

Part I

The Making of Records

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Memories and Myths of the Norman Conquest

Medieval people lived in the shadow of the former Roman Empire and so Latin remained the principal language of record, long after it had ceased to be anyone's mother tongue, across the whole medieval millennium from 500 to 1500. To be 'literate' (*litteratus*) meant to know Latin. This was the language of the medieval Bible and hence of the church and clergy in the west, just as it continued to be the principal language of law and government. England was exceptional in developing a written Anglo-Saxon vernacular which functioned alongside Latin or independently of it. The earliest texts extant in Old English are the laws of King Aethelberht of Kent, which were written down between 597 and his death in 616. Along with laws went title-deeds which might combine Latin and English: the clauses of conveyance were in Latin, while the details of the boundaries of the property were written in English so that they could be read aloud in court directly from the document and followed on the ground by witnesses. By the reign of Alfred the Great (871–99) 'the use of the written word for utilitarian or practical purposes was widespread; and a particularly strong case can be made in respect of vernacular documents'.¹ By this time, through the use of English alongside Latin, 'the written word had been accommodated within secular society'.² Writing was no longer therefore a clerical monopoly. A hundred and fifty years later, at the time of the Norman Conquest, written Old English was being used routinely as the language of government.

¹ S. Keynes, 'The Power of the Written Word', in T. Reuter ed. *Alfred the Great* (2003), p. 289.

² S. Kelly, 'Anglo-Saxon Lay Society and the Written Word', in R. McKitterick ed. *The Uses of Literacy in Early Medieval Europe* (1990), p. 61, where, see also, S. Keynes, 'Royal government and the written word in late Anglo-Saxon England', pp. 226–57.

By killing King Harold at the battle of Hastings in 1066 William of Normandy had assured himself of the throne, but it took years to establish Norman rule across the whole of England. At first it was not even inevitable that William's government would be characterized as Norman rule, since he claimed England as the lawful heir of King Edward the Confessor (1042–66); the battle of Hastings had simply removed a usurper. William was crowned as *rex Anglorum*, 'king of the English', and he might have governed in accordance with English ways if he had learned to speak English and insisted that his followers did likewise. Perhaps he had hoped to do this; the chronicler Orderic Vitalis says that at first William struggled to learn some English because he wanted to understand court proceedings without an interpreter and to pronounce fair judgements.³ But he was thwarted by repeated rebellions and the need to reward his followers with lands in England. To do this, the Normans enforced the rule that all those who had supported Harold in any way were rebels and their property was therefore forfeit. As early as 1067 the *Anglo-Saxon Chronicle* was complaining that William 'gave away every man's land'.⁴ By the twelfth century it was recognized that numerous English tenants had been expropriated and had never gained redress.⁵ This explains how, by the time of William the Conqueror's death in 1087, virtually all the great landowners in England were Normans (or associates of Normans including Bretons and Flemings), although Anglo-Saxons remained numerous in the lesser ranks of royal officers.⁶ Without them, rents could not be collected and local government could not function.

'Perhaps the greatest change imposed by the Norman Conquest was linguistic. We still know little of how long or deeply Normans and English were divided by their vernaculars' or how Latin, which was so well established, may have offered at some social levels a lifeline of communication between the French-speaking invaders and the native English.⁷ From about 1070 King William ceased routinely to issue instructions ('writs' in legal parlance) in Old English, as his predecessors had done, though there are one or two examples of royal writs in English as late as the 1080s.⁸ Particularly after the defeat of the great English rebellions in 1069–70, legal documents in Old English, which had symbolized accessibility and trustworthiness to Anglo-Saxons, may now have seemed to represent challenges to Norman authority. The whole process in the county and hundred courts (villages were grouped into 'hundreds'), which was conducted in English, must have seemed alien to the Normans, though they had to come to terms with it. Shortly after his appointment in

³ Orderic, Bk iii, vol. ii, pp. 256–7.

⁴ D. C. Douglas and G. W. Greenaway eds, *English Historical Documents, 1042–1189*, second edition (1981), p. 151, text E.

⁵ *Dialogus* (1950), p. 54. *Dialogus* (2007), p. 83. All translations from *Dialogus* are my own.

⁶ H. M. Thomas, *The English and the Normans* (2003), p. 107. A. Williams, *The English and the Norman Conquest* (1995), ch. 5, pp. 98–125.

⁷ C. Baswell, 'Latinitas' in *The Cambridge History of Medieval English Literature*, ed. D. Wallace (1999), p. 122.

⁸ *Regesta Regum Anglo-Normannorum: The Acta of William I*, ed. D. Bates (1998), p. 50, p. 868, no. 288, pp. 956–7, no. 325.

1071, the first Norman abbot of Abingdon recruited 'pleaders from among the English whom no wise person dared oppose'.⁹ The new landlords, or rather their local agents (for Norman magnates like William de Warenne or Roger of Montgomery did not go around the country in person searching for their land), needed to clarify and secure their titles to property on the ground. Otherwise they might fall into disputes with each other, as well as with hostile villagers, since a number of Norman claimants might be granted land in the same county or even in the same hundred.

Generally, the Normans established their titles to property in England by the authority of royal writs (in Latin) and by using local juries to reinforce their claims. The jurors' testimony overrode all other forms of proof, whether in Latin or English and whether written or oral, because it was publicly and collectively sworn on the Gospels or on the relics of the saints. This would later be called a 'verdict' (*veredictum* or *verum dictum* in Latin, meaning a 'true saying'). Because it involved a public appeal to divine authority, a jury verdict was comparable with the 'judgements of God' elicited by the ordeals of water (involving the threat of drowning) and hot iron in criminal trials. Such sanctions frightened people into revealing what was believed to be the truth. Local men of good standing would have had no wish either to perjure themselves or to alienate their neighbours by making contentious verdicts, but they were compelled to participate in juries by their Norman masters. Thus, for example, when property at Ely came into contention in the aftermath of Hereward the Wake's rebellion in 1071, William the Conqueror issued a writ instructing Archbishop Lanfranc to find out 'who had the lands of St Etheldreda (of Ely) written down and sworn (*scribi et jurari*), how were they sworn, who swore them and who heard the jury (or 'the oath' – *juratio*)'.¹⁰ Thus numerous people were to be cross-examined: the local officials and their scribes who had conducted the jury, the jurors themselves, and the witnesses in court who had heard the jurors' verdict.

A jury might use documents (such as earlier charters in Latin or English) to inform themselves about aspects of a case; but the process was essentially oral, since the jurors – in theory at least – spoke the truth from their hearts in their own tongue. The jury process therefore privileged oral testimony, whether in English or French or any other vernacular. But, once the verdict had been declared orally, its testimony could be rendered into a written record in Latin, provided there was a clerk with the linguistic competence to do this. In 1086 this procedure for establishing titles to property was applied across most of England in the survey which led to the making of Domesday Book. It was called 'Domesdei' ('Doomsday') in English because it seemed comparable in its terrifying strictness with the Last Judgement at the end of time.¹¹ (The image of Christ in Majesty, seated as a judge holding a book, would have been familiar to anyone entering a medieval church, either sculpted over the

⁹ *Historia Ecclesie Abendonensis*, ed. J. Hudson, ii (2003), pp. 4–6. *English Lawsuits from William I to Richard I*, ed. R. C. van Caenegem, SS 106 (1990), i, pp. 6–7, no. 4.

¹⁰ *Acta of William I*, ed. Bates, p. 439, no. 127. J. Fairweather trans., *Liber Eliensis* (2005), p. 244, no. 125.

