

OATHS, KINGS, AND SUBJECTS : A STUDY OF THE  
OATHS SWORN TO KINGS BY SUBJECTS IN  
ENGLAND, C. 870-C. 1200

Joshua Hey

A Thesis Submitted for the Degree of PhD  
at the  
University of St Andrews



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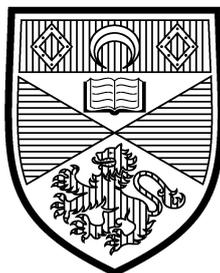
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# Oaths, Kings, and Subjects

A Study of the Oaths Sworn to Kings by Subjects in England, c. 870–c. 1200

Joshua Hey



University of  
St Andrews

This thesis is submitted in partial fulfilment for the degree of PhD  
at the  
University of St Andrews

4 August 2017



## OATHS, KINGS, AND SUBJECTS

This thesis is a study of the oaths sworn by subjects to kings of England between *c.* 870 and *c.* 1200. Who swore oaths to the king? When did they swear? What sorts of oaths were sworn? What commitments did swearing lead to? Where were oaths sworn, and what rituals were involved in swearing? These are some of the questions asked of the evidence, a combination of narrative and legal sources. This material is examined over four thematic chapters. The first three look at oaths sworn ordinarily at the time of accessions, as part of succession planning, and within the confines of reigns themselves, respectively. The final chapter examines oaths sworn outside of this process—oaths sworn in non-normal, extraordinary circumstances.



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*For Deborah and David Hey*



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That the last four years have been the happiest of my life is, surprising as it may sound, not down to the PhD. Nor is it thanks to the St Andrews Staff and Postgraduate Cricket Club or Crail's Golf Hotel dominoes team, though they have both helped to keep me sane. At the start of my studies I met Cory Hitt. We shared the same supervisor and the same office. From an academic viewpoint, her advice, thoughts, and patience in listening to my ramblings about oaths have greatly improved this thesis. She was also one of only three people to have read all the words that follow prior to the examination. However, this just scratches the surface of the support she has given. By the time this thesis was examined, I am delighted to say that she had become my wife.

The third set of eyes that has passed over this thesis, in the process of a most useful proofread, belong to one half of the partnership that brought me up. Words cannot express how grateful I am to my mum and dad for everything that they have done for me. It is to them that this thesis is dedicated.

Finally, I wish to express gratitude to my examiners, Professors Stephen Church and Simon MacLean, for the time they took to examine the thesis and for what was a very useful, stimulating, and, that most rare of things, enjoyable viva.

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## Abbreviations

<i>Af</i>	‘Alfred’s <i>domboc</i> ’, in <i>Gesetze</i> , I, 16–20, 26–89, printed with translation, minus prologue, in Attenborough, pp. 62–93. As per <i>Gesetze</i> , <i>Af El</i> refers to the prologue
<i>AGu</i>	<i>Treaty of Alfred and Guthrum</i> , in <i>Gesetze</i> , I, 126–28, printed with translation in Attenborough, pp. 98–101
II <i>As</i>	<i>Æthelstan’s Grately code</i> , in <i>Gesetze</i> , I, 150–66, printed with translation in Attenborough, pp. 126–43
IV <i>As</i>	<i>Æthelstan’s Thunderfield code (fragment)</i> , in <i>Gesetze</i> , I, 171, printed with translation in Attenborough, p. 151
IV <i>As Latin</i>	<i>Æthelstan’s Thunderfield code</i> , in <i>Gesetze</i> , I, 171–72, printed with translation in Attenborough, pp. 147–51
V <i>As</i>	<i>Æthelstan’s Exeter code</i> , in <i>Gesetze</i> , I, 166–68, printed with translation in Attenborough, pp. 152–55
VI <i>As</i>	<i>Æthelstan’s London code</i> , in <i>Gesetze</i> , I, 173–82, printed with translation in Attenborough, pp. 156–69
<i>ASC</i>	<i>The Anglo-Saxon Chronicle</i>
<i>Ass Arms</i>	<i>Assize of Arms</i> , ed. by Nicholas Vincent, published as part of the <i>Early English Laws</i> project [ <a href="http://www.earlyenglishlaws.ac.uk/laws/texts/ass-arms/view/#edition/1-image">http://www.earlyenglishlaws.ac.uk/laws/texts/ass-arms/view/#edition/1-image</a> ], accessed 15 July 2016]
<i>Ass For</i>	<i>First Forest Assize</i> , ed. by Nicholas Vincent, published as part of the <i>Early English Laws</i> project [ <a href="http://www.earlyenglishlaws.ac.uk/laws/texts/ass-for/view/#edition,1/vu-image">http://www.earlyenglishlaws.ac.uk/laws/texts/ass-for/view/#edition,1/vu-image</a> ], accessed 22 June 2017]
<i>Ass Nor</i>	<i>Assize of Northampton</i> , ed. by Nicholas Vincent, published as part of the <i>Early English Laws</i> project [ <a href="http://www.earlyenglishlaws.ac.uk/laws/texts/ass-nor/view/#edition,1/hv-image">http://www.earlyenglishlaws.ac.uk/laws/texts/ass-nor/view/#edition,1/hv-image</a> ], accessed 15 July 2016]
<i>Ass Wood</i>	<i>Assize of Woodstock</i> , ed. by Nicholas Vincent, published as part of the <i>Early English Laws</i> project [ <a href="http://www.earlyenglishlaws.ac.uk/laws/texts/ass-wood/view/#edition,1/hv-image">http://www.earlyenglishlaws.ac.uk/laws/texts/ass-wood/view/#edition,1/hv-image</a> ], accessed 22 June 2017]
V <i>Atr</i>	<i>Law-making council at Enham, 1008</i> , in <i>Gesetze</i> , I, 236–47, printed with translation in Robertson, pp. 78–91
VI <i>Atr</i>	VI <i>Æthelred</i> , in <i>Gesetze</i> , I, 246–56, printed with

	translation in Robertson, pp. 90–107
VI <i>Atr Lat</i>	VI <i>Æthelred Latin paraphrase</i> , in <i>Gesetze</i> , I, 247–57
Attenborough	<i>The Laws of the Earliest English Kings</i> , ed. and trans. by Frederick Levi Attenborough (Cambridge, 1922)
<i>Battle</i>	<i>The Chronicle of Battle Abbey</i> , ed. and trans. by Eleanor Searle (Oxford, 1980)
Bosworth-Toller	<i>An Anglo-Saxon Dictionary Based on the Manuscript Collections of the Late Joseph Bosworth</i> , ed. by Thomas Northcote Toller (Oxford, 1898)
<i>Bracton</i>	<i>Bracton de Legibus et Consuetudinibus Angliae: Bracton on the Laws and Customs of England</i> , ed. by George E. Woodbine, trans. by Samuel E. Thorne, 4 vols (Cambridge, MA, 1968–77)
<i>CHn cor</i>	<i>Coronation Charter of Henry I</i> , in Robertson, pp. 276–83
<i>Cn 1020</i>	<i>Cnut's First Letter to the English, 1020</i> , in <i>Gesetze</i> , I, 273–75, printed with translation in Robertson, pp. 140–45
I–II <i>Cn</i>	<i>Cnut's Winchester code</i> , in <i>Gesetze</i> , I, 278–370, printed with translation in Robertson, pp. 154–219
<i>ConsCn</i>	<i>Consilatio Cnuti</i> , in <i>Gesetze</i> , I, 618–19
<i>DMLBS</i>	<i>Dictionary of Medieval Latin from British Sources</i> , ed. by R. E. Latham, D. R. Howlett, and R. K. Ashdowne (Oxford, 1975–2013)
Dudo, ed. Lair	Dudo of St-Quentin, <i>De moribus et actis primorum Normanniae ducum</i> , ed. by Jules Lair (Caen, 1865)
Dudo, trans. Christiansen	Dudo of St-Quentin, <i>History of the Normans</i> , trans. by Eric Christiansen (Woodbridge, 1998)
Dudo, p. X Y	Dudo of St-Quentin, where X is the page number in Dudo, trans. Christiansen and Y is the Latin reference in Dudo, ed. Lair
Eadmer, ed. Rule	Eadmer, <i>Historia Novorum in Anglia, et opuscula duo de vita sancti Anselmi et quibusdam miraculis ejus</i> , ed. by Martin Rule (London, 1884)
Eadmer, trans. Bosanquet	Eadmer, <i>History of Recent Events in England: Historia Novorum in Anglia</i> , trans. by Geoffrey Bosanquet, with a foreword by Richard Southern (London, 1964)
Eadmer, p. X Y	Eadmer, where X is the page number in Eadmer, trans. Bosanquet and Y is the Latin reference in Eadmer, ed. Rule
<i>ECf</i>	<i>Leges Edwardi Confessoris</i> , ed. and trans. by Bruce O'Brien, in his <i>God's Peace and King's Peace: The Laws of Edward the Confessor</i> (Philadelphia, 1999), pp. 158–203
II–III <i>Eg</i>	<i>Edgar's Andover code</i> , in <i>Gesetze</i> , p. 194–206, printed with translation in Robertson, pp. 20–29
<i>EHD</i>	<i>English Historical Documents</i> , ed. by David C. Douglas, 10 vols (London, 1953–)

