there is no mention of the presence of the local earl Aelfric, which was also required. One possible reason for this is that this shire-moot was operating under the authority of the Witenagemot. Another (see Robertson's notes) is that Earl Aelfric was a witness and thus disqualified from presiding and that the case took place during a vacancy in the see between Sigeric's translation to Canterbury and Aelfric's enthronement at Ramsbury. Perhaps this is why delegated authority was needed from the Witenagemot.
6. The way this material is presented is more like a modern newspaper report of the proceedings than a modern law report.
7. It is also interesting that this charter represents a report of a settling of a case, rather than a report of a judicial adjudication.

## LXIX. LAWSUIT ABOUT THE ESTATE OF SNODLAND, KENT

**Px** Her cy. on .ysum gewrite ³ hu Godwine biscop on Hrofe-  
ceastre ³ 7 Leofwine clfeages sunu wur.on gesybsmode ymbe  
¹= land it Snoddingalande ³ on Cantwarabyrig.

    @a .a se biscop Godwine com to .am biscopstole ¹urh hise 1.10  
his cynehlafordes c.elredes cynges ifter clfstanes for.si¹e  
b\ .¹a gemeti he on .am mynstre ¹a ylcan swutelunga ¹e his  
foregenga hifde ³ 7 ¹irmid on ¹= land spic ³ ongan .a to spe-  
cenne on .it land ³ 7 elles for Godes ege ne dorste ³ o..it seo  
spric wear. ¹am cynges cu.. @ a .a hi m seo talu cu. wis ³ ¹a 1.15  
sende he gewrit 7 his insegel to ¹am arcebiscope clfric ³ 7  
bead him ¹= he 7 hys ¹egenas on East Cent ³ 7 on West Cent ³ hy  
onriht gesemdon ³ be ontile ³ 7 be oftale. @a ¹= wis ¹= se bisceop  
Godwine com Cantearabyrig to .am arcebiscope ³ ¹a com  
.ider se scyreman Leofric ³ 7 mid him clfun ab\b\ ³ 7 1.20  
¹egenas ig¹er ge oft East Cent ge of West Cent ³ eal seo  
dugu. ³ 7 hy .ir ¹a spice swa lange handledon ³ sy..on se  
bisceop his swutelunge ge 'e ;owod hifde ³ o¹ hy ealle bidon  
¹one biscop ea.modlice ³ ¹= he geunnan scolde ¹= he moste mid  
bletsunga ¹is landes bruvan it Snoddingalande his dig ³ 7 se [p.140] 1.25  
biscop ¹a ¹is geti.ode on ealra ¹ira witena ¹anc ¹e ¹ir  
gesomnode wiran ³ 7 he behet ¹is truwan ¹= land ifter his dige  
unbesacen eode eft into ¹ire stowe ¹e hit ut alined wis ³ 7  
ageaf ¹a swutelunga ¹e he to ¹am lande hifde ¹a ir of ¹ire  
stowe geutod wis ³ 7 ¹a halgan ealle ¹e he bewestan ¹ire cyran 1.5  
hifde into ¹ire halgan stowe ³ 7 ¹ises loces irendracan wiran ³  
clfun abbod 7 Wulfric abbod ³ 7 Leofric sciresman ³ 7 Siweard ³  
7 Wulfstan it Sealtwuda ³ 7 clfelm Ordelmes sunu. @onne is  
her seo gewitnes ¹e it ¹isum loce wis ³ ¹= is irest se arcebiscop  
clfric ³ 7 se biscop Goduine ³ 7 Wulfric ab\b\ 7 clfun ab\b\ ³ 1.10  
7 clfno. it Orpedingtune ³ 7 se hired it Cristes cyrcan ³ 7 se  
hired it se'e Augustine ³ 7 so burhwaru on Cantwarebyrig ³ 7  
Leofric sciresman ³ 7 Lifing it Meallingan ³ 7 Siweard ³ 7 Sired  
his bro.or ³ 7 Leostan it Mirseham ³ 7 Godwine Wulfeages  
sunu ³ 7 Wulstan it Sealtwuda ³ 7 Wulstan iunga ³ 7 Leoswine 1.15  
it Dictune ³ 7 Leofric Ealdredes sunu ³ 7 Goda Wulfsiges  
sunu ³ 7 clfhelm Ordelmes sunu ³ 7 Sidewine it Pealleswyr.e ³  
7 Wirelm ³ 7 c¹elred portgerefa on byrig 7 Gu.weold. Gif  
hwa ¹is .ence to awendenne ³ 7 ¹as foreword to abrecenne ³  
awende him God fram his ansyne on ¹am miclan dome ³ swa ¹= 1.20  
he si ascyred fram heofenarices myrh.e ³ 7 sy eallum  
deoflum betiht into helle. AMEN. [p.142]

### TRANSLATION

Here is stated in this instrument, how Godwine, Bishop of Rochester, and Leofwine, Aelfheah's son, were reconciled concerning the land at Snodland, at Canterbury

When Bishop Godwine came to the episcopal see, by the command of his kingly lord, King Aethelraed, after Bishop Aelfstan's death, he found in the minster the same instruments which his predecessor had, and with which he claimed the land. Then he claimed the land, and for fear of God, did not dare do otherwise, until the claim became known to the King. When the claim was known to him, then sent he a letter and his seal to Archbishop Aelfric, and asked him that he

and his thegns in East Kent and in West Kent should resolve the dispute justly, claim and counterclaim. Then it was that Bishop Godwine came to Canterbury to the Archbishop, and then came thither the sheriff Leofric, and with him Abbot Aelfhun, and thegns, both of East Kent and West Kent, all the leading nobles, and there they dealt with the law-suit, after the Bishop had adduced his evidence, until they all asked the Bishop humbly to to permit Leofwine to enjoy the land at Snodland with his blessing, during his lifetime. And the Bishop granted this to the thanks of all the Witan, who were assembled there. And he [ie Leofwine] gave his solemn assurance that after his death, the land would revert to the foundation from which it was leased. And he gave up the instruments which he had relating to the land, which had been alienated from the foundation, and all the houses which he had to the west of the church, to the holy foundation. And the negotiators of this settlement were: . . . . And these are the witnesses who were present at this settlement: . . . . And if anyone tries to alter or breach this agreement, may God avert his glance from him at the Great Judgment, so that he shall be cut off from the bliss of the Kingdom of Heaven, and delivered to all the devils of hell. Amen.