¹¹ *Dialogus* (1950), p. 64. *Dialogus* (2007), pp. 96–7.

entrance or as a mural painting within.) Domesday Book comprised the verdicts of thousands of juries, detailing people and property in every village back to the reign of Edward the Confessor. 'In all, over 60,000 witnesses were probably heard in the course of the Domesday inquiry.'¹² Oaths had been taken 'by almost all the inhabitants of the land' (according to one contemporary description).¹³

Confronted in local courts by legal documents in English and talk which they could not control nor even understand, the Normans had at last stumbled on a solution. Domesday Book, which was written in Latin throughout, created for all of them a majestic source of law and entitlement in England. Placed in the royal treasury at the centre of government, it was known there as 'the judicial book' (*liber iudiciarius*).¹⁴ The adjective *iudiciarius* evoked the authority of Roman law, as this was a term used by Cicero and the Roman jurist Gaius. (Knowledge of Roman law began to circulate in post-Conquest England through students travelling to the Italian law schools and through the overlap between the canon law of the church and Roman law.) Through its Roman authority as much as through its English name, Domesday Book demonstrated and epitomized the Normans' passage from memory to written record in England. The jurors' verdicts, which had been oral and ephemeral in the vernacular, were converted through the skill of royal scribes into a Latin text which was durable and searchable. The dual process of vernacular inquiry and Latin record-making which produced Domesday Book would be applied repeatedly in a variety of forms in post-Conquest England.

The Formation of a Norman Official Memory

A century or so after 1066 the royal treasurer Richard Fitz Neal described sitting at a window overlooking the river Thames in London and beginning an imagined conversation with a newcomer, in the long tradition of fictive dialogues extending back to Plato and Socrates.¹⁵ Richard's interlocutor urges him not to address the subtleties of philosophy but to write something useful about his business at the treasury, where he was responsible for the accounting office known as the 'Exchequer' (named from the large chequer board which functioned as an abacus). So Richard's book, written in Latin, became known as the *Dialogue of the Exchequer*. Through question and answer, it describes the complex system of coinage and taxation which

¹² D. Roffe, *Domesday: the Inquest and the Book* (2000), p. 123. For the Domesday jurors, see C. P. Lewis in *The Haskins Society Journal*, 5 (1993), pp. 17–44, and R. Fleming, 'Oral Testimony and the Domesday Inquest', *Anglo-Norman Studies*, 17 (1995), pp. 101–22.

¹³ *Feudal Documents from the Abbey of Bury St Edmunds*, ed. D. C. Douglas (1932), p. 3, cited by S. Baxter, 'The Representation of Lordship and Land Tenure in Domesday Book', in *Domesday Book*, ed. E. Hallam and D. Bates (2001), p. 93, p. 208, n. 123.

¹⁴ *Dialogus* (1950), p. 64. *Dialogus* (2007), p. 98. The term 'liber iudiciarius' is also used at *Dialogus* (1950), pp. 4, 14, 54, 61, 62 and *Dialogus* (2007), pp. 6, 20, 84, 94, 96. 'Liber iudiciarius' means 'the judicial book', not 'the book of judgements' as translated in *Dialogus* (2007), p. 99.

¹⁵ *Dialogus* (1950), p. 5. *Dialogus* (2007), p. 6.

made Henry II (1154–89) the richest king in Europe. Belief in the fundamental effects of the Norman Conquest permeates the *Dialogue of the Exchequer*. In its view William I had derived his authority not from any venerable English roots of kingship through the sainted Edward the Confessor and his Anglo-Saxon predecessors, but from his being ‘that distinguished conqueror of England’ who ‘had thoroughly tamed the minds of the rebels by terrible examples’.¹⁶

The idea that conquest was a legitimate form of rule depended on belief in the ordeal of trial by battle, which the Normans had introduced into England as a legal procedure. The battle of Hastings, where William had displayed a papal banner showing the sign of the cross, demonstrated that God had willed him to win. As king by conquest, William was entitled to do whatever he pleased with his subjects within the limits of divine law. Hence ‘he decided to bring the conquered people under the rule of written law’. The Latin phrase which the *Dialogue of the Exchequer* uses for ‘the rule of written law’ is *iuri scripto legibusque*.¹⁷ This recalls the *ius* (‘right’) and *lex* (‘law’) of Roman jurisprudence. In other words, William the Conqueror was being likened here to a Roman emperor imposing the rule of law on a barbarian people. He had the English laws brought before him (the *Dialogue of the Exchequer* explains); some of them he repudiated, others he approved, and he also introduced some Norman laws (notably trial by battle). English laws were considered inadequate because they were written in the vernacular, whereas in the Roman view only Latin could give law the enduring authority of written record.

‘Finally,’ the *Dialogue of the Exchequer* continues, ‘to give the finishing touch to all his forethought’ William had a survey made of the whole country.¹⁸ The Latin word for ‘survey’, *descriptio*, again emphasizes the importance of writing, as it literally describes a process of ‘writing down’. Details of England’s woods, pastures, and meadows, as well as its arable land, were noted down and collected into a book ‘so that everyone should be content with his own rights and not encroach unpunished on those of others’.¹⁹ This was Domesday Book, of course. It was visible proof that William the Conqueror had subjected the English people to the rule of written law, as their individual rights were enshrined within it for all time. Or rather, this was the core belief of the *Dialogue of the Exchequer* and the king’s officers in the treasury, where Domesday Book was kept. In reality, of course, no single book could finalize everyone’s rights and stop change from happening.

In order to explain how the Exchequer had come into being and why the treasury possessed Domesday Book, the *Dialogue of the Exchequer* appealed to a myth (in the sense of a collective memory) about how the Norman Conquest had marked a new beginning in law and record-making. Its author insisted that he was passing

¹⁶ *Dialogus* (1950), p. 63. *Dialogus* (2007), p. 96.

¹⁷ *Dialogus* (1950), p. 63. *Dialogus* (2007), p. 96.

¹⁸ The colophon of Little Domesday Book, calling it *ista descriptio* and stating the year to be 1086, is illustrated by M. Gullick, ‘The Great and Little Domesday Manuscripts’, in *Domesday Book Studies* ed. R. W. H. Erskine and A. Williams (1987), p. 171.

¹⁹ *Dialogus* (1950), p. 63. *Dialogus* (2007), p. 96.

on a tradition which he had received orally from Henry of Blois, who was bishop of Winchester for more than 40 years from 1129 to 1171. He adds that Henry was a blood relative of William the Conqueror; so this information emanated from an insider who was a grandson of the Conqueror. As the treasury had been located at Winchester (and not in London) in the early Norman period, this tradition looks well sourced. The *Dialogue of the Exchequer* resorted to oral tradition because its author was aware how inadequate the treasury's records were for historical purposes. This in its turn confirmed his belief in the traumatic effects of the Norman Conquest. 'We have this tradition from our forefathers, in the primitive state of the kingdom after the conquest', he explains.²⁰ In that period (he alleges) rents from royal lands had not been paid in money but in the form of food supplies; those concerned knew from memory how much was due from each estate. The author of the *Dialogue of the Exchequer* did not even know whether the Exchequer itself was Norman or Anglo-Saxon in origin. Again he had to rely on oral tradition. On the one hand, 'it is said to have begun with the conquest of the kingdom by King William', whereas others believed it had existed under the English kings.²¹ They argued from the 'decrepit old men with hoary memories' on the royal estates, who knew very well – by their forefathers' teaching – how much each of them owed.

Had it been normal before 1066 for the collection of rents and taxes to depend solely on oral tradition, or was the *Dialogue of the Exchequer* describing exceptional circumstances brought about by the Norman Conquest? The Anglo-Saxon system of taxation was so elaborate that it is hard to believe that the treasury kept no accounts. One text in particular, the misnamed Northamptonshire Geld Roll, suggests that records had been made, even though this is not an actual treasury document nor a county roll but a memorandum made for Peterborough abbey about its lands in Northamptonshire.²² This text is in English and it lists which areas had paid the tax known as 'geld' and which had not (some areas were exempt, either because they were specially privileged or because they were too poor to pay). However, the Northamptonshire Geld Roll never specifies the actual sums of money which had been paid. So it is not a record of receipts made by the royal treasury, nor is it a regular financial account. It seems to be some sort of special inquiry about exemptions from taxation, made after the Norman Conquest and prompted by the interests of Peterborough abbey. Nevertheless, in the precision of its details of liability, the Northamptonshire Geld Roll is revealing about earlier taxation practice. It is particularly significant if the document from which it was copied had likewise been written in the vernacular instead of in Latin, as that would suggest that English

²⁰ *Dialogus* (1950), p. 40. *Dialogus* (2007), p. 62.

²¹ *Dialogus* (1950), p. 14. *Dialogus* (2007), p. 20. E. Amt, the editor of *Dialogus* (2007), p. xxvi, discusses whether there had been some equivalent of the Exchequer before 1066.