- I *Em* *Edmund's first code*, in *Gesetze*, I, 184–86, printed with translation in Robertson, pp. 6–7
- II *Em* *Edmund's bloodfeud laws*, in *Gesetze*, I, 186–90, printed with translation in Robertson, pp. 8–11
- III *Em* *Edmund's Colyton code*, in *Gesetze*, I, 190–91, printed with translation in Robertson, pp. 12–15
- I *Ew* *Edward the Elder's first code*, in *Gesetze*, I, 138–40, printed with translation in Attenborough, pp. 114–17
- II *Ew* *Edward the Elder's second code*, in *Gesetze*, I, 140–44, printed with translation in Attenborough, pp. 118–21
- GC, *Chronica* Gervase of Canterbury, *Chronica*, in *The Historical Works of Gervase of Canterbury*, ed. by William Stubbs, 2 vols (London, 1879–80), I (1879)
- GC, *Gesta Regum* Gervase of Canterbury, *Gesta Regum*, in *The Historical Works of Gervase of Canterbury*, ed. by William Stubbs, 2 vols (London, 1879–80), II (1880), 3–112
- GEC Cokayne, G. E., *The Complete Peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom Extant, Extinct, or Dormant*, 2nd edn, ed. by Vicary Gibbs and others, 14 volumes (London, 1910–98)
- Gesetze* *Die Gesetze der Angelsachsen*, ed. by Felix Liebermann, 3 vols (Halle, 1903–16)
- GFL Gilbert Foliot, *The Letters and Charters of Gilbert Foliot*, ed. by Z. N. Brooke, Adrian Morey, and C. N. L. Brooke (Cambridge, 1967)
- GG William of Poitiers, *Gesta Guillelmi*, ed. and trans. by R. H. C. Davis and Marjorie Chibnall (Oxford, 1998)
- Glanvill* *Tractatus de legibus et consuetudinibus regni Anglie qui Glanvill vocatur*, in *The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill*, ed. and trans. G. D. G. Hall, with a reading guide by M. T. Clanchy (Oxford, 1993), pp. 1–177
- GND *The 'Gesta Normannorum Ducum' of William of Jumièges, Orderic Vitalis, and Robert of Torigni*, ed. and trans. by Elisabeth M. C. van Houts, 2 vols (Oxford, 1992–95)
- GS *Gesta Stephani*, ed. and trans. by K. R. Potter, with introduction and notes by R. H. C. Davis (Oxford, 1976)
- HH Henry of Huntingdon, *Historia Anglorum: The History of the English People*, ed. and trans. by Diana Greenway (Oxford, 1996)
- Hn *Leges Henrici Primi*, ed. and trans. by L. J. Downer (Oxford, 1972), pp. 80–303
- Hn com* *Decree concerning the county and hundred courts*, in

- Robertson, pp. 286–86
- Hn Lond* London charter, in Robertson, pp. 288–93
- Hn mon* Decree concerning the coinage, in Robertson, pp. 284–85
- Howden, *Chronica* Roger of Howden, *Chronica*, ed. by William Stubbs, 4 vols (London, 1868–71)
- Howden, *GRHS* Roger of Howden, *Gesta Regis Henrici Secundi*, ed. by William Stubbs, 2 vols (London, 1867)
- HP* John of Salisbury, *Historia Pontificalis*, ed. and trans. by Marjorie Chibnall (Oxford, 1986)
- Hu* Hundred Ordinance, in *Gesetze*, I, 192–95, printed with translation in Robertson, pp. 16–19
- InCn* *Instituta Cnuti*, in *Gesetze*, I, 612–17
- Ine* *Laws of Ine*, printed with translation in Attenborough, pp. 36–61
- Inq Sher1* *Inquest of Sheriffs*, ed. by Nicholas Vincent, published as part of the *Early English Laws* project [[http://www.earlyenglishlaws.ac.uk/laws/texts/inq-sher1/view/#edition,1\\_0\\_c\\_13/rl-image](http://www.earlyenglishlaws.ac.uk/laws/texts/inq-sher1/view/#edition,1_0_c_13/rl-image), accessed 23 October 2016]
- JW* *The Chronicle of John of Worcester*, ed. by Reginald R. Darlington and Patrick McGurk and trans. by Jennifer Bray and Patrick McGurk, 3 vols (Oxford, 1995–98)
- Leis Wl* *The (so-called) Laws of William I*, in Robertson, pp. 252–75
- MGH: Capit.* *Monumenta Germaniae Historica: Capitulari regum Francorum*, 2 vols (Hannover, 1883–)
- OED* *Oxford English Dictionary Online* (Oxford, 2017) [<http://www.oed.com>]
- OV* Orderic Vitalis, *The Ecclesiastical History*, ed. by Marjorie Chibnall, 6 vols (Oxford, 1969–80)
- PR* *Pipe Rolls*, published by the Pipe Roll Society
- Quadr* *Quadripartitus*, in *Gesetze*, I, 529–46 and *passim*
- Ralph of Diss, *Ymagines Historiarum* Ralph of Diss, *Ymagines Historiarum*, in *The Historical Works of Master Ralph de Diceto, Dean of London*, ed. by William Stubbs, 2 vols (London, 1876), I, 265–440 and II, 3–174
- Robert of Torigni, *Chronica* Robert of Torigni, *Chronica*, in *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, ed. by Richard Howlett, 4 vols (London, 1886), IV
- Robertson *The Laws of the Kings of England from Edmund to Henry I*, ed. and trans. by Agnes Jane Robertson (Cambridge, 1925)
- Rot. Litt. Claus.* *Rotuli litterarum clausurarum in Turri Londinensi asservati*, ed. by Thomas Duffy Hardy, 2 vols (London: Eyre and Spottiswood, 1835)
- RRAN* *Regesta Regum Anglo-Normannorum*, 4 vols (Oxford, 1913–69)
- S* *Anglo-Saxon Charters: An Annotated List and Bibliography*, ed. by P.H. Sawyer (London, 1968); revised as *The Electronic Sawyer: Online*

- SD  
*Stubbs' Select Charters*
- Swer*  
 William of Malmesbury,  
 GRA
- William of Malmesbury,  
 HN
- Wl art*
- Wl art Fr*
- Wl art Lond*
- Wl ep*  
*Wl lad*
- Wl Lond*  
 WN, HRA
- X a.b.c
- Catalogue of Anglo-Saxon Charters*, rev. by Susan Kelly and others (2014)
- Symeon of Durham, *Opera Omnia*, ed. by Thomas Arnold, 2 vols (London, 1882–85)
- Select Charters and other Illustrations of English Constitutional History, from the earliest times to the reign of Edward I*, ed. W. Stubbs, 9th edition, revised by H.W.C. Davies (Oxford, 1921)
- Sverian*, printed in *Gesetze*, I, 396–99
- William of Malmesbury, *Gesta Regum Anglorum: The History of the English Kings*, ed. by R. A. B. Mynors, R. M. Thomson, and M. Winterbottom, 2 vols (Oxford, 1998–99)
- William of Malmesbury, *Historia Novella: The Contemporary History*, ed. by Edmund King and trans. by K. R. Potter (Oxford, 1998)
- The Ten Articles of William I*, in Robertson, pp. 238–43
- Articles of William I, French translation*, in *Gesetze*, I, 488–89
- Articles of William I, London version*, in *Gesetze*, I, 489–91
- Episcopal laws*, in Robertson, pp. 234–37
- Regulations regarding exculpation*, in Robertson, pp. 232–33
- London Charter*, in Robertson, pp. 230–1
- William of Newburgh, *Historia Rerum Anglicarum*, in *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, ed. by Richard Howlett, 4 vols (London: Longman and Co, 1884–89), I (1884) and II (1885), 415–500
- Decretales Gregorii IX*, book a, tit. b, cap. c