### POINTS TO NOTE

1. Unlike the previous law-suit, this one is based on instruments of title rather than on oral evidence.
2. It seems that the presiding judge here is Archbishop Aelfric, supported by the thegns of East Kent and West Kent, and that they operate under the authority of the King. Which court the case took place in is not clear. It might have been the shire-moot, but this is nowhere stated. It seems unlikely to have been the Witenagemot as such, but it might have been some form of sub-committee of that court.
3. It is again interesting that this charter represents a report of a settling of a case, rather than a report of a judicial adjudication.

## LXXVIII. ACCOUNT OF A HEREFORDSHIRE LAWSUIT

Her swutela. on 1issum gewrite 3 1= an scirgemot sit it  
 cgelno.es stante be Cnutes dīge cinges 1ir siton c1elstan b\  
 7 Ranig ealdorman 3 7 Edwine 1is ealdormannes 7 Leof- 1.25  
 wine Wulsiges sunu 3 7 0urcill hwita 7 Tofig pruda com 1ir [p.150]  
 on 1is cinges 1rende 3 7 1ir wis Bryning scirferefa 3 7  
 cgelgeard it Frome 3 7 Leofwine it Frome 3 7 Godric it  
 Stoce 7 ealle 1a 1egnas on Herefordscire 3 1a com 1ir farende  
 to 1am gemote 3 Edwine Enneawnes sunu 7 spic 1ir on his  
 agene modor ifter sumon dile landes 3 1= wis Weolintun 7 1.5  
 Crydes lih 3 1a acsode se bisceop hwa sceolde andswerian for  
 his modor 3 1a 7sweorode 0urcil hwita 7 side 1= he sceolde  
 gif he .a talu cu.e 3 1a he .a talu na ne cu.e 1a sceawode  
 man 1reo 1egnas of 1am gemote 1ir .ir heo wis 3 7 1= wis  
 it Filigli 3 1= wis Leofwine it Frome 3 7 igelsig 1e reada 3 1.10  
 7 Wynsige scig.man 3 7 1a .a heo to hire comon 1a ascodon  
 heo hwylce talu heo hifde 3 ymbe 1a land 1e hire sunu ifter  
 spic 3 1a side heo 1= heo nan land nifde 1e him aht to ge-  
 byrede 3 7 gebealh heo swi.e eorlice wi. hire sunu 3 7 gecleopode  
 .a Leofflīde hire magan to hire 3 0urcilles wif 3 7 beforan 1.15  
 heom to hire 1us cwī. her sit Leoffled min mage 1e ic geann  
 1g.er ge mines landes ge mines goldes ge rigles ge reafes ge  
 ealles 1is .e ic ah ifter minon dīge 3 7 heo sy..an to .am  
 1egnon cwī. 3 do. 1ewgnlice 7 wel 3 abeoda. mine 1rende to



.am gemote beforan eallon 1am godan mannum 7 cy.a1 heom  
hwim ic mines landegeunnen hibbe 3 7 ealre minre ihte 3  
7 minon igenan suna 3 nifre nan 1ingc 3 7 bidda. heom eallum  
beon 1isses to gewitnesse 3 7 heo .a swi dydon 3 ridon to .am  
gemote 3 7 cyddon ealle 1am godan mannum hwit heo on  
heom geled hifde 3 1a astod ourcill hwita up on 1am gemote  
7 bid ealle 1a .egnas syllan his wife 1a land cline 1e hire  
mage hire geu.e 3 7 heo swa dydon 3 7 ourcyll rad .a to seve  
c.wlberhtes mynstre be ealles 1is folces leafe 7 gewitnesse  
7 let settan on ane Cristes boc. [p.152]

1.20

## TRANSLATION

Here is stated in this instrument, that a Shire-moot sat at Aylton in the days of King Cnut. There sat [?were present] Bishop Aethelstan, and Alderman Ranig, and Edwin, the alderman's [son], and Thurkil the White, and Tofi the proud came there on the King's business. And there was Bryning the sheriff, and Aethelgeard of Frome, and Leofwine of Froome, and Godric of Stoke, and all the thegns of Herefordshire. Then there came travelling to the moot Edwin, Ennearwers son, and there sued his own mother for a certain piece of land, which was Wellington and Cradley. Then the Bishop asked who should answer for his mother. And Thurkil the White answered and said that he should, if he knew the case. As he did not know the case, three thegns were chosen from the moot [to go] to where she was, which was at Fawley, and they were Leofwine of Frome, and Aethelsige the Red, and Winsige the seaman. And when they came to her, they asked her what her claim was to the lands for which her son was suing her. Then she said that she had no land that in any way belonged to him, and was very irate with her son, and summoned her kinswoman Leofflaed, Thurkil's wife, to her, and in front of them said to her: 'Here sits Leofflaed, my kinswoman, to whom, after my death, I grant my land and my gold, and my clothing and my vesture and all that I have.' and then she said to the thegns: 'Act properly and like thegns. Report my testimony to the moot before all the worthy men, and tell them to whom I have granted all my land and all my property, and nothing to my own son, and ask them all to be witnesses of this.' And they did so. They rode to the moot and told all the worthy men of the charge she had laid on them. Then Thuyrkil the White rose up at the moot and asked all the thegns to give his wife all the land unreservedly, which her kinswoman granted her, and they did so. Then Thurkil rode to St Aethelbert's minster, with the consent and knowledge of the entire folk and recorded it in a gospel book.