²² A. J. Robertson ed., *Anglo-Saxon Charters* (1939), pp. 231–6. Illustrated by J. Campbell, E. John, and P. Wormald, *The Anglo-Saxons* (1982), p. 243. Discussed by J. Campbell, *Essays in Anglo-Saxon History* (1986), p. 174.

had been the language of treasury records before 1066. As the Anglo-Saxon royal secretariat issued its writs and instructions in English, it would have been appropriate for the treasury to have done likewise.

If the Anglo-Saxon treasury possessed records of accounts, the *Dialogue of the Exchequer* seems to have known nothing about them. This ignorance may be genuine enough, as the records of a century earlier (particularly if they were in English) might well have been considered obsolete by the time of the *Dialogue of the Exchequer*. Many functions of the treasury had been transferred from Winchester to London in Henry II's reign and some older records may have been overlooked in this process. It looks as if the treasury did not take to London the circuit returns from which Domesday Book had been compiled; these may be the records which the Conqueror's son William Rufus had referred to as 'my writs which are in my treasury at Winchester'.²³ Seated in London around 1180, when the city and the palace of Westminster were fast becoming the capital of Anglo-Norman England, the author of the *Dialogue of the Exchequer* may well have known nothing about older treasury documents which had been left behind in Winchester. The historic record which impressed him was Domesday Book, which he considered unique and sufficient evidence in itself of the justice and finality of the Norman Conquest.

Contemporary with the *Dialogue of the Exchequer* is another book written by an official in Henry II's administration; this is the legal treatise known as *Glanvill* which is attributed to the principal judge the Justiciar Ranulf de Glanvill who held office from 1179 to 1189. Whether or not he was the actual author of this book it certainly claims high authority. Its prologue invokes the Roman principle that 'what pleases the prince has the force of law' and it refers, like the *Dialogue of the Exchequer*, to the *ius* ('right') and *lex* ('law') of Roman jurisprudence. The author makes the surprising statement that 'although English laws are not written down, it does not seem absurd to call them laws'.²⁴ In fact, texts in Latin called 'The Laws of Edward the Confessor' and 'The Laws of Henry I' were in circulation in Henry II's reign and there were also new editions of the lawcodes in Old English of the earlier Anglo-Saxon kings reaching back to Aethelberht of Kent in the seventh century.²⁵

Like the *Dialogue of the Exchequer*, the author of *Glanvill* purports to know nothing about the existence of Anglo-Saxon documents. Why did he state that English laws were not written down, when he must have known of the existence of earlier treatises? One explanation is that he may have thought that Anglo-Saxon laws, whether in Latin or English, were too muddled and barbaric to be accorded the dignity of 'written law' (*lex scripta*) in its Roman sense; but the difficulty with this explanation is that he accords them the title of 'laws'. The author was perhaps so concerned with producing a treatise that was up to date and useful to practitioners

²³ RRA-N i, no. 468.

²⁴ Glanvill, p. 2.

²⁵ B. R. O'Brien, *God's Peace and King's Peace, the Laws of Edward the Confessor* (1999). P. Wormald, *The Making of English Law: King Alfred to the Twelfth Century* (1999).

that he may have considered the Anglo-Saxon lawcodes simply irrelevant because they were obsolete. The only current English laws in his view were the legislative acts of Henry II, which took the form of the various royal writs in Latin initiating litigation which the author of *Glanvill* discusses in detail.

A more profound reason for *Glanvill*'s blindness towards the Anglo-Saxon past has been suggested by Bruce O'Brien. The Old English laws often upheld the privileges of the clergy; indeed, this is one of the principal reasons why they had been written down. The author of *Glanvill* was writing at a very contentious time, in the aftermath of Henry II's dispute with Archbishop Thomas Becket concerning clerical privileges, which had culminated with his murder in Canterbury cathedral in 1170. Although Becket was now a martyr who demonstrated the rightness of his cause by working miracles from his shrine, Henry II was determined to stand by the principle that his royal will was paramount. His officials, like the author of *Glanvill*, therefore reacted by tacitly suppressing the relevance – and even the existence – of the Anglo-Saxon law codes. 'This move by *Glanvill* preserves the vast ambiguity of an oral law for the future use of the monarch, and at the same time effaces the written texts which had preceded his treatise.'²⁶

The authors of the *Dialogue of the Exchequer* and *Glanvill* share a common ignorance of Old English documents and a blindness towards the Anglo-Saxon past of law and government. They stress instead the extraordinary authority of the Norman kings. Foreshortened and distorted as these memories were, they allowed their authors – as memories do – to make sense of their own situation and structure how they explained the past to their colleagues. Perhaps their views were shared only by the coterie of officials and courtiers who ran the royal administration. Nevertheless, they were extremely influential because the presumption that the Norman Conquest and Domesday Book marked a new beginning in written record established itself as a fundamental principle of English law. By 1200 the Norman ideology of conquest had consigned the Anglo-Saxon past and the English language to a very subordinate place in the processes of the king's courts at Westminster.

The Anglo-Saxon Heritage of Literacy

In reality, access to the past never could become the monopoly of lawyers and officials in London, as it was dispersed across the country in the memories of all sorts of individuals and – for the longer term – it was enshrined in the principal churches in the form of books and documents. 'Enshrined' is not meant metaphorically, since manuscripts were often archived in wooden chests within the sanctuary of the church close to the relics of the saints. Although the Norman Conquest had brought the validity of some Anglo-Saxon title-deeds into doubt, monks and clergy did not

²⁶ B. R. O'Brien, 'The Becket Conflict and the Invention of the Myth of *Lex Non Scripta*', in *Learning the Law: Teaching and the Transmission of Law in England*, ed. J. A. Bush and A. Wijffels (1999), p. 13.

rush to discard them because they provided local details of their properties and they commemorated donors who merited prayers in perpetuity. Durham cathedral, for example, kept on its high altar the 'Book of Life' (*Liber Vitae*), which dated from the ninth century (much earlier than Durham itself) and listed some of its benefactors in gold and silver ink on purple-tinted vellum.²⁷ Durham also possessed (among numerous other treasures) the magnificent illuminated manuscript now known as 'The Lindisfarne Gospels'.²⁸ This book (written in the early eighth century) had been brought from St Cuthbert's monastery on the island of Lindisfarne after it was attacked by Viking raiders. Illuminated Gospel Books and liturgical manuscripts are a spectacular achievement of Anglo-Saxon scribes and artists working in numerous locations over a period of more than three-and-a-half centuries.²⁹

With the passage of time medieval writings have been subject to theft, wear and tear, and deliberate or accidental destruction, and it is therefore impossible to say how large the total number of Anglo-Saxon books and documents was in 1066. If we take title-deeds and records of property transactions as an example (as distinct from literary works in Old English or Latin and illuminated manuscripts for liturgical use), the texts of rather less than 2,000 writs and charters earlier than 1066 now exist. Some of these are original documents on single sheets, though most are copies in cartularies.³⁰ (A 'cartulary' is a book into which 'charters' and proofs of title are copied for greater security.) Because the Norman Conquest brought titles to property into doubt, forgery flourished, particularly in the greater churches, which possessed the means and knowledge to do it. ('Forgery' is something of a misnomer, as monks might see it as the modernization or correction of documents to accurately represent that to which they believed themselves entitled.) The proportion of forgeries is largest for documents in the name of King Edward the Confessor because William the Conqueror claimed to be his lawful heir. It is possible that the majority of the 164 documents extant in Edward's name are forgeries in some form.³¹

Of the total of 2,000 or fewer Anglo-Saxon charters now extant, more than half are grants by kings. This may mean that kings had predominated in the production of documents at all times, though it might just as well imply that it was royal documents which were most likely to be kept by posterity as deeds of title. Consequently the loss of documents issued by non-royal persons (including bishops and abbots and

²⁷ *The Making of England: Anglo-Saxon Art and Culture A.D. 600–900*, ed. L. Webster and J. Backhouse (1991), p. 132, no. 97. The Durham *Liber Vitae* is ed. A. J. Piper, D. Rollason, L. Rollason (2007), 3 vols.