### Notes on citations

Citations of the Anglo-Saxon Chronicle will be in the following form: ‘ASC(recension letter) year (page number)’. The page number refers to the Old English given in *Two of the Saxon Chronicles Parallel: with Supplementary Extracts from the Others: A Revised Text*, ed. by Charles Plummer, 2 vols (Oxford, 1892), I: *Text, Appendices, and Glossary*. The page numbers of *The Anglo-Saxon Chronicle*, trans. by George Norman Garmonsway (London, 1953) match those given in the Plummer edition. I cite the recension given in Plummer, rather than all the recensions a given passage is in (so, for example, when citing G, I have not also cited A, from which it was copied).

When citing the *Gesta Normannorum Ducum*, the author of the material will be indicated. I will also indicate the book and chapter numbers, alongside the page numbers in van Houts’ edition. This way the reader will know when those books that are heavily reliant upon Dudo (I–IV) are cited. Thus, [author], *GND*, [book number].[chapter number] ([volume of van Houts], [page number]). I will highlight if and when any material is directly copied from Dudo’s work.

William of Newburgh’s *Historia Rerum Anglicarum* consists of 5 books. All are printed in Richard Howlett’s 1880s *Chronicles of the Reigns of Stephen, Henry II, and Richard I*. It is to this that the abbreviation WN, *HRA* refers to. The first two books have also been printed in more modern editions, with facing page translation: William of Newburgh, *The History of English Affairs*, ed. and trans. by P. G. Walsh and M. J. Kennedy, 2 vols to date (Warminster, 1988–2007). When citing from their text, a full cite will be given, rather than the abbreviation.

### **Some post-examination notes**

I was fortunate that this thesis was passed without any required corrections. This note is not meant as a boastful statement of that; instead it is needed to highlight that the thesis is by no means a complete work, and that numerous errors remain. Importantly, I want to highlight two sources that I overlooked.

First, I did not use the *Vita Edwardi Regis*, which states that when King Æthelred II's wife was pregnant, all the men of the country took an oath that if she had a son, they would await him as king and lord. When the son was born, the people swore an oath that he was worthy to be raised to the throne at some time.

Second, I did not use the *Encomium Emmae Reginae*. This has an account of Cnut swearing oaths to Emma that he would not set up any son by another wife as his heir. It also states that Archbishop Æthelnoth did not wish to approve Harold Harefoot as king after Cnut's death because he owed fidelity to Emma's sons.

This is not the place for a discussion of these accounts, which are not without problems, but it must be noted that these accounts would alter some of the conclusions in Chapter 2 regarding the use of oaths in succession planning in Anglo-Saxon England.

I would like to thank Professor Stephen Church, one of my examiners, for drawing these to my attention.



# Introduction

---

Kings of peoples are like God to their subjects. All devote themselves to them by an oath and the stars of heaven seem to serve them.

Reges ergo gentium subditis suis quasi Deus sunt, quibus omnes iuramento se devoverunt, quibus stelle celi deservire videntur.<sup>1</sup>

A canon of Lincoln cathedral in the twelfth century penned these words in a letter that was never to be read by the ill and dying friend to whom it was addressed. The letter concludes with the writer learning of his friend's death, ending with an epigraphic poem '*cum lacrimis scribendum est*'.<sup>2</sup> The writer was one of the great historians of medieval England, Henry, the archdeacon of Huntingdon.<sup>3</sup> A cynic might see this poetic culmination as a literary tool, the epistle written as it is in the genre *de contemptu mundi*, examining various men's lives to conclude 'how this present life is nothing' ('*quam nichil sit hec presens vita*').<sup>4</sup> As a literary work within such a genre, the quotation above is not a factual statement about swearing oaths to kings. Nevertheless, the use of language reveals how contemporaries might think about the relationship between kings and those in their kingdom. Kings are said to have *subditi*, literally 'those who have been placed under' or 'subjected' to them. Oaths are the link between these 'subjects' and their king.

This thesis is a study of oaths sworn by subjects to kings. It focuses on the West Saxon kingdom that through a process of conquest and integration developed into the monarchy known as England. When this expansion of Wessex developed into 'England' has been a much-debated topic. Patrick Wormald strongly and convincingly criticized the approach of earlier historians—most noteworthy among whom was Frank Stenton—that had seen an inevitability in its creation.<sup>5</sup> Stenton spoke of institutions preparing 'the way for the ultimate unity of England', of the late seventh and early eighth centuries

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<sup>1</sup> HH, pp. 604–05.

<sup>2</sup> *Ibid.*, pp. 616–19.

<sup>3</sup> The friend was probably Walter, archdeacon of Leicester, whom Henry had known from youth. An alternative candidate is Walter, archdeacon of Oxford. See *ibid.*, pp. xxxi–xxxii and lxii.

<sup>4</sup> *Ibid.*, pp. 616–17. For Henry of Huntingdon's contempt for the world and his use of this genre, see Nancy F. Partner, *Serious Entertainments: The Writing of History in Twelfth-Century England* (Chicago, 1977), pp. 27–40.

<sup>5</sup> See, eg, Patrick Wormald, 'Bede, the *Bretwaldas* and the Origins of the *Gens Anglorum*', in *Ideal and Reality in Frankish and Anglo-Saxon Society: Studies Presented to J.M. Wallace-Hadrill*, ed. by Patrick Wormald, Donald Bullough, and Roger Collins (Oxford, 1983), pp. 99–129 (102–20); Patrick Wormald, 'Engla Lond: The Making of an Allegiance', in his *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (London, 1999), pp. 359–82 (362).

interrupting ‘the general course of English history’, and of tenth-century Wessex’s expansion as a reconquest.<sup>6</sup> Wormald’s model placed the creation of England in the late ninth and tenth centuries, with Alfred and his successors adopting a national propaganda of ‘England’ and an English chosen people as they tried to create a kingdom.<sup>7</sup> George Molyneaux has recently presented a largely convincing alternative model, which instead places this process in the second half of the tenth century.<sup>8</sup> However, the resultant English polity was never a constant, unchanging political structure. The northern border of the kingdom was not fixed in a modern sense at any point in our period, nor was the border with Wales. Differences existed within England itself. This was most notable in the ‘Danelaw’, the result of various Scandinavian invaders, migrants, and settlers. Two major invasions in the eleventh century altered the political, legal, cultural, institutional, and linguistic landscape. That of Cnut placed England as part of one king’s dominions that spanned the North Sea; that of William created an England that was linked to Normandy. Later developments added other areas under different forms of subjection: Anjou; Aquitaine; and Brittany. Other forms of overlordship existed at times in Wales, Scotland, and Ireland. Nevertheless, we can loosely define what we are looking at: the monarchical political entity that was governed by institutions based in what is now southern England between *c.* 871 and *c.* 1200.