## POINTS TO NOTE

1. The first line of this charter makes it clear that this case was in the shire-moot.
2. It is also interesting that it uses the modern terminology - 'the shire-moot sat.'
3. It is worth noting that the report is not completely unbiased - 'Then there came travelling to the moot Edwin, Ennearwers son, and there sued his own mother for a certain piece of land.'
4. Bishop Aethelstan seems to have been the presiding judge, as he asked who was to speak for the mother.
5. We have here an instance of representation (presumably lay rather than professional) before the court, Thurkil the White, speaking for the mother, and then three thegns.
6. Notice how court officials are sent out to question a witness, instead of the witness being brought to court.

7. It is difficult to determine exactly what form of adjudication (in the modern sense) took place here. Apparently the case was not settled by agreement between the mother and the son. There is not evidence of this: quite the contrary. The mother orally and before witnesses refutes her son's claim, but we are told no more than that. It seems that the mother disinherited her son of any patrimony he might have otherwise received and the shire-moot thoroughly approved. One might construe this as an example of rough justice and of how the Anglo-Saxons thought a mother ought (or perhaps ought not) to be treated. So far as one can tell, though, the whole shire-moot participated in the judgment. It is clear, though, that there is an oral will declared before witnesses, which is then confirmed by a shire-moot and recorded in a gospel book. It is interesting to note that the Scottish Book of Deer (an ancient abbey near Aberdeen) of the 11th or 12th century is a gospel book in which notes of land ownership are recorded.

8. Notice how the decision which is reached is recorded in a gospel book.

### LXXXIII. LAWSUIT ABOUT A WORCESTERSHIRE ESTATE

+ Her swtela. on .issum gewrite 1it c1elstan bisceop  
gebohte it Lreofric it Blacewellan fif hide landes 3 it Inte-  
byrgan be c1elrdes cynges leafe 3 7 be clfeges arcebisceopes  
gewitnesse 3 7 be Wulfstanes Arcebisceopes 7 be ealra 1ira  
witena 1e .a on Englalande lifes w1ron 3 mid ten pundan reodes 1.5  
goldes 3 7 hwites seolfres 3 unforboden 7 unbesacan 3 to geofene  
7 to syllanne 3 1r d1ge 7 1fter d1ge 3 sibban o.e fremdan 11r  
him leofost wire< 7 Se cyng het 1one arcebisceop Wulfstan  
11rto boc settan 3 7 c1elstane bisceope 3 boc 7 land betican  
unnendere heortan< 3a 1fter 1ysan manegum gearum 3 soc 1.10  
Wulfstan 7 his sunu Wulfric on sum 1it lane 3 1a ferde se  
bisceop to sciregemote to Wigeranceastre 7 draf 11r his spr1ce 3  
1a sealde Leofwine ealdor[m]an 7 Hacu[n] 7 Leofric 3 7 eal seo  
scir his land cline 1a he hit unforodan 7 unbesacan bohte 7  
settan d1g to 1it man to .am lande scolde faran 3 7 1a ilcan 1e 1.15  
him 1r landgem1re liddon hit e. . . .an 3 7 cw1dan gif .a  
landgem1re ealswa w1ron swa man heo on fruman l1dde 3 1it  
se bisceop 1it land fulriht ahte 3 1a com se bisceop 11rto 7 se  
1e him land sealde 7 1a 1e him 1r [to gewit]nesse w1ron 3  
7 com Wulfstan 7 his sunu 7 1a 1e hyra geferan w1ron 3 7 heo 1.20  
ealle 1a 1a landgem1re geridan eal swa heo man on fruman 1.am  
bisceope l1dde 3 7 heo ealle cw1dan 1e [11r it] w1ron 1it se  
him land sealde. Sp1con .a Leofrices freond 3 7 Wulfstanes  
freond 3 1it hit betere wire 1= heora seht togi. . . .de 1onne 1.25  
hy 1nige [sa]ce hym betweonan heoldan 1 worhtan 1a hyra  
seht 3 1it w1s 1[1]t Leofric sealde Wulfstane 7 his sunu 3 an [p.162]  
pund 3 7 twegra 1egna a. 7 wire himsylv 1ridde 3 1it he [on  
1]am ilcan wolde beon gehealden gif seo sp1c to Leofric eode  
s[wa s]wa heo 1a w1s to Wulfstane gega[n] 3 1is w1s ur[e] ealre  
seht< Wulfstan 7 his sunu sealdon 1a 1it land cline Leofric 3  
7 Leofric 7 [W]u[lf]s[tan] 3 7 Wulfric 3 1am bisceope cline land 1.5  
7 unbesacan 3 1r d1ge 7 1fter to gyfanne 11r him leofost wire<  
Her swutela. seo gewitnes 7 se borh 1e 11r it w1ron 3 1it  
w1s 1rest se bisceop 7 Le[ofric] 3 7 Wulfstan 3 7 Brihtwine 3  
7 Cynsig 3 7 Wynstan 3 7 cgelwig munuc 3 7 clwine misse-  
preost 3 7 clom1r missepreost 3 7 Wulfric missepreost 3 7 1.10  
Cyneword it Pebbewur.y 3 7 clewig . . . . .nham 3 7

Eadwig his mīg ³ 7 Wulfri[c] it Cloddesheale ³ 7 Sifword it  
 mīnig god cniht toecan 1ysan< Nu syndan 1issa gewrita 1reo ³  
 an on Wigernsceastre it SC|A Mrian 1ir 1it land toher. ³ 1.15  
 7 o.er on Hereforda it Sc|e c1elbrihte ³ 7 1ridde a mid 1am  
 1a 1it land on hande stande< God ilnihtig 1one gehealde 1e  
 1is wille rihtlice healdan ³ 7 gif inig ,an 1onne seo 1e 1is  
 awendan wille ³ God ilmihtig ³ 7 SC|A MARIA ³ 7 ealle his  
 leofan halgan 1ine ani.erige ig1er ge her on life ge 1.ir he 1.20  
 lingast wunian sceal ³ buton he hit 1e deoppor ir geb[e]te swa  
 bisceop him tice. [p.164]