²⁸ M. P. Brown, *The Lindisfarne Gospels and the Early Medieval World* (2011).

²⁹ For these manuscripts see the exhibition catalogues *The Making of England: A.D. 600–900*, ed. Webster and Backhouse and *The Golden Age of Anglo-Saxon Art, 900–1066*, ed. J. Backhouse, D. H. Turner, and L. Webster (1984), and see M. P. Brown, *The Book and the Transformation of Britain c550–1050: A Study in Literacy* (2011).

³⁰ P. H. Sawyer, *Anglo-Saxon Charters: an Annotated List* (1968) numbers 1,875 items. To this, a varying number of other memoranda can be added depending on criteria for defining the meaning of a 'charter'.

³¹ See ch. 9, 'Trusting Writing', at Table 4 and n. 94, in the present volume.

lay aristocracy and officials) may have been enormous. By and large, documents could only be kept over the centuries by those great churches which enjoyed a secure institutional and physical existence. The pattern of survival of charters is also skewed towards the later period and particular ecclesiastical centres of production. About half of all Anglo-Saxon charters extant purport to date from the century immediately preceding the Norman Conquest, and it is likewise among these that forgery is the more likely. Many more documents survive from the south and west of England than from the north and east, which had been more heavily exposed to Viking and Scandinavian invasions and hence to loss through fire and theft. The Northumbrian monasteries of Monkwearmouth and Jarrow had about 600 monks under Abbot Ceolfrith in 716 and yet they were abandoned in the next century. The paucity of documents from the archbishopric of York may partly be explained by the devastation of the north by William the Conqueror as retaliation for rebellions. In the south, in addition to London and St Albans abbey (close to London), the majority of documents come from Canterbury and Rochester (in Kent), Winchester, Bath, Glastonbury, Malmesbury, and Sherborne (in Wessex), and Evesham and Worcester (in the Midlands). In East Anglia the abbey of Bury St Edmunds is exceptional in having up to fifty Anglo-Saxon charters.

New discoveries of medieval documents are occasionally made under the fly leaves and backing material of later book bindings. Concerning Ely (near Cambridge), notes in English have been reconstructed from the early eleventh century, recording the sale of herrings and eels and valuations for agricultural animals, equipment, and boats.³² This twentieth-century discovery involved putting back together three strips of parchment used in book bindings from around 1600. Discoveries like these emphasize how much day-to-day documentation may have been lost because it only had short-term value. If literacy in Old English penetrated more readily than Latin into the countryside and was familiar to peasant farmers in their daily business, as the Ely farming memoranda suggest, extensive evidence of it is unlikely to survive. Documents which were commonplace and ephemeral in purpose were discarded, particularly when – with the arrival of the Normans – their language and form became incomprehensible to the new landlords.

The practice of writing in English is what made Anglo-Saxon literacy so unusual, and it seems to have originated with the conversion of the kingdom of Kent to Christianity. These beginnings are recounted by Bede in his ‘Ecclesiastical History of the English People’. Bede was a monk of the twinned monasteries of Monkwearmouth and Jarrow in Northumbria in their most flourishing period and he completed this authoritative book in Latin in 731. He describes how when King Aethelberht of Kent (who died in 616) had been converted by the mission sent by Pope Gregory the Great from Rome he established laws ‘in accordance with the examples of the Romans; these were written down in the language of the English and they are held and observed

³² ‘The Ely Farming Memoranda’ are illustrated in *The Golden Age of Anglo-Saxon Art, 900–1066*, pp. 147–8, no. 150, and they are discussed by S. Keynes, ‘Ely Abbey 672–1109’, in *A History of Ely Cathedral*, ed. P. Meadows and N. Ramsay (2003), pp. 5–6.

to this day'.³³ Bede's emphasis on the laws being written in the language or 'speech of the English' (*Anglorum sermone*) implies the existence of a common national language, extending from the south-east in Kent right up to his own Northumbria. Normally when barbarian peoples (the Franks, for example) had been converted to Christianity, their laws had been written down in Latin in order to integrate them with the practice of the Roman Church and the former Roman Empire.

Bede's description is paradoxical: Aethelberht followed 'the examples of the Romans' and yet the Kentish laws were written in English. Possibly Bede was emphasizing that the script employed was that of the Roman alphabet and not Germanic runes. (Runes are an alternative writing system, which derived from ancient Greek and Roman script but used angular linear letter forms, as these were better suited to incising on wood.) However, there is no evidence for the use of runes in Aethelberht's Kent, although they were known in Anglo-Saxon England.³⁴ If, on the other hand, Kentish people were already familiar with runes, the recording of their laws in their own language but in Roman script would have constituted a compromise, which Bede might have recognized as a concession to 'the examples of the Romans'. The precise form of Aethelberht's laws, when first written down, cannot be recovered as the earliest text now extant dates from after the Norman Conquest. The authenticity and antiquity of this text is not in doubt, but it does contain inconsistencies as a consequence of being copied and recopied over a period of five centuries. It survives in a collection of Old English laws made at the instigation of Bishop Ernulf of Rochester (1115–24).³⁵ Ernulf was a Norman monk expert in ecclesiastical law; his purpose in assembling Anglo-Saxon laws, as well as charters in Old English and Latin, was to document the ancient privileges of the clergy of his diocese and the rights of the monks of Rochester cathedral in particular. The laws of Aethelberht were particularly relevant for these purposes because he had established the bishopric of Rochester within the kingdom of Kent. The Rochester text (*Textus Roffensis*) is one example among many of the continuing relevance of Anglo-Saxon documents after the Norman Conquest. Although the author of *Glanvill* claimed that English laws had not been written down, Norman landowners needed to know all about them in order to defend themselves in lawsuits against their neighbours (Rochester, for example, was in competition with Canterbury).

It cannot be emphasized too strongly that the Anglo-Saxons wrote and created literature in *both* Latin and English. Bede achieved recognition across the Latin west as the most learned scholar of his time, although he also did some writing in English. The great illuminated liturgical books and much other ecclesiastical writing was in

³³ Bede's *Ecclesiastical History of the English People*, ed. B. Colgrave and R. A. B. Mynors (1969), Bk 2, ch. 5, p. 150. Wormald, *The Making of English Law*, p. 29. Kelly, 'Anglo-Saxon Lay Society' in McKitterick, *Uses of Literacy*, pp. 57–8. L. Oliver provides a new edition of these laws in her *The Beginnings of English Law* (2002).

³⁴ R. I. Page, *Runes and Runic Inscriptions: Collected Essays on Anglo-Saxon and Viking Runes* (1995).

³⁵ R. Gameson, *The Manuscripts of Early Norman England* (1999), p. 147, nos 815–16. Wormald, *The Making of English Law*, pp. 244–53.

Latin. The most detailed description of how boys were taught to read and write in Latin was written (in the form of imaginary Latin dialogues between teacher and learners) by a monk of Canterbury, Aelfric Bata, around the year 1000.³⁶ The Anglo-Saxon clergy never challenged Latin's standing as the foundation of scholarship and the universal language of authority in the Roman church. Nevertheless, from the start, with Aethelberht of Kent's laws, English was preferred for particular purposes where it gave greater immediacy and personal authenticity to the text. Laws enshrined each person's status in society and this seems to be why they were written down in the familiar language of the people rather than in Latin. Similar criteria applied to making wills and other personal declarations of intent. Hence instructions by kings and lords to their subordinates were expressed in the first person and written down in English, in direct language without the amplification and stylistic conceits expected of Latin rhetoric; 'I inform you', 'I bid you', and 'I will not permit' are characteristic phrases of these vernacular documents.³⁷ Local officials were expected to proceed in court in accordance with rules written down in a 'lawbook' (*domboc* in Old English).³⁸ As James Campbell has argued, 'if the late Anglo-Saxon state was run with sophistication and thoughtfulness this may very well be connected with the ability of many laymen to read' (in Old English).³⁹

In translating a Latin work of St Augustine's into English, King Alfred (871–99) added a revealing explanatory passage: 'Consider now, if your lord's letter and his seal comes to you, whether you can say that you cannot understand him thereby or recognize his will therein'.⁴⁰ The recipient could understand his lord's letter (literally his *aerendgewrit* meaning his 'message in writing') because it was in English and he recognized who addressed him by the familiarity of the language. The recipient would either have had the text read out to him, or he might be able to read it for himself and add this form of verification to the proof of the seal. Alfred states that 'many people' could read in English, even though knowledge of Latin had declined.⁴¹ His own translations, he explained, aimed to encourage all young men of free status to read English; on this foundation those selected for the clergy would then learn Latin.