The starting date marks the beginning of Alfred’s reign as king of Wessex. We begin here because this is when evidence concerning the types of oath we are examining emerges. A wide time-frame is needed for this type of study in order to take into account a sufficient amount of evidence and so that any long-term trends and changes can be identified. Although prior to 1066 there is not a large corpus of evidence, there is enough to make an examination worth our while. Having said this, the source material dictates that much

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<sup>6</sup> Frank Merry Stenton, *Anglo-Saxon England*, 3rd edn (Oxford, 1971), pp. 36, 202, and 258–59. Occasionally, he provides caveats: Alfred’s code is ‘evidence of the new political unity being *forced* upon the various English peoples’; chapter 10 is entitled the ‘Conquest of Scandinavian England’, rather than a ‘Reconquest’; and he describes Mercian resistance to West Saxon expansion in the tenth century (*ibid.*, pp. 276 (emphasis added), 319, and 339). But the general picture that he presents is one of inevitable progress towards what exists by the 1060s: ‘a strong provincial feeling with respect for the unity of England’ (*ibid.*, p. 579).

<sup>7</sup> For Wormald, they derived this idea from the works of Bede, who had spoken of an ‘English’ people because of the existence of the ‘English’ Church. See Wormald, ‘Engla Lond: The Making of an Allegiance’, pp. 375–76, and Wormald, ‘Bede, the *Bretwaldas* and the Origins of the *Gens Anglorum*’, pp. 122–28. See also James Campbell, ‘The United Kingdom of England: The Anglo-Saxon Achievement’, in his *The Anglo-Saxon State* (London, 2000), pp. 31–53.

<sup>8</sup> George Molyneaux, ‘The Formation of the English Kingdom, *c.* 871–*c.* 1016’ (unpublished doctoral thesis, University of Oxford, 2010). The most convincing element of his argument, laid out in chapter 1, regarding whether there was a push towards an ideal of England, is set out in George Molyneaux, ‘The *Old English Bede*: English Ideology or Christian Instruction’, *English Historical Review*, 124 (2009), 1289–1323.

of our focus falls on the late-eleventh and twelfth centuries. The year 1200 is the approximate end date. 1199 marks the start of a new king's reign. The thirteenth century sees a dramatic change in the source material, with an increase in the amount of government records surviving. The events of 1215 that culminated in Magna Carta altered the political and legal landscape of England in a significant way that is beyond the purview of this study. The same year also saw the promulgations of the Fourth Lateran Council, which, by promoting an increased focus on confession and self-reflection, may have had a profound impact on the way oaths worked.<sup>9</sup> However, our end date of *c.* 1200 is deliberately fluid: thirteenth-century sources and events will be considered when appropriate.

## Sources

Though the source material over our period of study changes dramatically—in quantity, quality, and type—that which lays the foundations of this thesis can be split into two groups for introductory purposes: legal material and narrative sources.

### Legal material

First, we have what might be grouped under the broad heading 'legal material'. The 'Anglo-Saxon laws', issued in the names of various kings from *c.* 600 onwards, have enough in common to be considered a single corpus.<sup>10</sup> The earliest piece of legislation relevant to this thesis is the source that gives the *terminus post quem* of our study: the law code issued by King Alfred of Wessex. The codes of his son, Edward the Elder, and grandsons, Æthelstan and Edmund, provide us with useful material as well. Also important is Cnut's Winchester code, the longest of the laws. Though issued by an invading king, at a Christmas of either 1020 or 1021,<sup>11</sup> Wulfstan, an English archbishop

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<sup>9</sup> The 21st decree called for an increase in confession, and after 1200 we see an explosion in ground-level lay confession (M. Gibbs and J. Lang, *Bishops and Reform 1215–1272 with Special Reference to the Lateran Council of 1215* (Oxford, 1934), p. 97; A. Murray, 'Confession as a Historical Source in the Thirteenth Century', in R. M. C. Davis and J. M. Wallace-Hadrill, *The Writing of History in the Middle Ages: Essays Presented to Richard William Southern* (Oxford, 1981), pp. 275–322 (279)).

<sup>10</sup> King Æthelberht of Kent issued the earliest surviving code around the year 600. Regarding whether he issued the code, among other issues, see Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century: Volume One: Legislation and its Limits* (Oxford, 1999), pp. 93–101.

<sup>11</sup> Cnut's presence in Scandinavia in the winter of 1022/3 and Wulfstan's death in 1023 preclude a later date. That the 1020 letter refers to the Oxford code rather than a Winchester one suggests that it cannot be an earlier date. See Wormald, *The Making of English Law*, p. 345, n. 382.

of York, composed the text as we have it.<sup>12</sup> One half of the code is ecclesiastical in its concerns, the other secular. Both are used in this thesis.

Although law-codes continued to be issued by the Norman kings after 1066, they are less comprehensive in scope and provide no relevant material to this thesis.<sup>13</sup> There was also a desire to understand the laws and institutions of Anglo-Saxon England. This manifested itself in various ways. The most obvious was translation. Three legal treatises survive from Anglo-Norman England that translated Old English law codes into Latin. The largest of these, *Quadripartitus*, was seemingly worked on between the 1090s and 1108.<sup>14</sup> It contains translations of various codes, including some which only survive as translations in this text. Probably more popular contemporaneously was the *Instituta Cnuti*, mostly containing translations of Cnut's laws.<sup>15</sup> Our third collection—*Consilatio Cnuti*—is similar in that it primarily consists of translations of Cnut's code. The way in which Old English passages were translated into Latin around the year 1100 has interesting implications relevant to our study.

This inclination to understand the Anglo-Saxon legal past also led to a search for, and appeals to, the laws of Edward the Confessor—the *laga Edwardi*. 'I restore to you the law of King Edward with those reforms through which my father emended them with the consent of his barons', ran the penultimate clause of Henry I's coronation edict.<sup>16</sup> However, no legal code issued by Edward survives, and none seems to have ever existed.

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<sup>12</sup> See Dorothy Whitelock, 'Wulfstan and the Laws of Cnut', *English Historical Review*, 63 (1948), 433–52 and Dorothy Whitelock, 'Wulfstan's Authorship of Cnut's Laws', *English Historical Review*, 70 (1955), 72–85.

<sup>13</sup> This is comprised of the three pieces of legislation that survive in the form they were issued by William I (*Wl Lond*; *Wl lad*; and *Wl ep*) and the various laws issued by Henry I (*CHn cor*; *Hn mon*; *Hn com*; and *Hn Lond*).

<sup>14</sup> Richard Sharpe argues that various parts of *Quadripartitus* were completed by various dates, with the final additions made in 1108 (Richard Sharpe, 'The Dating of *Quadripartitus* Again', in *English Law Before Magna Carta: Felix Liebermann and 'Die Gesetze der Angelsachsen'*, ed. by Stefan Jurasinski, Lisi Oliver, and Andrew Rabin (Leiden, 2010), pp. 81–93). This revises his earlier argument that expanded Liebermann's dates of 1113 X 1118 to 1108 X 1118 (Richard Sharpe, 'The Prefaces of "Quadripartitus"', appendix to Patrick Wormald, 'Quadripartitus', in *Law and Government in Medieval England and Normandy: Essays in Honour of Sir James Holt*, ed. by George Garnett and John Hudson (Cambridge, 1994), pp. 111–47). There are parts of *Quadripartitus* that are not translations of Anglo-Saxon law.

<sup>15</sup> It survives in seven twelfth-century manuscripts compared to *Quadripartitus*'s five and *Consilatio Cnuti*'s two (Bruce O'Brien, 'The *Instituta Cnuti* and the Translation of English Law', *Anglo-Norman Studies*, 25 (2003), 177–97 (177)). It dates from between 1066 and 1123–24 and was probably produced at Worcester. For the date and location, see *ibid.*, pp. 182–86). For an introduction to the *Instituta Cnuti*, see both O'Brien's article and Felix Liebermann, 'On the *Instituta Cnuti aliorumque Regum Anglorum*', *Transactions of the Royal Historical Society*, new series, 7 (1893), 77–107. Liebermann here dates it to c. 1110 (p. 83) and in *Gesetze* more loosely to between 1095 and 1135, but his rationale is criticized by O'Brien.

<sup>16</sup> '*lagam regis Edwardi vobis reddo cum illis emendationibus quibus pater meus eam emendavit consilio baronum suorum*' (*CHn cor*, 13). See also *CHn cor*, 5, 8, and 9.