## TRANSLATION

Here is stated in this instrument, that Bishop Aethelstan bought 5 hides of land at Inkberrow from Leofric of Blackwell, with King Aethelraed's permission and the knowledge of Archbishop Aelfheah and Archbishop Wulfstan and all the Witan who were alive at the time in England, for 10 pounds of red gold and white silver, unopposed and uncontested, to give and grant them before or at his death to kinsmen or strangers, whichever he preferred. And the King ordered Archbishop Wulfstan to draft a charter to this effect, and gladly entrusted both the charter and the land to Bishop Aethelstan. Then many years after this, Wulfstan and his son Wulfric brought a claim against part of the land. The Bishop then went to the shire-moot at Worcester to present his case. Then Alderman Leofwine and Hakon and Leofric and all the shire granted him his land without any reservation, as he had bought in unopposed and uncontested, and chose a day to go to the land, and the same folk who had traced the boundaries for him [were to do so again], and it was said that if the boundaries were the same as when they were first traced, the Bishop justly owned the land. Then the Bishop and the man who sold him the land and those who were witnesses came to the due place, and Wulfstan and his son and their companions came, and they all rode round the boundaries, as they have been first marked out for the Bishop. And they all who were there said that the Bishop was the just owner of the land. And the man who sold him the land confirmed that it was so. Then both Leofric's friends and Wulfstan's said it would be better to settle than to continue the dispute between them. Then they made this agreement. Leofric should give Wulfstan and his son a pound and swear an oath along with two thegns, that he would be satisfied with this, if the case had been resolved for him as it had been for Wulfstan. This was the agreement made by Wulfstan by all of us. Wulfstan and his son then gave the land to Leofric, and Leofric and Wulfstan and Wulfric gave it without reservation of controversy to the Bishop, to be granted before or on his death to whomsoever he chose. her are declared the witnesses and sureties who were present: . . . There are three of these documents, one in St Mary's, Worcester, to which the land belongs; and the second at St Aethelbert's in Hereford; and the third shall remain with those who possess the land. may Almighty God uphold him who is willing to keep this properly; and if there is anyone who tried to alter it, God Almighty and St Mary and all his belovcd saints shall abase him both here in this life and there where he must longest live, unless he has made amends as fully as possible, as the Bishop directs him.

## POINTS TO NOTE

1. The first line of this charter makes it clear that this case was in the shire-moot.
2. The judges seem to have been 'Alderman Leofwine and Hakon and Leofric and all the shire'.
3. The adjudication seems to have been to send out a surveying party to check the boundaries of the estate and then to recommend a settlement of the case, which proceeded to resolve it.

## APPENDIX IV - ANGLO-SAXON WRITS AND RIGHTS

## ANALYSIS OF THE ANGLO-SAXON WRITS AND THE RIGHTS THEY GRANT

No.4

GRANTOR: The King.

GRANTEE: Abbot Ordic of Abingdon.

RIGHTS: Sace 7 socne, toll 7 team 7 infangenetheof within and without the borough; and hamsocn and grithbreach and foresteall (over his own lands).

No.8

GRANTOR: The King.

GRANTEE: Abbot Ufi, of Bury St Edmund's.

RIGHTS: Sake and Soke.

No.9

GRANTOR: The King.

GRANTEE: The community of St Edmund's.

RIGHTS: Sake and Soke.

No.10

GRANTOR: The King.

GRANTEE: The community.

RIGHTS: Soke.

No.11

GRANTOR: The King.

GRANTEE: The abbot and community of St Edmund's.

RIGHTS: Sake and soke.

Over their own men within the borough and without.

No.12

GRANTOR: The King.

GRANTEE: Abbot Leofstan and community.

RIGHTS: Sake and soke.

No 17

GRANTOR: The King.

GRANTEE: The community of St Edmund's.

RIGHTS: Sake and Soke.

No.19

GRANTOR: The King.

GRANTEE: The community of St Edmund's.

RIGHTS: Soke.

No.20

GRANTOR: The King.

GRANTEE: The community of St Edmund's.

RIGHTS: Sake and soke.

No.22

GRANTOR: Aelfric Modercope with the witnessing of the King.

GRANTEE: The community of St Edmund's.

RIGHTS: Sake and soke.

No.23

GRANTOR: The King.

GRANTEE: Abbot Baldwine of St Edmund's.

RIGHTS: Sake and soke.

No.24

GRANTOR: The King.

GRANTEE: The community at Bury St Edmund's.

RIGHTS: Fyrdwite, fihtwite, aebaeretheof, grithbreach, foresteall, and hamsocn.

No.28

GRANTOR: The King.

GRANTEE: Archbishop Aethelnoth and the community at Christ Church.

RIGHTS: sake and soke, grithbreach, hamsocn, foresteall and infangenetheof (within the borough and without).

No.31

GRANTOR: The King.

GRANTEE: Archbishop Eadsige and the monks at Christ Church.

RIGHTS: Sake and soke (in stream and woodland); and grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.33

GRANTOR: The King.

GRANTEE: Archbishop Stigand and the community at Christ Church.

RIGHTS: Sake and soke (on strand, in stream and wood and field); and toll and team, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within cities and without).

No.34

GRANTOR: The King.

GRANTEE: Archbishop Stigand and the community at Christ Church.

RIGHTS: Sake and soke (on strand and in stream, in woodland and in open country); and toll, team, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.35

GRANTOR: The King.

GRANTEE: The community at Christ Church, Canterbury.

RIGHTS: Sake and soke

No.36

GRANTOR: The King.

GRANTEE: To God, St Augustine and the brethren.

RIGHTS: Sake and soke, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.38

GRANTOR: The King.

GRANTEE: St Augustine and the brethren belonging thereto.

RIGHTS: Sake and soke, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.40

GRANTOR: The King.

GRANTEE: Chertsey, Christ and St Peter.

RIGHTS: Sake and soke, toll, team, infangenetheof, grithbreach, foresteall, hamsocn, flymenafyrmth, and morthsliht (in festival time and outside it).

No.41

GRANTOR: The King.

GRANTEE: Chertsey, Christ and St Peter.

RIGHTS: Sake and soke, toll, team, infangenetheof, grithbreach, foresteall, hamsocn, flymenafyrmth, and morthsliht (in festival time and outside it) (and all things belonging to me in woodland and open country).