Giving priority to English as the language of a wider literacy was a revolutionary idea. Alfred's example in publishing translations of what he considered the essential books of the Latin Christian heritage was followed up in the tenth and eleventh centuries by other reformers, most notably Aelfric abbot of Eynsham (who died in c.1010). He devoted his considerable Latin learning to publishing in English

³⁶ S. Gwara and D. W. Porter eds, *Anglo-Saxon Conversations: the Colloquies of Aelfric Bata* (1997).

³⁷ F. E. Harmer, *Anglo-Saxon Writs* (1952), pp. 277–86, nos 64–72, are good examples.

³⁸ C. Cubitt, 'As the Lawbook Teaches: Reeves, Lawbooks and Urban Life in the Anonymous Old English Legend of the Seven Sleepers', *EHR*, cxxiv (2009), pp. 1023–49.

³⁹ Campbell, *Essays in Anglo-Saxon History*, p. 158, cited by Cubitt, 'As the Lawbook Teaches', p. 1021.

⁴⁰ Harmer, *Anglo-Saxon Writs*, p. 10. Keynes, 'Royal Government and the Written Word', in McKitterick, *Uses of Literacy*, p. 244.

⁴¹ Harmer, *Anglo-Saxon Writs*, p. 7. The 'Prose Preface to Gregory's Pastoral Care', in S. Keynes and M. Lapidge eds, *Alfred the Great: Asser's Life and Other Contemporary Sources* (1983), p. 126.

explanatory commentaries and narratives on the Bible and the lives of the saints. Some of these were commissioned by the lay nobility, who were the patrons and close relatives of reforming monks and clerics, and the texts were intended for the private and public reading of both clergy and laity. Writing in English prose had originated as a way of expressing authenticity and directness in legal and administrative contexts. The translators from King Alfred onwards broadened the range of English prose writing to embrace the transmission of Latin learning and Christian moral teaching. In addition to all this, there was the impressive body of poetry and heroic literature in English, which has come down to us in the Exeter Book and other anthologies written on either side of the year 1000.⁴² Consequently, 'by the time of the Norman Conquest in 1066 there was no area of written discourse not represented by works in Old English, whether as translations or original compositions'.⁴³ Written English stood alongside Latin as the familiar and yet extraordinary heritage of the Anglo-Saxons.

Latin and the Language of Domesday Book

Writing in English rather than Latin had been associated with royal authority since the recording of Aethelberht of Kent's laws early in the seventh century. Through this process the king created an additional bond of identity with his people. The practice had been reinforced for England as a whole by King Alfred's personal example in his translations from Latin and his wish that all young free men should learn to read in English; his strategies exemplify 'the power of the royal written word'.⁴⁴ These were the foundations on which English established itself as the ordinary language of law and administration. At first, after 1066, the king's writers readily slotted William into the Anglo-Saxon system: 'Willelm cyngc gret ealle mine thegenas on Eoferwicscire frencisce & englisce freondlice' ('King William greets all my thegns, French and English, in Yorkshire in friendship'), or more simply: 'Willelm king gret well ealle mine holde frynd' ('King William greets well all my loyal friends').⁴⁵ Norman knights were thus converted into Anglo-Saxon 'thegns', meaning loyal retainers, though the separation of 'French' and English was acknowledged. (In documents the Normans are almost invariably referred to as the 'French' or 'Franks' – *Franci* in Latin – as they claimed to be integrated into the Christian warrior culture of the Frankish kingdom, which was greater and older than Normandy itself.)

William's government never explicitly declared that it was abandoning the writing of documents in English; it simply ceased to issue them in any significant numbers after about 1070. Lanfranc, the new archbishop of Canterbury (1070–89), probably

⁴² R. D. Fulk and C. M. Cain, *A History of Old English Literature* (2003), and see K. O'B. O'Keefe, *Visible Song: Transitional Literacy in Old English Verse* (1990).

⁴³ R. Marsden, *The Cambridge Old English Reader* (2004), p. 1.

⁴⁴ D. Pratt, *The Political Thought of King Alfred the Great* (2007), p. 178.

⁴⁵ *Acta of William I*, ed. Bates, p. 192, no. 31; p. 711, no. 224.

played a decisive role in this, as he was in origin a lawyer from the imperial palace of Pavia in Italy, who would have expected England to conform with Roman norms of Latinity and jurisprudence. The process whereby Latin became the language of legal record in local courts must have been complex, as English remained for some time at least the recognized spoken language; this is why the Norman abbot of Abingdon had recruited English 'pleaders' to conduct cases on his behalf.⁴⁶ Very occasionally interpreters are mentioned in records of litigation, though they must have been required whenever Normans interacted with local officials.⁴⁷ Many Norman knights would not have understood Latin, even when it was used to spell out the standardized and relatively simple phrases of royal writs, though it might have sounded less alien to them than English. Why were the Normans' new titles to property in England not written down for them in French? The English would then have had their law pleaders and the 'French' theirs. One of the earliest texts extant in French is the *Leis Willelme* which purports to be the Laws of William the Conqueror for England.⁴⁸ This does not amount to much as far as law is concerned, but it is precociously early for writing French prose, even if it dates (as is probable) not from William's reign but from early in the twelfth century. However, the *Leis Willelme* were written down in Latin as well as French, probably because the French version was not thought to carry sufficient authority.

The business of updating titles to property and recording them in Latin after 1066 derived its impetus from the king's government. Whereas Edward the Confessor's writing office had exemplified the directness of writing in English, William the Conqueror's clerks expressed equal urgency in Latin. A writ to Lanfranc commanding him to examine the charters of Ely concludes, 'Do it so that I may know the truth about this matter very soon by your letter'.⁴⁹ When in this case Lanfranc had to get everything 'distinctly noted and written down' for the king, his clerks must have produced a Latin document which was similar to entries in Domesday Book: that is, it would have been full of names and numbers. Domesday Book contains more than 13,000 names of places (large and small) and about 45,000 personal names.⁵⁰ With the latter, however, there is a considerable amount of repetition, as the same Norman tenants-in-chief recur in county after county and village after village. Personal names were Latinized, even when they were English rather than Norman-French in origin, though they retained roughly recognizable forms despite their variant spellings. Thus, while the name of Edward the Confessor's queen, Edith, had generally been written 'Eadgyth' in Old English, in Domesday Book it is presented in a variety of Latinized forms: Eadita, Eddid, Edgida, Edid, Edie, Ediet, and others. Modern experts in Old English have concluded that Domesday Book 'abounds in garbled

⁴⁶ See this chapter, n. 9.

⁴⁷ H. Tsurushima, 'Domesday Interpreters', *Anglo-Norman Studies* 18 (1995), pp. 201–22.

⁴⁸ P & M i, pp. 102–3. O'Brien, *God's Peace and King's Peace*, pp. 28–9, 218, nn. 113–16.

⁴⁹ *Acta of William I*, ed. Bates, p. 439, no. 127 and see p. 25 in the present volume.

⁵⁰ H. C. Darby, *Domesday England* (1977), p. 336 (general statistical summary). K. S. B. Keats-Rohan, 'Portrait of a People: Norman Barons Revisited', in *Domesday Book*, ed. Hallam and Bates, p. 123.

place-names and personal names.’⁵¹ Even so, these confusions were not sufficient to invalidate its authority, and the Latinization of English names in rough-and-ready forms gradually established itself.