It was a twelfth-century invention, one that was practically useful for rulers in understanding the customs, laws, and institutions of the conquered land. In Bruce O'Brien's words 'the creation of the *laga Edwardi* bound together and comforted both rulers and ruled'.<sup>17</sup> Unable to find any existing texts, writers made what some historians have termed 'impostures'.<sup>18</sup> These are texts that falsely claim to be official promulgations of laws. The most notable is the text known as the *Leges Edwardi Confessoris*. Produced in the first half of the twelfth century, it appears to be a witness to contemporary law, rather than the Old English past.<sup>19</sup> More enigmatic is the text often simply known as the 'Ten Articles', elsewhere referred to as 'the Articles of William I'. Although identifying itself as a series of enactments made by the Conqueror, he cannot have issued it as the text stands. Instead it is a private composition or compilation that may, in part, represent actual edicts of the king.<sup>20</sup>

Others turned to writing tracts attempting to represent contemporary practice. Perhaps written by the man responsible for *Quadripartitus* is a text known as the *Leges Henrici Primi*.<sup>21</sup> It is not a comprehensive statement of contemporary law, limited in this sense either by the competence or aims of the compiler.<sup>22</sup> This perceived limitation is in comparison to the later legal compilation known as *Glanvill*, written between 1187 and 1189 by someone with an intimate knowledge of the working of the king's court.<sup>23</sup> It

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<sup>17</sup> Bruce O'Brien, *God's Peace and King's Peace: The Laws of Edward the Confessor* (Philadelphia, 1999), p. 18.

<sup>18</sup> *Ibid.*, pp. 27–28.

<sup>19</sup> For the date and place of production, see *ibid.*, pp. 44–61. For its content and use as a historical source, see *ibid.*, ch. 3, pp. 62–104.

<sup>20</sup> For example, between clauses 4 and 5 it is reported that 'this decree was made at Gloucester'. Clearly not belonging in the middle of a code, this may represent the end of a copied writ. The earliest of the many manuscripts in which the text survives dates from the early twelfth century, and it may have been compiled at this time. It also survives in the form of a French translation from the late twelfth century, although the clause most relevant to this thesis (*Wl art*, 2) does not appear there (*Wl art Fr*). There is an alternate Latin early thirteenth-century version which has no relevance to this study (*Wl art Lond*). See variously Robertson, pp. 225–6; *Gesetze*, III, 277–79; Wormald, *The Making of English Law*, pp. 402–03; and <http://www.earlyenglishlaws.ac.uk/laws/texts/wl-art/>.

<sup>21</sup> L. J. Downer dates the *Leges* to between 1108 and 1118, suggesting that it was probably begun in 1113 or 1114 and finished between 1116 and 1118 (*Leges Henrici Primi*, ed. and trans. by L. J. Downer (Oxford, 1972), pp. 35–36).

<sup>22</sup> In G. D. G. Hall's words, it was 'a valiant effort ... made by a man whose enthusiasm was greater than his ability' (*The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill*, ed. and trans. G. D. G. Hall, with a reading guide by M. T. Clanchy (Oxford, 1993), p. xiii). This view has recently been challenged by Nicholas Karn, who sees it as a tract concerned with certain pleas relevant for the crown rather than a work trying to produce an account of the whole administration of law in the reign of Henry I (Nicholas Karn, 'Rethinking the *Leges Henrici Primi*', in *English Law Before Magna Carta: Felix Liebermann and Die Gesetze der Angelsachsen*, ed. by Stefan Jurasinski, Lisi Oliver, and Andrew Rabin (Leiden, 2010), pp. 199–220).

<sup>23</sup> Hall dates it to anywhere between 29 November 1187 and 6 July 1189 (*Glanvill*, ed. Hall, pp. xxx–xxxii). Various speculations have been made as to who authored the work. It is clear that in some way it was the work of the royal court. See *ibid.*, pp. xxxi–xxxiii.

provides a detailed legal framework, largely based on writs, of late twelfth-century England. Among the reasons for the gulf between the *Leges Henrici Primi* and *Glanvill*, historians have pointed to the influence of Henry II's legislation.<sup>24</sup> Henry's relevant legislative acts will be introduced in their proper place within the thesis. One final piece of legal material needs mentioning at the outset. Similarly informed to *Glanvill*, the tract known as *Bracton* was mostly written in the 1220s and 1230s before being re-worked by a royal justice named Henry de Bracton.<sup>25</sup> Although it is from outside our period of study, it is useful (as are certain other later legal tracts) when reflecting on silences in the sources before 1200.

### Narrative sources

Our second broad category can be grouped under the heading 'narrative sources' or 'chronicles'. A large number of such sources are used throughout this thesis. This section will give a brief introduction to some of the most used and most important.

The Anglo-Saxon Chronicle is the historians' name of convenience for a complex set of Old English annals that are preserved over seven manuscripts and one fragment.<sup>26</sup> Each manuscript, or 'recension', contains the same material up to the year 892. This is known as the 'common stock', and a growing scholarly consensus believes this to have been compiled in King Alfred's court before being sent out to various places where production of annals continued.<sup>27</sup> The last annal in this tradition was written in 1154 in the E manuscript at Peterborough Abbey. This Peterborough Chronicle is a much-used source in this study for events after the Conquest. Nicholas Brooks has argued that there was a central set of royal annals from 892 to 1131 that was sometimes used by the compilers in the localities.<sup>28</sup> The existence and influence of such a central set of annals on the various recensions is plausible and perhaps likely before 1066. Brooks's argument for

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<sup>24</sup> See, for example, *ibid.*, p. xxviii. Hall also gives the following as reasons: the development and study of canon and Roman law; the increased use of writs; and the closeness of the author to, and the operation of, the king's court and its judges.

<sup>25</sup> See Thorne's 'Translator's Introduction', in *Bracton*, III, xiii–lii, especially pp. xxx–xxxiii, for the various compilers and the date.

<sup>26</sup> The seven manuscripts are labelled 'A' through to 'G', with the fragment labelled 'H'. There is also the 'Easter Table Chronicle' that is labelled 'P'.

<sup>27</sup> For a list of the relevant literature, see Nicholas Brooks, 'Why is the *Anglo-Saxon Chronicle* about Kings?', *Anglo-Saxon England*, 39 (2010), 43–70 (48, n. 18).

<sup>28</sup> *Ibid.*.

this practice continuing after the Norman Conquest is more speculative and less convincing.<sup>29</sup>

Versions of ‘the Chronicle’ were used by Latin writers after 1066. A writer at Worcester, named John, seems to have used a now-lost recension of the Chronicle, among other sources, in compiling his chronicle.<sup>30</sup> Therefore, not only is it an important source for what it contemporaneously records (between *c.* 1100 and *c.* 1140), but it is also useful for events much earlier than its composition.<sup>31</sup> The canon whose words began this thesis is another writer who used the Chronicle alongside other sources in compiling his work. According to the most recent editor, about 75 per cent of Henry of Huntingdon’s *Historia Anglorum* is derived from other works, with over half of this being derived from the ‘Anglo-Saxon Chronicle’.<sup>32</sup> Writing from the 1120s, when he began at the request of his bishop (Alexander of Lincoln), until the 1150s, where his account ends with Henry II’s coronation, Henry’s work is mostly reliant on other sources until 1133.<sup>33</sup> The archdeacon’s *Historia* was popular and influential, beginning to circulate while Henry was still composing.<sup>34</sup> A third writer who used a recension of the Chronicle is William of Malmesbury. He also had close links to Worcester and seems to have had access to, and perhaps actively shared, some of the same sources as John.<sup>35</sup> The most accomplished historian from our period of study, William wove his *Gesta Regum Anglorum* from a large number of written and verbal sources. The work seems to have been commissioned by

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<sup>29</sup> That is not to say that he is wrong. More work ought to be done on the post-Conquest Latin chroniclers to test his theory. My suspicion is that such research would not support the hypothesis. William of Malmesbury’s *Gesta Regum Anglorum* was initially commissioned by Queen Matilda (first wife of Henry I). Why would a member of the royal household commission such a work if there was a centrally produced history? More to the point, if such a central work did exist, Matilda would surely have given William access to it—why then does William not mention it (he does attribute his information to the sources he used)?