No.42

GRANTOR: The King.

GRANTEE: Chertsey, Christ and St Pete; and Abbot Wulfwold.

RIGHTS: The Hundred of Godley; and the the abbot his sake and soke, toll, team, infangenetheof, grithbreach, foresteall, hamsocn, flymenafyrmth, and morthsliht (within town and without, by land and strand, over all his men, and over his lands).

No.43

GRANTOR: The King.

GRANTEE: Abbot Wulfwold of Chertsey.

RIGHTS: Sake and soke.

No.44

GRANTOR: The King.

GRANTEE: Regenbald, my priest.

RIGHTS: Sake and soke (over his land and over his men); and toll, team, and infangenetheof (within the borough and without).

No.45

GRANTOR: The King.

GRANTEE: Abbot Leofwine and the brethren at Coventry.

RIGHTS: Sake and soke, and toll, team, hamsocn, foresteall, blodwite, fihtwite, weardwite, and mundbreach.

No.46

GRANTOR: The King.

GRANTEE: Abbot Leofwine.

RIGHTS: Sake and soke, and toll, team (over lands and over men, within boroughs and without).

No.47

GRANTOR: The King.

GRANTEE: Abbot Wilfric of Ely.

RIGHTS: Toll, team, infangenetheof, fihtwite, fyrdwite, hamsocn, and grithbreach.

No.49

GRANTOR: The King.

GRANTEE: The priests in Hereford at St Ethelbert's Minster.

RIGHTS: Sake and soke (over their men and their lands, within the borough and without).

No.50

GRANTOR: The King.

GRANTEE: Bishop Walter of Hereford.

RIGHTS: Sake and soke.

No.51

GRANTOR: The King.

GRANTEE: The gild of English cnihtas.

RIGHTS: Sake and soke (within the borough and without, over their men and their lands).

No.52

GRANTOR: The King.

GRANTEE: The priests in St Paul's Cathedral, London.

RIGHTS: Sake and soke (within the borough and without).

No.53

GRANTOR: The King.

GRANTEE: The priests in St Paul's Cathedral, London.

RIGHTS: Sake and soke; toll and team (in festival time and outside it) (within the borough and without).

No.54

GRANTOR: The King.

GRANTEE: The priests in St Paul's Cathedral, London.

RIGHTS: Sake and soke (within the borough and without).

No.55

GRANTOR: The King.

GRANTEE: The monastery at St Denis.

RIGHTS: Sake and soke.

No.57

GRANTOR: The King and Queen.

GRANTEE: The church at Ramsey.

RIGHTS: Sake and soke.

No.59

GRANTOR: The King.

GRANTEE: The abbey at Ramsey.

RIGHTS: Sake and soke.

No.60

GRANTOR: The King.

GRANTEE: The abbey at Ramsey.

RIGHTS: Soke.

No.61

A:

GRANTOR: The King.

GRANTEE: The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.

RIGHTS: Sake and soke, and toll, team, infangenetheof, fihtwite, fyrdwite foresteall, hamsocn, shipwreck, and what is cast up by the sea.

B:

GRANTOR: The King.

GRANTEE: The abbey at Ramsey, St Mary, St. Benedict and Abbot Aelfwine.

RIGHTS: Soke.

C:

GRANTOR: The King.

GRANTEE: The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.

RIGHTS: Sake and soke, and toll, team, infangenetheof, (within the borough and without).

No.64

GRANTOR: The King.

GRANTEE: The Bishop of Wells, Bishop Giso.

RIGHTS: Sake and soke.

No.65

GRANTOR: The King.

GRANTEE: The Bishop of Wells, Bishop Giso.

RIGHTS: Sake and soke.

No.68

GRANTOR: The King.

GRANTEE: The Bishop of Wells, Bishop Giso.

RIGHTS: Sake and soke.

No.69

GRANTOR: The King.

GRANTEE: The Bishop of Wells, Bishop Giso.

RIGHTS: Sake and soke.

No.71

GRANTOR: The King.

GRANTEE: The Bishop of Wells, Bishop Giso.

RIGHTS: Sake and soke (over his lands and over his men); and toll, team, infangenetheof, (within the borough and without).

No.72

GRANTOR: The Queen.

GRANTEE: The Bishop of Wells, Bishop Giso (for the canons of St Andrew's at Wells).

RIGHTS: Sake and soke.

No.73

GRANTOR: The King.



GRANTEE: St Peter (at Westminster Abbey).  
RIGHTS: Sake and soke; and toll, team, and infangenetheof.

No.74

GRANTOR: The King.  
GRANTEE: St Peter (at Westminster Abbey).  
RIGHTS: Sake and soke; and toll, team, infangenetheof, and all other rights belonging to the king.

No.76

GRANTOR: The King.  
GRANTEE: St Peter (at Westminster Abbey).  
RIGHTS: Sake and soke; and toll, team, infangenetheof, and all other rights belonging to the king.

No.77

GRANTOR: The King.  
GRANTEE: St Peter and the brothers at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth and all other rights belonging to the king.

No.78

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.79

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.81

GRANTOR: The King.  
GRANTEE: St Peter's at Westminster Abbey, and Abbot Edwin.  
RIGHTS: Sake and soke; and toll, team, grithbreach, hamsocn, foresteall (in festive season and outside it)(within the borough and without).

No.82

GRANTOR: The King.  
GRANTEE: St Peter's at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, foresteall, and all other rights (in festive season and outside it)(within the borough and without)(on street and off).

No.83

GRANTOR: The King.  
GRANTEE: St Peter's at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, foresteall (in festive season and outside it)(within the borough and without)(on street and off).

No.84

GRANTOR: The King.  
GRANTEE: St Peter's at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth.

No.85

GRANTOR: The King.  
GRANTEE: St Peter's at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, miskening, and all other rights.

No.86

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and to St Peter.  
RIGHTS: Sake and soke.

No.87

GRANTOR: The King.  
GRANTEE: Teinfrith, the King's 'church-wright'.  
RIGHTS: Sake and soke.