Domesday Book used the forms and structure of Latin, but it incorporated all kinds of Old English words whenever it needed to retain their technical or legal meaning. In the town of Wallingford, for example, which guards a crossing of the river Thames south of Oxford, Domesday Book recorded that there were 276 *hage* in Edward the Confessor’s time.⁵² The noun *haga* is not a Latin word at all but an Old English one, meaning a ‘hedge’. By extension a *haga* described a hedged enclosure, and hence it indicated a site for a dwelling. The advantage of using the word *haga* is that it enabled Domesday Book to define the town’s liability for taxation: of the 276 units (*hage*), 13 were in contention after 1066 (8 had been swallowed up by the building of the Norman castle and the other 5 were held by men who are specified). Domesday Book’s record of Wallingford also notes that Edward the Confessor ‘habuit xv acras in quibus manebant huscarles’: the king ‘had 15 acres on which the housecarls used to live’. An ‘acre’ is an English measure of land found throughout Domesday Book. The reference to the ‘huscarles’ is very unusual. The housecarls had originated with the Anglo-Danish king Cnut some 50 years earlier.⁵³ Those at Wallingford were presumably elite troops who had died with King Harold in 1066, either at the battle of Stamford Bridge against the Norwegians or at Hastings. The Latin term in France for men of this sort was *milites* meaning ‘knights’, but Domesday Book called them ‘housecarls’ here, presumably in order to emphasize that they had been a peculiarly Anglo-Saxon force with their own tax obligations.

The Domesday survey, as distinct from Domesday Book, must have been in the first place – in its numerous local meeting places – a multilingual and vociferously oral process, as jurors gave their verdicts in English or French before they were written down in Latin.⁵⁴ At the same time earlier documents, whether in Latin or English, were examined and questioned. Out of all this, the scribe editors of Domesday Book itself (as distinct from the local commissioners who had conducted the preliminary survey) produced a special form of Latin text which allowed for the peculiarities of numerous English and French usages. ‘This new tradition of record-keeping will constantly have to absorb a vernacular vocabulary of geography, Anglo-Saxon custom and Norman feudal tenure for which Latin had no words.’⁵⁵

⁵¹ J. McN. Dodgson, ‘Domesday Book: Place-Names and Personal Names’, in *Domesday Studies*, ed. J. C. Holt (1987), p. 122.

⁵² *Domesday Book* (Phillimore edition), *Berkshire*, ed. P. Morgan (1979), p. 56 b.

⁵³ M. K. Lawson, *Cnut* (1993), p. 180. Williams, *The English and the Norman Conquest*, p. 101, n. 13. N. Hooper, ‘The Housecarls in England in the Eleventh Century’, *Anglo-Norman Studies*, vii (1985), pp. 161–76.

⁵⁴ ‘The Domesday survey was the most remarkable multi-lingual event in the history of the English state’, S. Baxter, ‘The Making of Domesday Book and the Languages of Lordship in Conquered England’, in *Conceptualising Multilingualism in England, c800–c1250*, ed. E. M. Tyler (2011), p. 271.

⁵⁵ Baswell, ‘Latinitas’, pp. 123–4. For the editorial process of producing Domesday Book, see F. and C. Thorn, ‘The Writing of Great Domesday Book’, in *Domesday Book*, ed. Hallam and Bates, pp. 37–72, and the works they cite at pp. 200–3.

This specialized vocabulary was essential, as it had to take account of all the complex financial rights and obligations in England which individual Normans had acquired. Through its language, Domesday Book laid the foundations for the new series of Latin royal records which were established in the twelfth century in the law courts (with the plea rolls) and in the Exchequer (with the pipe rolls). Because it adapted words from the vernacular, both from English and French, this new Latin retained some of the immediacy of current speech. As the *Dialogue of the Exchequer* pointed out, Domesday Book was written in *verbis communibus*, that is, in ‘common words’.⁵⁶ In fact many of the words which were ‘common’ in the Exchequer were technical and legalistic, but they did indeed differ from the language of classical rhetoric idealized by Cicero.

William the Conqueror’s Symbolic Knife

Although the Normans depended on the Domesday survey, they (as well as the English) may have found the thoroughness of the process alienating and alarming, as they had their own traditional ways of making gifts memorable. At Winchester in 1069 William the Conqueror had endorsed these old ways in person in a gift of English land which he made to a Norman abbey. The document describing this transaction explains, “This gift is made by a knife which the aforesaid king jokingly gave to the abbot, as if threatening to stab it into his palm, saying: “That’s the way land ought to be given””.⁵⁷ ‘By this evident sign’, the document continues, ‘this gift is made by the testimony of the many nobles standing at the king’s side’. The king’s intimidating jest emphasized the personal nature of his gift and ensured that it would not be forgotten by the crowd who witnessed it. Nevertheless, the participants to this transaction were not confident that the king’s action would be remembered, as nine witnesses (headed by the king and queen) also made their signs of the cross on this document to guarantee its authenticity.

The time and place of this transaction is significant. In 1069 King William was still issuing writs in English. As Winchester was the administrative centre of the Anglo-Norman realm, the English clerks of the royal writing office may have been among the witnesses of this transaction. Headed by Regenbald, who had been Edward the Confessor’s chancellor, they were in the process of being superseded by Normans; William’s candidate for chancellor, Herfast, is one of the nine witnesses named in this document. By insisting that land ought to be given by the transfer of a knife, rather than by a document, William was privileging Norman custom over the practice of his own writing office at Winchester, where documents were authenticated by the

⁵⁶ *Dialogus* (1950), pp. 63–4. *Dialogus* (2007), pp. 96–9. R. Sharpe, ‘Latin in Everyday Life’, in *Medieval Latin: An Introduction and Bibliographical Guide* ed. F. A. C. Mantello and A. G. Rigg (1996), pp. 315–41.

⁵⁷ *Acta of William I*, ed. Bates, p. 725, no. 232. B. M. Bedos-Rezak, ‘Medieval Identity: A Sign and a Concept’, *The American Historical Review* cv (2000), p. 1510, n. 58. See also ch. 8, n. 9 in the present volume.

great seal of England. The English royal clerks may have felt they were witnessing a return to barbarism.

In fact, however, William's gesture with the knife may not have been as crude and primitive as it sounds, since the use of knives in property conveyances had two centuries of history behind it, in the kingdom of France and in the Carolingian Frankish empire which had preceded it. Carolingian influence is evident 'in almost every aspect of life in Normandy' in the tenth and eleventh centuries.⁵⁸ Normans and Franks shared much the same ideology, as they believed themselves to be God's chosen people whose superiority had been proved by war. To distinguish themselves from other 'barbarian' peoples in the former Roman Empire, the Franks in the ninth and tenth centuries had claimed as their special legal privilege that, when they made gifts to religious houses, they should hand over not a document but a knife or a rod (or even a branch of a tree) which symbolized the grantor's will and preserved his memory.⁵⁹ William need not have been aware of these ancient Frankish precedents, as the use of objects to symbolize conveyances was common in the Normandy of his time and it had extended to many more objects than knives and rods: candlesticks, coins, clothing or ecclesiastical vestments, finger rings, 'even perhaps the horns of a deer the donor had captured'.⁶⁰

In Anglo-Saxon England, by contrast, there are no examples of the use of symbolic knives in conveyances. There are occasional instances of a piece of earth or a turf from the land in question being used in the conveyancing process, but these are isolated cases.⁶¹ An exceptional Anglo-Saxon example of a symbolic object is the ivory horn which King Edgar (959–75) gave to Glastonbury abbey.⁶² This is plausible, as there are other examples of horns being kept as evidence of hunting rights.⁶³ Generally, however, the Anglo-Saxons had conveyed land through charters which were retained as title-deeds by the owner. As F. W. Maitland, the historian of English law, pointed out more than a century ago, 'a delivery of the original deed was sufficient to transfer proprietary rights from one man to another'.⁶⁴ Julia Barrow has taken stock of the evidence once more and she concludes that the handing over of the charter 'seems itself to have been the symbolic action' in Anglo-Saxon England.⁶⁵

⁵⁸ E. Z. Tabuteau, *Transfers of Property in Eleventh-Century Norman Law* (1988), p. 5.

⁵⁹ *Diplomi di Berengario I* (Rome, 1903), no. 37. J. Le Goff, *Time, Work and Culture in the Middle Ages* (1980), pp. 244–8, 354–60, discusses the Frankish references to 'cultellus' (a 'knife') and 'festuca' (a 'rod') assembled by C. du Cange, *Glossarium*, 5th edn, ed. L. Favre (1883–87).