<sup>30</sup> The writer seemingly used poetic or folk sources to supplement the Chronicle. He also probably used other historical sources now lost. See variously Antonia Gransden, *Historical Writing in England*, 2 vols (London, 1974–82), I: *c.* 550 to *c.* 1307 (1974), p. 145; Reginald R. Darlington and Patrick McGurk, ‘The “Chronicon ex chronicis” of “Florence” of Worcester and its Use of Sources for English History’, *Anglo-Norman Studies*, 5 (1982), 185–96 (192–3); JW, II, xix–xx. The as yet unpublished volume 1 of the Oxford Medieval Texts edition is to discuss further the possibility of John using a different version of the Chronicle. Cf. Charles Plummer, who recognized that John of Worcester had copies of the Chronicle but believed that occasionally he was ‘writing out of his own head’ (*Two of the Saxon Chronicles Parallel: with Supplementary Extracts from the Others: A Revised Text*, ed. by Charles Plummer, 2 vols (Oxford, 1892), II: *Introduction, Notes, and Index*, p. 196).

<sup>31</sup> The most recent editors of the chronicle give 1095X1106–1140X1143 as the terminal dates of writing. Regarding the role in composition of another monk named Florence, they state that ‘its beginnings, its elaboration and form before the 1120s, and the role of Florence in this earlier stage, cannot be established’. See JW, II, lxxx–lxxxii.

<sup>32</sup> About 40 per cent of the entire work is derived from the Chronicle (HH, p. lxxxv). For a discussion of which recension(s) of the Chronicle he used (primarily a type of E and a type of C), see *ibid.*, pp. xci–xcii.

<sup>33</sup> *Ibid.*, p. lxxxv.

<sup>34</sup> *Ibid.*, p. lxi.

<sup>35</sup> William of Malmesbury, *GRA*, II, 12–13.

Queen Matilda, wife of Henry I, and therefore begun before her death in 1118. A first edition was completed in or soon after February 1126, before the work was revised in the 1130s.<sup>36</sup>

William of Malmesbury wrote a number of other works.<sup>37</sup> The last of these, seemingly not begun before 1140, was titled the ‘Contemporary History’—*Historia Novella*. The first of its three books began with the death of Emperor Henry V in May 1125 and the subsequent return to England of his widow, the daughter of Henry I, the Empress Matilda. The last event it recorded was in December 1142. The third book lacks marks of revision, William’s death most likely preventing the planned completion of the work.<sup>38</sup> It was written at the request of the Empress’s half brother, Robert, earl of Gloucester, during the civil unrest arising out of the disputed succession between Matilda and King Stephen.<sup>39</sup> Another important work composed during this turbulent reign was the *Gesta Stephani*. From its title, it might be thought that this is effectively a pro-Stephen parallel to William’s pro-Angevin *Historia Novella*. The first twelve years of the reign in the account, from 1135 to 1147, do follow such a pattern, seemingly being written up around 1148. However, the rest of the narrative was written after 1153, when the author had ceased to support Stephen.<sup>40</sup>

Perhaps the most valuable single writer for our thesis is Roger of Howden. Between 1169 and 1192, he wrote the *Gesta Regis Henrici Secundi* almost contemporaneously with events before working it into a final form between 1192 and 1193.<sup>41</sup> Howden also authored a *Chronica* between 1192/93 and 1201/2, partly derived and sometimes copied from the *Gesta*.<sup>42</sup> The derivation is interesting in that we can see changes of language between the two works, although the significance of such differences is rarely clear. Howden’s works are rich in both historical narrative and in the preservation of royal documents. He was a royal clerk between 1174 and September 1189, and thus acts as a witness very close to the royal court. The entries in the *Gesta* between 18 September 1189

<sup>36</sup> R. M. Thomson, *William of Malmesbury*, rev. edn (Woodbridge, 2003), pp. 6–8 and 18. For Queen Matilda’s commissioning of the work, see the letters in William of Malmesbury, *GRA*, I, 2–9.

<sup>37</sup> See Thomson, *William of Malmesbury*, pp. 7–8.

<sup>38</sup> William of Malmesbury, *HN*, pp. xxix–xxxiii.

<sup>39</sup> *Ibid.*, pp. xxix–xxxiii; Thomson, *William of Malmesbury*, pp. 8 and 35.

<sup>40</sup> *GS*, pp. xviii–xxi. The author may have been Robert, bishop of Bath, or one in his entourage (*ibid.*, pp. xxi–xxxviii).

<sup>41</sup> For his authorship of the work, see generally David Corner, ‘The *Gesta Regis Henrici Secundi* and *Chronica* of Roger, Parson of Howden’, *Bulletin of the Institute of Historical Research*, 56 (1983), 126–44. For the dates of writing see *ibid.*, p. 162.

<sup>42</sup> *Ibid.*, p. 126.

and August 1190 reveal that Howden had various commissions, and had ceased to be a royal clerk. It seems that this career ended with the accession of Richard I, though Howden was probably an eyewitness of his consecration ceremony.<sup>43</sup> He accompanied Richard I, at varying degrees of closeness, on his crusade, but left at the same time as Philip Augustus, returning to England by April 1192.<sup>44</sup> For the rest of the 1190s, he was the (active) parson of Howden in Yorkshire, and received his news of court from different sources.<sup>45</sup>

As Antonia Gransden has noted, ‘if we can speak of a golden age of historiography in England it was probably the last twenty years of the twelfth century’.<sup>46</sup> Apart from Howden, worthy of mention at this stage are two chroniclers who worked in the south of England: Gervase of Canterbury and Ralph of Diss. Gervase produced numerous works, two of which have relevance to this thesis. Around 1188, he began writing a *Chronica*. This is effectively a history of his house, Christ Church, with a broader historical background, running from the time of St Augustine until 1199. This *Chronica* formed the basis of another work, the *Gesta Regum*, which continued until 1210.<sup>47</sup> John Maddicott has noted that Gervase ‘seems at all points to have had a special interest in oaths’.<sup>48</sup> Indeed his works are the sole record of some nation-wide oath-takings relevant to our study. His primary interest, however, was his own house. In this way, his works are similar to those of Ralph of Diss.<sup>49</sup> Dean of St Paul’s, in London, from 1180/1, he was a well-informed and well-connected author of two complementary historical works. His *Abbreviatione Chronicorum* ran from the creation of the world to 1148; his *Ymagines Historiarum* continued his narrative to 1200. He probably began writing in the late 1180s and from 1188 his work is a contemporary description of events.<sup>50</sup>

Another group of Latin texts that will be examined were written in Normandy, before and after 1066. In part this is because they often have important things to say about

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<sup>43</sup> For Howden’s career between September 1189 and August 1190, see *ibid.*, pp. 132–39. For Richard I’s coronation, see below, pp. 33–35.

<sup>44</sup> *Ibid.*, pp. 140–41.

<sup>45</sup> *Ibid.*, pp. 128–30 and 142–44. Roger had been parson of Howden since, at the latest, 1174 (*ibid.*, p. 130).

<sup>46</sup> Gransden, *Historical Writing*, I, 219. She notes that much of the revival was because of the actions of the royal court, including Henry II’s commissioning of some historical works.

<sup>47</sup> See *ibid.*, pp. 253–54.

<sup>48</sup> J. R. Maddicott, ‘The Oath of Marlborough, 1209: Fear, Government and Popular Allegiance in the Reign of King John’, *English Historical Review*, 126 (2011), 281–318 (295).

<sup>49</sup> He has often been referred to as Ralph de Diceto. I am following the use argued for in Dauvit Broun, ‘Britain and the Beginnings of Scotland’, *Journal of the British Academy*, 3 (2015), 107–37 (117, n. 66).

<sup>50</sup> See Gransden, *Historical Writing*, I, 230–31.