No.89

GRANTOR: The King (declaring that Ailric has permission to make this grant).  
GRANTEE: Westminster Abbey, to Christ and to St Peter.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, and all other rights belonging to the king

No.91

GRANTOR: The King (declaring that Ailric has permission to make this grant).  
GRANTEE: St Peter and the brethren at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth and miskening, and all other rights in all matters that shall arise there.

No.92

GRANTOR: The King.  
GRANTEE: St Peter and the brethren at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, and all other rights in all matters that shall arise there.

No.93

GRANTOR: The King.  
GRANTEE: St Peter's Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, blodwite, weardwite, hamsocn, foresteall, and all other rights belonging to the King.

No.94

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team.

No.95

GRANTOR: The King.

GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.96

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke.

No.97

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.98

GRANTOR: The King.  
GRANTEE: St Peter and the brethren at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flumenafyrmth, grithbreach, hamsocn, foresteall, mickenning and all other rights in all matters that shall arise there (in festival season and outside it)(within the borough and without)(on the street and off).

No.99

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team (on the street and off).

No.100

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team, infangenetheof (on the street and off).

No.101

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke; and toll, team (on the street and off).

No.102

GRANTOR: The King.  
GRANTEE: St Peter and the brethren at Westminster Abbey.  
RIGHTS: Sake and soke; and toll, team, infangenetheof, flyCemenafyrmth, grithbreach, hamsocn, foresteall, mickenning and all other rights in all matters that shall arise there (in festival season and outside it)(within the borough and without)(on the street and off).

No.103

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.  
RIGHTS: Sake and soke.

No.104

GRANTOR: The King.  
GRANTEE: Westminster Abbey, to Christ and St Peter.

RIGHTS: Sake and soke; and toll, team, infangenetheof, blodwite, weardwite, hamsocn, foresteall, grithbreach, and mundbreach, and all the rights belonging to the King.

No.105

GRANTOR: The King.

GRANTEE: Westminster Abbey and St Peter.

RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, foresteall, and mundbreach (in festival season and without)(within the borough and without)(on the street and off).

No.106

GRANTOR: The King.

GRANTEE: Westminster Abbey and St Peter.

RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, foresteall, and miskenning (in festival season and without)(within the borough and without)(on the street and off).

No.109

GRANTOR: The King.

GRANTEE: Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul

RIGHTS: Sake and soke (within the town and without); and toll, team, foresteall, infangenetheof, hamsocn, and mundbreach.

No.110

GRANTOR: The King.

GRANTEE: Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul

RIGHTS: Sake and soke (within the town and without); and toll, team, foresteall, infangenetheof, hamsocn, and mundbreach (in festival season and without).

No.114

GRANTOR: The King.

GRANTEE: His priests at Wolverhampton and their minster.

RIGHTS: Sake and soke.

No.115

GRANTOR: The King.

GRANTEE: Wulfstan, Bishop of Worcester.

RIGHTS: Sake and soke, and toll, team (within the borough and without).

No.116

GRANTOR: The King.

GRANTEE: Monk Aelfstan.

RIGHTS: Sake and soke, and toll, team (within the town and without).

No.118

GRANTOR: The King.

GRANTEE: Archbishop Ealdred.

RIGHTS: Sake and soke (over his lands and over all his men), and toll, team (within the town and without).

No.119

GRANTOR: The King.  
GRANTEE: Archbishop Ealdred.  
RIGHTS: Sake and soke, and toll, team (over his men).

No.120

GRANTOR: The King.  
GRANTEE: Ealdred deacon of Archbishop Ealdred, on behalf of St Peter's Minster, York.  
RIGHTS: Sake and soke.

No.121

GRANTOR: Gospatric (probably son of Uhtred, Earl of Northumbria).  
GRANTEE: Thorflynn (otherwise unknown).  
RIGHTS: Sake and soke, and toll, team.

### **ANALYSIS**

#### **HOW MANY GRANTS?**

Of 121 writs 83 make grants of rights.

#### **WHO IS THE GRANTOR?**

The grantor is always the King, except:-

1. No.22 GRANTOR: Aelfric Modercope with the witnessing of the King.
2. No.57 GRANTOR: The King and Queen.
3. No.72 GRANTOR: The Queen.
4. No.91 GRANTOR: The King (declaring Ailric has permission to make this grant).
5. No.121 GRANTOR: Gospatric (probably son of Uhtred, Earl of Northumbria).

Of these 5 exceptions the King is involved in three of them. This is thus good evidence for the King being the fount of justice.

#### **WHO IS THE GRANTEE?**

The grantees are:-

##### **1. MONASTIC GRANTS:**

###### **A. TO THE ABBOT ALONE [6 grants]**

- No.4 Abbot Ordric of Abingdon.
- No.8 Abbot Ufi, of Bury St Edmund's.
- No.23 Abbot Baldwine of St Edmund's.
- No.43 Abbot Wulfwold of Chertsey.
- No.46 Abbot Leofwine.
- No.47 Abbot Wilfric of Ely.

###### **B. TO THE COMMUNITY ALONE [16 grants]**

- No.9 The community of St Edmund's.
- No.10 The community.
- No.17 The community of St Edmund's.
- No.19 The community of St Edmund's.
- No.20 The community of St Edmund's.
- No.22 The community of St Edmund's.
- No.24 The community at Bury St Edmund's.
- No.35 The community at Christ Church, Canterbury.
- No.55 The monastery at St Denis.
- No.59 The abbey at Ramsey.

- No.60 The abbey at Ramsey.
- No.82 St Peter's at Westminster Abbey.
- No.83 St Peter's at Westminster Abbey.
- No.84 St Peter's at Westminster Abbey.
- No.85 St Peter's at Westminster Abbey.
- No.93 St Peter's Westminster Abbey.