⁶⁰ Tabuteau, *Transfers of Property*, p. 128.

⁶¹ Kelly, 'Anglo-Saxon Lay Society', in McKitterick, *Uses of Literacy*, p. 44.

⁶² William of Malmesbury, *De Antiquitate Glastonie Ecclesie*, ed. J. Scott (1981), pp. 122–3. Lawson, *Cnut*, p. 68.

⁶³ J. Cherry, 'Symbolism and Survival: Medieval Horns of Tenure', *The Antiquaries Journal*, lxxix (1989), pp. 111–18.

⁶⁴ P & M ii, p. 87.

⁶⁵ J. Barrow, 'Demonstrative Behaviour and Political Communication in Later Anglo-Saxon England', *Anglo-Saxon England*, xxxvi (2007), p. 146.

King William's gesture with the knife at Winchester in 1069 seems to mark a first step in changing conveyancing practice in England. The lawbook ascribed to Bracton (dating from the first half of the thirteenth century) insists that the drawing up of charters and other legal instruments does not in itself make a gift valid.⁶⁶ There must be an actual transfer from one party to the other of a symbolic object, as that represents what is in the donor's mind. If there is, for example, no door furniture to represent a house and its land (Bracton continues) possession should be transferred 'in the manner commonly called "by staff and by rod" (*per fustum et per baculum*)'.⁶⁷ This formula looks as if it derives from Norman and Frankish customary law rather than anything Anglo-Saxon. The Crowland abbey chronicle, which is itself a complex tissue of fact and later forgery, claims that the Norman conquerors brought in the practice of transferring property by word of mouth, 'without any writing or charter, but solely with a lord's sword, or helmet, or horn or cup; many tenements went with a spur or a stirrup or a bow and some with arrows'.⁶⁸ Knives are an obvious omission from this list of symbolic objects, even though there is good evidence that the Normans used them in England.

William Rufus, who was William the Conqueror's successor to the English throne, followed his father's practice when in 1096 he ratified a gift to Tavistock abbey 'by an ivory knife, which he held in his hand and extended to the abbot'.⁶⁹ Perhaps the abbey had not come across this procedure before, as it was careful to record the process of transfer so exactly and it also had a Latin inscription carved on to the handle of the knife saying (in translation): 'I King William have given to God and St Mary of Tavistock the land of Werrington'. Despite this precaution, this knife has been lost. However, Trinity College, Cambridge, possesses a knife with a broken blade from this period. The label attached to it, which must be a replacement as it dates from no earlier than 1300, states that Aubrey I de Vere enfeoffed the church of Hatfield Regis by this knife in 1135.⁷⁰ Aubrey was a very successful Norman official who served King Henry I, as did his son Aubrey II de Vere who may be the person concerned here.⁷¹

⁶⁶ Bracton, ii, p. 124, and see ch. 8, n. 24 in the present volume.

⁶⁷ Bracton, ii, p. 125.

⁶⁸ My translation from the text cited by Sir Henry Ellis, 'Observations on Some Ancient Methods of Conveyance in England', *Archaeologia*, xvii (1814), p. 311. The reliability of this chronicle is discussed by D. R. Roffe, 'The *Historia Croylandensis*: a Plea for Reassessment', *English Historical Review*, cx (1995), pp. 93–108.

⁶⁹ *English Lawsuits* ed. van Caenegem, i, p. 118, no. 144. See also ch. 5, n. 43 in the present volume.

⁷⁰ Archives of Trinity College, Cambridge, ref. Ia4 Hatfield Broad Oak. Dugdale, *Monasticon*, iv, p. 432, described this knife being attached to its parchment label by a harp-string; it is now attached with red string (dating from the nineteenth century?). I am grateful to Dr Teresa Webber for pointing out that the deliberately archaizing script of the label dates from the fourteenth or fifteenth century.

⁷¹ Aubrey I de Vere was probably dead by 1135, so Aubrey II is more likely, even though the knife's label describes Aubrey as 'primus'. For Aubrey I and Aubrey II see J. A. Green, *The Government of England under Henry I* (1986), p. 276, and R. C. De Aragon, 'Vere, Aubrey de', in the *Oxford Dictionary of National Biography* (2004), lvi, pp. 278–9.

In 1213 in the king's court a litigant objected to the prior of Durham producing a charter against him, which 'is not made according to the custom of the realm nor is there a seal on it, but a certain knife which can be put on or taken off'.⁷² This document, which was made in 1148, is still preserved in Durham cathedral's archives and from it hangs a knife with a polished handle of horn securing a small portion of a broken rusty blade.⁷³ This knife could indeed be easily 'put on or taken off', as it is attached by a strip of parchment which is threaded through a hole in the handle. The prior of Durham was obliged to make a new agreement which avoided any mention of the knife. Thus the king's court in 1213 disallowed the production of a knife, even though William the Conqueror had recommended this practice in 1069.

The unresolved problem with any of the evidence about knives as symbolic objects is why they were used in these particular instances. Unlike William the Conqueror in 1069, the donors give no explanations. They do not say, for example, that they are doing this because they are Normans, nor do they explain why they have chosen a knife rather than some other object such as a horn or a cup. The Trinity College knife does not look as if it had ever been something of personal or material value, and the same applies to the knife produced by the prior of Durham in 1213. As the use of symbolic objects was essentially a non-literate custom, it is perhaps only to be expected that the beliefs behind it cannot now be fully explained. The important general conclusion to note is that the use of symbolic objects in conveyances did not reach back to an age-old oral culture in Anglo-Saxon England. On the contrary, it was an innovation of the Normans which took the paradoxical form of deliberately importing an archaism.⁷⁴

The Earl Warenne's Rusty Sword

More than two centuries after the Norman Conquest, in the reign of Edward I, disputes between the claims of written law and oral tradition were still being argued, when the king's lawyers demanded 'by what warrant' (*quo warranto*) the magnates held their privileged jurisdictions. A chronicler reported in the 1280s that the Earl Warenne had produced before the king's judges 'an ancient and rusty sword'. 'Here, my lords', he protested, 'here is my warrant! For my ancestors came with William the Bastard and conquered their lands by the sword, and by the sword I will defend them from anyone intending to seize them'.⁷⁵ This story appears in only one version of the chronicle and some historians have doubted its authenticity. At its heart is an archaic method of proof (the production of the rusty sword is comparable with William

⁷² *CuriaRR*, vii, p. 39.

⁷³ Ed. K. Major, 'Blyborough Charters', in *MM for Stenton*, pp. 203–5 and plate xv. M. T. Clanchy, 'Medieval Mentalities', in *Law, Laity and Solidarities: Essays in Honour of Susan Reynolds*, ed. P. Stafford, J. L. Nelson, and J. Martindale (2001), pp. 89–94.

⁷⁴ See also the discussion of symbolic knives, ch. 8, nn. 20–2 in the present volume.

⁷⁵ *The Chronicle of Walter of Guisborough*, ed. H. Rothwell, Camden S. 3rd series lxxxix (1957), p. 216.

the Conqueror's threatening gesture with the knife in 1069) and a memory which allegedly reached back to the Norman Conquest; William I de Warenne probably had been one of the companions of William the Conqueror in 1066. Warenne's claim in the 1280s reasserted the primacy of oral tradition over book-learned law and the evidence of symbolic objects over legal documents.