England. But it is also important to look at Normandy when considering English institutions, both in comparison with Anglo-Saxon England and when tracing the way they developed after 1066. There are important differences between the sources available in pre-Conquest England and pre-Conquest Normandy. There is no pre-Conquest Norman collection of laws. The earliest Norman law books contain nothing of relevance for this thesis.<sup>51</sup> We are, therefore, reliant on chronicles. The earliest available is that of Dudo of St-Quentin. Writing between 996 and 1020, Dudo's work is largely myth.<sup>52</sup> However, his descriptions of events and ceremonies (even though the ceremonies themselves may well be mythical) can still be used to shed light upon practices at the time when he was writing. Our other pre-Conquest Norman chronicler is William of Jumièges. His *Gesta Normannorum Ducum* was begun in the early 1050s and finished by the end of the decade. William resumed writing in 1067, possibly at the request of William the Conqueror, and finished in early 1070.<sup>53</sup> The first four of William's seven books have a very close relationship to Dudo's work.<sup>54</sup> The latter three cover the middle of the eleventh century. William's *Gesta* was subsequently revised and added to by various individuals. The most notable of these are the 'E' and 'F' redactors: Orderic Vitalis and Robert of Torigni.<sup>55</sup> Orderic was English. Born near Shrewsbury in 1075, at the age of ten or eleven he moved to the abbey of Saint-Évroul (in Normandy), where he remained for the rest of his life.<sup>56</sup> He may have been working on his *Gesta Normannorum Ducum* as early as the late 1090s, possibly finishing by 1109, before making later revisions.<sup>57</sup> Orderic's *Gesta* formed the basis for Robert of Torigni's work.<sup>58</sup> This version of the *Gesta* was more than a mere copy, however, as Robert made interpolations based on Dudo and composed an eighth book on Henry I (concentrating on his position as duke of Normandy). Both writers are best known for their later works. Robert wrote a chronicle

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<sup>51</sup> See *Contumiers de Normandie: Textes Critique*, ed. by Ernest-Joseph Tardif, 2 vols (Rouen, 1881–1903), I: *Le Très Ancien Contumier de Normandie* (1881), pp. 1–101. See also the *Consuetudines et iusticie*, in Charles Homer Haskins, *Norman Institutions* (Cambridge, MA, 1918), pp. 277–84, for both an introduction and the text.

<sup>52</sup> Dudo, trans. Christiansen, p. xiii for dates of writing. Eric Christiansen's opinion runs thus: 'anachronism, mistaken identity, and misinformation are woven into the narrative, quite apart from political partisanship, rhetorical exaggeration, and hearty plagiarism' (*ibid.*, p. xv).

<sup>53</sup> *GND*, I, xxxii–xxxv. This second writing phase involved adding an account of the conquest of England to book vii; some minor revisions to the first half of book vii; a dedicatory letter to William; and an epilogue.

<sup>54</sup> *Ibid.*, p. xxxv. There are some differences between Dudo and William, however.

<sup>55</sup> See *ibid.*, pp. xx–xxi.

<sup>56</sup> *OV*, I, 2–6.

<sup>57</sup> For Orderic's years of writing the *Gesta*, see *ibid.*, pp. 29–30.

<sup>58</sup> For the information on Robert included here, see *GND*, I, lxxvii–xci and Gransden, *Historical Writing*, I, 261–63. He first completed his *Gesta* by c. 1139, but subsequently made emendations, the latest of which can be dated to after 27 July 1159. A Norman by birth, he entered the monastery of Le Bec in 1128, at some point becoming prior (probably in 1149), before being elected abbot of Mont-Saint-Michel in 1154.

in an annalistic style from 1150 until his death in 1186. Though often concerned with affairs on the continent, it contains vital information on England. More detailed for events to the north of the Channel is Orderic's vast *Historia Ecclesiastica*, written between 1123 and 1137.<sup>59</sup>

Various other pieces of evidence are used throughout the thesis. Other chroniclers supplement the ones mentioned here. When available, different sources are also used, whether that be, for example, charters or chance survivals of government writs. These often reveal the imperfections of chronicle accounts. It seems that chroniclers often reported what an oath may have amounted to rather than the precise wording of what was sworn. They interpret the oath rather than copying it. Though this is interesting in revealing how people thought about the oaths that were sworn, it points towards a wider problem. Oaths are not necessarily written down. If written, they are not necessarily accurately reported or remembered. If accurately transcribed, they are also not necessarily the type of source that easily survives. Oaths are spoken.

## Oaths

In modern English, there are a variety of nouns and verbs that describe solemn commitments: oaths are sworn; vows are vowed; pledges are pledged; affirmations are affirmed; solemn promises are solemnly promised. What differentiates these? In the medieval world, the boundaries between concepts such as oaths, pledges, sureties, and hostages were blurred.<sup>60</sup> Although there was overlap, there were also differences—oaths were clearly distinct from hostages, for example. Some loose definitions are useful. An invocation of the divine as witness is sometimes seen as the defining feature of an oath.<sup>61</sup> Others have argued that beyond the relationship between pronounced speech and the invocation of a superior power, there must be an implicit or explicit threat to the swearer: the oath is a self-curse.<sup>62</sup> It is also a speech act, an utterance that can be

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<sup>59</sup> OV, I, 32. He seems to have begun working on the *Historia Ecclesiastica* in the 1110s, but the bulk of this work was done between 1123 and 1137 (*ibid.*, pp. 31–34).

<sup>60</sup> Matthias Ammon, “Ge mid wedde ge mid aþe”: The Functions of Oath and Pledge in Anglo-Saxon Legal Culture’, *Historical Research*, 86 (2013), 515–35 (516). For the language of hostageship and other forms of surety, see Adam J. Kosto, *Hostages in the Middle Ages* (Oxford, 2012), pp. 7–18. For the use of hostages in submissions, often alongside oaths, see *ibid.*, pp. 70 *et seq* (early Middle Ages) and 78 *et seq* (from the late eleventh century).

<sup>61</sup> *OED*, s.v. ‘oath’. Vows, by contrast, often describe promises made to God (or a saint) (*OED*, s.v. ‘vow’).

<sup>62</sup> For a discussion of this, see Simone Lecoindre, “Ma langue prêta serment...”, in *Le Serment*, ed. by Raymond Verdier, 2 vols (Paris, 1991), I: *Signes et fonctions*, pp. 5–22 (6). According to this article, the many

considered as an action. Indeed, oaths are often accompanied by gestures of some sort. These gestures, or rituals, can be as important as the words spoken, and can even replace the words.<sup>63</sup> Also important is that there is a context in which oaths are sworn and performed. Some oaths are profanities, some are jokes, others create binding bonds with secular legal implications.<sup>64</sup> Words other than ‘oath’ might describe such undertakings. Though the vast majority of the commitments examined in this thesis use specific ‘oath’ words, we should picture a Venn diagram of different words, where we are interested in the intersection with a meaning of a solemn declaration invoking the divine.

In the medieval Christian world, the divine was the Christian God, often invoked by the words, ‘I swear by God that ...’. Rituals would often accompany the spoken act. The most frequent gesture described is the placing of a hand either on the relics of saints or on a holy book, usually the Gospels. Often, the right hand alone would be placed on the sacred object.<sup>65</sup> However, Henry II, when swearing his innocence regarding involvement in Thomas Becket’s death, swore his oath ‘*super sanctorum reliquias et super sacrosancta evangelia*’, and Harold Godwinson is depicted with each hand on a separate reliquary on the Bayeux Tapestry.<sup>66</sup> At times, such objects seem to have become integral to the oaths themselves. At Henry II’s court, it was argued that a case was invalid as a requisite oath had not been sworn ‘*super sacrosancta evangelia*’.<sup>67</sup> A book containing the words for the magnates’ oaths of allegiance was, at least as early as c. 1300, but perhaps also much earlier, kept alongside the most sacred relics of the king’s treasury.<sup>68</sup> Other holy objects, such as altars or the tombs of saints, might also be touched. The *Liber Eliensis* records an oath sworn ‘with his right hand placed upon the altar of the Holy Cross, with the very

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contributors to *Le Serment* agreed. See also, John Spurr, ‘A Profane History of Early Modern Oaths’, *Transactions of the Royal Historical Society*, 6th series, 11 (2001), 37–63 (38).