C. TO GOD AND/OR THE SAINT AND THE COMMUNITY [27 grants]

- No.36 To God, St Augustine and the brethren.
- No.38 St Augustine and the brethren belonging thereto.
- No.40 Chertsey, Christ and St Peter.
- No.41 Chertsey, Christ and St Peter.
- No.73 St Peter (at Westminster Abbey).
- No.74 St Peter (at Westminster Abbey).
- No.76 St Peter (at Westminster Abbey).
- No.77 St Peter and the brothers at Westminster Abbey.
- No.78 Westminster Abbey, to Christ and St Peter.
- No.79 Westminster Abbey, to Christ and St Peter.
- No.86 Westminster Abbey, to Christ and to St Peter.
- No.89 Westminster Abbey, to Christ and to St Peter.
- No.91 St Peter and the brethren at Westminster Abbey.
- No.92 St Peter and the brethren at Westminster Abbey.
- No.94 Westminster Abbey, to Christ and St Peter.
- No.95 Westminster Abbey, to Christ and St Peter.
- No.96 Westminster Abbey, to Christ and St Peter.
- No.97 Westminster Abbey, to Christ and St Peter.
- No.98 St Peter and the brethren at Westminster Abbey.
- No.99 Westminster Abbey, to Christ and St Peter.
- No.100 Westminster Abbey, to Christ and St Peter.
- No.101 Westminster Abbey, to Christ and St Peter.
- No.102 St Peter and the brethren at Westminster Abbey.
- No.103 Westminster Abbey, to Christ and St Peter.
- No.104 Westminster Abbey, to Christ and St Peter.
- No.105 Westminster Abbey and St Peter.
- No.106 Westminster Abbey and St Peter.

D. TO THE ABBOT AND COMMUNITY (with or without the saint) [6 grants]

- No.11 The abbot and community of St Edmund's.
- No.12 Abbot Leofstan and community.
- No.42 Chertsey, Christ and St Pete; and Abbot Wulfwold.
- No.45 Abbot Leofwine and the brethren at Coventry.
- No.61
  - A: The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.
  - B: The abbey at Ramsey, St Mary, St. Benedict and Abbot Aelfwine.
  - C The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.
- No.81 St Peter's at Westminster Abbey, and Abbot Edwin.

E. TO THE BISHOP AND COMMUNITY [6 grants]

- No.28 Archbishop Aethelnoth and the community at Christ Church.
- No.31 Archbishop Eadsige and the monks at Christ Church.
- No.33 Archbishop Stigand and the community at Christ Church.

No.34 Archbishop Stigand and the community at Christ Church.  
No.109 Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul  
No.110 Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul

## **2. GRANTS TO SECULAR CLERGY** [4 grants]

No.52 The priests in St Paul's Cathedral, London.  
No.53 The priests in St Paul's Cathedral, London.  
No.54 The priests in St Paul's Cathedral, London.  
No.114 His priests at Wolverhampton and their minster.

## **3. GRANTS TO BISHOPS ALONE** [10 grants]

No.50 Bishop Walter of Hereford.  
No.64 The Bishop of Wells, Bishop Giso.  
No.65 The Bishop of Wells, Bishop Giso.  
No.68 The Bishop of Wells, Bishop Giso.  
No.69 The Bishop of Wells, Bishop Giso.  
No.71 The Bishop of Wells, Bishop Giso.  
No.72 The Bishop of Wells, Bishop Giso (for the canons of St Andrew's at Wells).  
No.115 Wulfstan, Bishop of Worcester.  
No.118 Archbishop Ealdred.  
No.119 Archbishop Ealdred.

## **F. MISCELLANEOUS** [8 grants]

No.44 Regenbald, my priest.  
No.49 The priests in Hereford at St Ethelbert's Minster.  
No.51 The gild of English cnihtas.  
No.57 The church at Ramsey.  
No.87 Teinfrith, the King's 'church-wright'.  
No.116 Monk Aelfstan.  
No.120 Ealdred deacon of Archbishop Ealdred, on behalf of St Peter's Minster, York.  
No.121 Thorflynn (otherwise unknown).

These figures paint a very clear picture:-

61 monastic grants  
4 grants to secular clergy  
10 grants to Bishops alone  
8 miscellaneous grants.  
= 83 in total.

Of the grants to a community, only 6 out of 61 are to the abbot alone. The rest are to the community with or without the abbot, bishop, or archbishop.

This has implications for the delicate question as to what these grants carried with them. Were they simply the profits of justice (eg fines)? This is entirely consonant with these figures. Or did they include the right to hold a court of trial (presumably including a tribunal of fact) to determine legal disputes. A preponderance of grants to those fitted to conduct such a trial (eg bishops and abbots) would have supported such a view. It is, of course, possible that monastic brethren could sit as some from of jury, but it seems a little unlikely. Perhaps, though, they could have arranged a private court to transact the business on their behalf.