The sword which Warenne produced was a relic of the Conquest, and it was also a symbol of his special relationship with the king because the earls (*comites* in Latin) are the special 'companions' (*comites*) of the king. He girds them with their sword-belts and thus invests them with 'great honour, power and name' (Bracton's lawbook explains) 'for the sword signifies the defence of the realm and the country'.⁷⁶ Warenne's closeness to the king was true in fact as well as in law, as he had been the companion of Edward I ever since they were young men together in the strife of the baronial wars of 1258–65.⁷⁷ Would Warenne have threatened the king's judges with a sword, even if it were an antique? Quite possibly so, since in 1270 he and his retinue had killed Alan de la Zouche, who had been a royal judge, in Westminster Hall itself, where the lawcourts sat.⁷⁸ This death was deemed an accident and Warenne escaped with a fine. Although he was a close friend of Edward I, he was notorious for obstructing royal officers. In 1276 the sheriff of Lincolnshire had reported that he would need a force of five thousand men if he were to enter Warenne's town of Stamford.⁷⁹

The political reality was that even though Edward I had defeated Simon de Montfort in the baronial wars, the earls and barons as a class remained dominant. Warenne stated the political and theoretical reasons for this: 'the king did not conquer and subject the land by himself, but our forebears were sharers and partners with him'.⁸⁰ The claim that the earls, as the companions of William the Conqueror, held their privileges by historic right of conquest is documented elsewhere in the *quo warranto* proceedings.⁸¹ Similarly, the larger idea inherent in the Warenne story, that the descendants of the Norman conquerors were living memorials of that conquest, regardless of whether they had documents to prove it, was certainly a century old. In about 1175 the chief justiciar, Richard de Lucy, recommended Henry II that he confirm the charters of Battle abbey (which were recent forgeries in fact) because 'even if all charters perished, we should all still be its charters, since we are enfeoffed from the conquest made at Battle'.⁸² The king's barons were living symbols of Battle's rights because the abbey had been founded on the site of the battle of Hastings. Even if Richard de Lucy did not say these words, the Battle chronicle shows that the idea

⁷⁶ Bracton, ii, p. 32.

⁷⁷ S. L. Waugh, 'Warenne, John de', in *Oxford Dictionary of National Biography*, lvii, pp. 395–9.

⁷⁸ R. R. Davies, 'Zouche, Alan de la', in *Oxford Dictionary of National Biography*, lx, p. 1007.

⁷⁹ R. C. Palmer, *The County Courts of Medieval England* (1982), pp. 265–6.

⁸⁰ See n. 75 this chapter.

⁸¹ D. W. Sutherland, *Quo Warranto Proceedings in the Reign of Edward I* (1963), pp. 82–3.

⁸² *Battle*, p. 310. N. Vincent, 'King Henry II and the Monks of Battle: the Battle Chronicle Unmasked', in *Belief and Culture in the Middle Ages* ed. R. Gameson and H. Leyser (2001), pp. 264–86.

was in circulation that the barons were the bearers and warrantors of the memory of the Norman Conquest.

The sword from 1066, which Warenne claimed to possess, has not survived, and it is possible that it never existed, if the chronicle's story is fictitious. It can be shown, however, that other symbolic swords were used in comparable circumstances. Durham cathedral still possesses the Conyers falchion; this is a curved broadsword dating from the thirteenth century.⁸³ The present sword is presumably a substitute for an earlier one, as it purports to be the weapon with which the earliest member of the Conyers family had killed a dragon sometime before 1066. Down to 1860, the head of the Conyers family held the manor of Sockburn from the bishop of Durham by showing the sword to the bishop as evidence of title. Durham cathedral once possessed another sword. When the knight Thomas de Muschamps became a monk of Durham, probably shortly before his death in c.1130, he invested the monks with the estate of Hetherslaw by his sword which he offered on the cathedral's altar.⁸⁴ Twenty years later, however, it could not be found and Absalom prior of Durham had to write a public letter to the sheriff insisting that he and another monk had witnessed the investiture with the sword and that Durham was therefore entitled to the property.

Edward I himself, whose lawyers had generally insisted on written titles to property in the *quo warranto* proceedings, used the symbolism of arms and armour when it worked to his advantage. In his letter to the pope in 1301 justifying his conquest of Scotland he cited the precedent of the Anglo-Saxon king Aethelstan who struck a rock in Scotland with his sword and made a great fissure 'which may still be seen as an evident sign of this event'.⁸⁵ Edward I also cited the evidence of the helmet, lance, and saddle of King William the Lion of Scotland, which he had surrendered when he was taken prisoner in 1174. He had offered them on the altar of York minster 'as a sign of his subjection . . . and they remain and are kept in that church up to the present day'.⁸⁶ This is credible, even though this armour is now lost. In the subjection of Scotland, Edward I was careful to remove to London those objects which symbolized Scotland's independence, including the crown and saints' relics and – most famously – the Stone of Destiny, for which he had a special chair (now the Coronation Chair) made in Westminster abbey.⁸⁷ Moving this block of sandstone over 500 miles from Scone to London is telling evidence that symbolic objects still retained their power. (The stone was returned to Scotland in 1996.)

⁸³ Illustrated by Alexander and Binski, p. 259, no. 165 and Cherry, 'Symbolism and Survival', p. 112, plate xvii.

⁸⁴ J. Raine, *History and Antiquities of North Durham* (1852), appendix, p. 141. *RRA-N* iii (1968), p. 92, no. 257.

⁸⁵ *Anglo-Scottish Relations*, p. 99.

⁸⁶ *Anglo-Scottish Relations*, p. 102.

⁸⁷ P. Binski, *Westminster Abbey and the Plantagenets* (1995), p. 138. N. Aitchison, *Scotland's Stone of Destiny* (2000).

By comparison with William the Conqueror's reign (1066–87), the place of writing in administration was assured by the time of Edward I (1272–1307), even though written record could not be used as an instrument to discipline magnates like the Earl Warenne who were confident of both their righteousness and their power. In 1290 the *quo warranto* proceedings were adjourned without resolving pleas such as those against Warenne. In subsequent case law the king was understood to have conceded that documentary proof would not be required henceforward from any date earlier than the accession of Richard I in 1189.⁸⁸ This was the limit of 'legal memory', meaning that there was now an official memory which relied on documentary proof (preferably in the form of royal charters) and not on oral testimony even if it were supported by the display of knives, swords, or other mementoes. This did not mean that the claim of the Earl Warenne or any other claim extending back to the Norman Conquest was invalidated; on the contrary, it was tacitly allowed because what had happened in 1066 was now beyond the remit of the king's courts. The place for oral tradition and memories of the Conquest lay now with history and not with legality.

This book concentrates on the two-and-a-half centuries from 1066 to 1307 because these are the years when the use of writing became irreversibly established for government business and titles to property. For the reign of Edward I many more documents are extant than for any previous period, so many that no one has yet attempted to count them. 'Everywhere in Europe, from Scotland to Poland and from Scandinavia to Italy, in the second half of the thirteenth century suddenly many more charters seem to be written than before.'⁸⁹ The difference between the uses of writing in 1066 and 1307 has been introduced in this chapter by comparing myths about the Norman Conquest, because myths can convey pre-literate beliefs. In the twelfth century, when charters were still uncommon and bureaucracy had scarcely begun, William the Conqueror was credited with the impossible and therefore heroic feat of having made a definitive book of judgement by which to govern the conquered people. A century or more later, in the reign of Edward I, the idea of bringing the people under written law had come closer to reality, with the expansion of royal and seignorial writing offices and the use of charters even by some peasants. Legend (whether true or false) reacted then with the story of the Earl Warenne, who is committed to the equally heroic task of halting the *quo warranto* proceedings with his rusty sword.

The Norman Conquest, which was identified with the imposition of written law in the twelfth century, had become by 1307 in the Warenne story a symbol of the good old days of simple and forceful memory. Magnates like Warenne could indeed curtail the king's political power, and they did so repeatedly from Magna Carta onwards, but they could not stop the advance of writing into more and more areas of ordinary life because that was caused by the massing of documents in archives and the spread

⁸⁸ Sutherland, *Quo Warranto Proceedings*, pp. 91–110, 226–8.

⁸⁹ M. Mostert, 'Reading, Writing and Literacy: Communication and the History of Medieval Societies', in *Literacy in Medieval and Early Modern Scandinavia* (2005), ed. P. Hermann, p. 276.

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of literate skills over the country. This process was collective and institutional rather than individual. In his study of medieval education Nicholas Orme explains,

We think of literacy as a personal skill, because we live in a society that places an emphasis on people as individuals. In the Middle Ages, communities were equally important: families, households, towns, manors, and villages, all of which included literate people. English society was collectively literate by the thirteenth century, and perhaps much earlier. Everyone knew someone who could read, and everyone's life depended to some extent on reading and writing.⁹⁰

How everyone's life had come to depend on reading and writing is the subject of this book.

⁹⁰ N. Orme, *Medieval Children* (2001), p. 240.