## **WHAT RIGHTS ARE GRANTED?**

The rights granted were as follows:-  
SINGLY

1. Sake: 8, 9, 11, 12, 17, 20, 22, 23, 28, 31, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 53, 54, 55, 57, 59, 61A, 61C, 64, 65, 68, 69, 71, 72, 73, 74, 76, 77, 78, 79, 81, 82, 83, 84, 85, 86, 87, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 109, 110, 114, 115, 116, 118, 119, 120, & 121.
2. Soke: 8, 9, 10, 11, 12, 17, 19, 20, 22, 23, 28, 31, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 53, 54, 55, 57, 59, 60, 61A, 61B, 61C, 64, 65, 68, 69, 71, 72, 73, 74, 76, 77, 78, 79, 81, 82, 83, 84, 85, 86, 87, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 109, 110, 114, 115, 116, 118, 119, 120, & 121.
3. Toll: 33, 34, 40, 41, 42, 44, 45, 46, 47, 53, 61A, 61C, 71, 73, 74, 76, 77, 78, 79, 81, 82, 83, 84, 85, 89, 91, 92, 93, 94, 95, 97, 98, 99, 100, 101, 102, 104, 105, 106, 109, 110, 115, 116, 118, 119, & 121.
4. Team: 33, 34, 40, 41, 42, 44, 45, 46, 47, 53, 61A, 61C, 71, 73, 74, 76, 77, 78, 79, 81, 82, 83, 84, 85, 89, 91, 92, 93, 94, 95, 97, 98, 99, 100, 101, 102, 104, 105, 106, 109, 110, 115, 116, 118, 119, & 121.
5. Infangenetheof: 28, 31, 33, 34, 36, 38, 40, 41, 42, 44, 47, 61A, 61C, 71, 73, 74, 76, 77, 78, 79, 82, 83, 84, 85, 89, 91, 92, 93, 95, 97, 98, 100, 102, 104, 105, 106, 109, & 110.
6. Hamsocn: 24, 28, 31, 33, 34, 36, 38, 40, 41, 42, 45, 47, 61A, 81, 82, 83, 93, 98, 102, 104, 105, 106, 109, & 110.
7. Grithbreach: 24, 28, 31, 33, 34, 36, 38, 40, 41, 42, 47, 81, 82, 83, 98, 102, 104, 105, & 106.
8. Foresteall: 24, 28, 31, 33, 34, 36, 38, 40, 41, 42, 45, 61A, 81, 82, 83, 93, 98, 102, 104, 105, 106, 109, & 110.
9. Fihtwite: 24, 45, 47, & 61A.
10. Aebaeretheof: 24.
11. Fyrdwite: 24, 47, & 61A.
12. Flymenafyrmth: 31, 33, 34, 36, 38, 40, 41, 42, 77, 82, 83, 84, 85, 91, 92, 98, 102, 105, & 106.
13. Morthsliht: 40, 41, & 42.
14. Blodwite: 45, 93, & 104.
15. Weardwite: 45, 93, & 104.
16. Mundbreach: 45, 104, 105, 109, & 110.
17. Shipwreck: 61A.
18. What is cast up by the sea: 61A.
19. Miskenning: 85, 91, 98, 102, & 106.

#### IN COMBINATION

A. Sake and Soke: 8, 9, 11, 12, 17, 20, 22, 23, 28, 31, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 53, 54, 55, 57, 59, 61A, 61C, 64, 65, 68, 69, 71, 72, 73, 74, 76, 77, 78, 79, 81, 82, 83, 84, 85, 86, 87, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 109, 110, 114, 115, 116, 118, 119, 120, & 121.

NB: Sake never occurs by itself. Soke occurs by itself 4 times (10, 19, 60, & 61B).

B. Sake and Soke, and toll and team (without infangenetheof): 45, 46, 53, 81, 94, 99, 101, 115, 116, 118, 119, & 121.

NB: Toll and team never occur separately.

C. Sake and Soke, and toll and team, and infangenetheof: 33, 34, 40, 41, 42, 44, 61A, 61C, 71, 73, 74, 76, 77, 78, 79, 82, 83, 84, 85, 89, 91, 92, 93, 95, 97, 98, 100, 102, 104, 105, 106, 109, & 110.

D. Sake and Soke, and infangenetheof: 28, 31, 36, & 38.



E. Toll, team and infangenetheof: 47.

### **WHAT DO THESE RIGHTS MEAN?**

It is difficult to be completely certain as to what these rights mean, but the following are likely solutions:

1. Sacu: lawsuit.
2. Socn: jurisdiction.
3. Toll: toll [ie the right to a toll on the sale of cattle or other goods in an estate]
4. Team: vouching to warranty.
5. Infangene.eof: lit. 'thief taken within [the privileged area]'. *In* is an adverb. *fangen* is the past participle of *fon* meaning 'to take' and .eof means 'thief'. It presumably means the right to hang one's own thieves and to forfeit their chattels. There are recorded instances in later medieval times of towns with the right to hang their own thieves placing the gallows conspicuously near the entrance to the town to warn peddlers and such like traders that the town had the right to hang its own thieves and thus of the dangers of any misbehaviour.
6. Hamsocn: means 'forcible entry' or 'an assault on a house' in the Danelaw.
7. Grithbreach: means 'breach of special peace' in the Danelaw. *Grith* is a Scandinavian loanword for the King's special peace or protection, given to those specially favoured.
8. Foresteall: means 'obstruction' or 'waylaying'.
9. Fihtwite: means the fine for fighting and applied in the Danelaw.
10. Aebaeretheof: lit. 'manifest thief', ie any thief whose guilt cannot be denied.
11. Fyrdwite: means the fine for neglecting military service, particularly in the Danelaw.
12. Flymenafyrmth: means the harbouring of fugitives.
13. Morthsliht: lit. 'slaughterer' or 'murder'. This was a fine for doing murder and is probably an anachronism in the Anglo-Saxon writs.
14. Blodwite: lit. 'blood fine' ie the fine for shedding blood.
15. Weardwite: lit. 'guard fine' ie the fine for neglecting to keep guard.
16. Mundbreach: means 'breach of *mund*'. The *mund* was a special protection, apparently more general in scope than *grith* v.s..
17. Shipwreck: This is self-explanatory.
18. What is cast up by the sea: This too is self-explanatory.
19. Miskenning: lit. 'wrong declaration'.

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### **APPENDIX V - MISCELLANEOUS POINTS**

It is worth remembering that modern English law can be traced back to Anglo-Saxon times, because the common law was a selection and distillation of the previous customs (eg Gavelkind land tenure in Kent which survived up to 1925) and William the Conqueror was very particular that the laws of England should be as they had been on the day that King Edward the Confessor had been alive and dead. No doubt this was to reinforce his own legitimacy, but it has legal consequences too.

It is interesting to remember in this context that the accepted legal doctrine is that the Church of England is a continuous body from its earliest establishment in pre-Conquest Anglo-Saxon times and thus began in 597: Marshall v. Graham [1907] 2 K.B. 112, at p.126 (D.C.), following Middleton v. Crofts 2 Atk. 650, at p.653. It might be possible to take the Church of England back even further into history. Certainly in Read v. Bishop of Lincoln (1889) 14 P.D. 88 the Court had to go back to Anglo-Saxon precedents to resolve the question then before the Court. This in turn reinforces the continuity of English legal history right back to earliest Saxon times.

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M.J.BURR  
Monday, 2nd July 2007  
The Visitation of the BVM (BCP)  
Sanctorum Processi et Martiniani  
(Leofric Missal)  
St Swithun's Day