<sup>63</sup> For example, if the oath is read out by another and then nodded to by the swearer. Do words have to be spoken at all? Can an individual swear by thinking? Such questions need not overly trouble the historian. See François Billacois, ‘Le corps jureur: pour une phénoménologie historique des gestes du serment’, in *Le Serment*, ed. Verdier, I, 93–101 (93); Jean Gaudemet, ‘Ouverture’, in *Le Serment*, ed. Verdier, I, xiii–xiv (xiii); Raymond Verdier, ‘Présentation: sacramentum ... juramentum: serment ... jurement’, in *Le Serment*, ed. Verdier, I, xv–xix; and Spurr, ‘A Profane History’, pp. 44–45.

<sup>64</sup> In the words of John Spurr, oaths ‘are speech acts elaborated by ritual and context to perform a variety of functions’ (Spurr, ‘A Profane History’, p. 45).

<sup>65</sup> It is worth noting that oaths might be sworn on non-religious objects. For example, in fourteenth-century Bordeaux, people swore on the local *coutume* (Billacois, ‘Le corps jureur’, p. 100). I have come across no examples of such phenomena in my own research.

<sup>66</sup> Howden, *Chronica*, II, 35. For the Bayeux Tapestry image, see, for example, <http://www.sd-editions.com/bayeux/> or the front cover of either volume of *Le Serment*, ed. Verdier.

<sup>67</sup> Howden, *Chronica*, I, 224–25.

<sup>68</sup> *The Red Book of the Exchequer*, ed. by Hubert Hall, 3 vols (London, 1896), I, xii.

body of the Lord placed nearby and many relics of the saints'.<sup>69</sup> Proximity to objects of reverence could also be important to the extent that touching might not be required. A clause of Alfred's code stated that if a man charged another with neglecting to perform a promise under a solemn pledge (*godborges*), he should pronounce the oath of accusation in four churches; to clear himself the defendant had to do so in twelve.<sup>70</sup> Ralph of Diss, writing in the late twelfth century, seems to stress the importance of the presence of the living archbishop of Canterbury (William de Corbeil) when Hugh Bigod swore that Henry I had made Stephen heir on his deathbed.<sup>71</sup> There are also a few examples in the source material of oaths sworn whilst looking at Gospels.<sup>72</sup> This is important to bear in mind when considering oaths sworn *en masse* by a large number of people, such as presumably happened at Salisbury in 1086. The objects on which oaths were sworn and the setting of swearing ceremonies provided a backdrop to the spoken word that is important in considering the effect that was created in people's minds.

In this world, oaths were used in a wide array of situations.<sup>73</sup> There were those used within judicial settings.<sup>74</sup> They might act as a means of denial, of supporting evidence or fact, or of reinforcing written evidence. We see the use of oath-helpers, where numerous men swore what was essentially a character reference for one party in a dispute. Swearing was involved in marriage ceremonies and certain religious inaugurations, including royal consecrations. Other ceremonies marking a change in status were probably often

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<sup>69</sup> *Liber Eliensis: A History of the Isle of Ely from the Seventh Century to the Twelfth Compiled by a Monk of Ely in the Twelfth Century*, trans. by Janet Fairweather (Woodbridge, 2005), p. 448.

<sup>70</sup> *Af*, 33.

<sup>71</sup> Ralph of Diss, *Abbreviationes Chronicorum*, in *The Historical Works of Master Ralph de Diceto, Dean of London*, ed. by William Stubbs, 2 vols (London, 1876), I, 3–263 (248).

<sup>72</sup> Richard of Devizes, *Chronicle of the Time of King Richard the First*, ed. and trans. by John T. Appleby (London, 1963), pp. 33–34; GC, *Chronica*, p. 328; Howden, *Chronica*, II, 99; HP, p. 13. In this last instance, the pope explicitly forbade a bishop from touching the Gospels, as it would suffice to give evidence merely by looking at them.

<sup>73</sup> For the canonical justifications for the legality of oaths, see Richard H. Helmholz, *The Spirit of Classical Canon Law* (Athens, GA, 1996), pp. 146–52. Such justifications were necessary because of Matthew 5:34 and 5:37 which appear to condemn swearing. These passages led to certain medieval heretical groups refusing to swear (such as the Cathars). For some heretics in England refusing to swear oaths, see Howden, *GRHS*, I, 202–03 and Howden, *Chronica*, II, 106–07, 152, 155–56, and 160–66. Today, Quakers do not take oaths based on the same passages.

<sup>74</sup> Wendy Davies, 'Local Participation and Legal Ritual in Early Medieval Law Courts', in her *Brittany and the Early Middle Ages* (Farnham, 2009), ch. 9, pp. 48–61 (51). Patrick Wormald has questioned the importance of oaths within judicial processes in Anglo-Saxon England, noting that 'oaths mattered, but so, to a much greater extent than hitherto appreciated, did what modern justice would consider evidence, and such evidence was preferably in writing' (Patrick Wormald, 'Charters, Law and the Settlement of Disputes', in his *Legal Culture in the Early Medieval West*, pp. 289–311 (309)). John Hudson believes Wormald's argument is 'plausible', but notes that it is impossible to decide what proportion of disputes were actually decided by oaths (John Hudson, *The Oxford History of the Laws of England: Volume II: 871–1216* (Oxford, 2012), pp. 81–84).

accompanied by oaths. As we will see, free men swore oaths when entering tithing groups at the age of twelve. Individuals may have routinely sworn oaths when they were knighted.<sup>75</sup> Oaths may also have been used within commercial transactions. They were taken in ‘diplomatic’ settings, where agreements were made between sovereigns or between ruler and ruled. Men swore oaths of subjection to lords, promising loyal service. And, of course, oaths were sworn by subjects to kings.

## Language

Our sources are in three languages: Old English, Latin, and Anglo-Norman French. It is worth noting that the Venn diagram of different words that describe what we have defined as swearing roughly maps onto these languages.

### Old English

In Old English, the verb ‘to swear’ is *swerian*. The word for ‘oath’ is *að* (or *ap*). It often appears in the phrase *‘að 7 wed’*. Such ‘word pair’ constructions are common in Old English. *Wed* is usually translated as ‘pledge’. Its precise meaning is more complex. Often it refers to something akin to the modern English ‘surety’, or something given as security. It can keep this meaning when in the *‘að 7 wed’* form. For example, it probably has this specific meaning in the D-recension account of the submissions of various kings to Æthelstan at Eamont Bridge in 926: they established a covenant of peace *‘mid wedde 7 mid apum’*.<sup>76</sup> A contrast of meaning can perhaps be seen in the account within the ‘Annals of Æthelflæd’ of the people of York submitting to Æthelflæd, lady of the Mercians:

the people of York had promised her—some had given with a pledge, others had confirmed with oaths—that they would be [accepting] to her rule.

hæfdon eac Eforwicingas hire gehaten 7 sume on wedde geseald, sume mid apum gefæstnod þæt hi on hyre rædenne beon woldon.<sup>77</sup>

Does this imply a hierarchy of promises: all promised, some pledged, others swore? Elsewhere, *wed* does appear to be a type of promise, perhaps almost synonymous with *ap*. In the London Peace Guild, *wed* is used alone where we would expect to find references

<sup>75</sup> For some examples, see Matthew Strickland, *War and Chivalry: The Conduct and Perception of War in England and Normandy, 1066–1217* (Cambridge, 1996), pp. 110–111.

<sup>76</sup> *ASC(D)* 926 (p. 107).

<sup>77</sup> *ASC(C)* 918 (p. 105). The B, C, and (less fully) D manuscripts of the Chronicle preserve, for the years 902–924, a continuation of the ‘common stock’ with a Mercian bias. This section has often been termed the ‘Mercian Register’. Pauline Stafford renamed and attributed their dissemination to Æthelflæd’s nephew and foster-son, King Æthelstan. For references, see Brooks, ‘Why is the *Anglo-Saxon Chronicle* about Kings?’.

to oaths.<sup>78</sup> One of Æthelred II's laws refers to monastic vows with the phrase 'word and pledge' ('*word 7 wed*').<sup>79</sup> Æthelred's sixth code survives in contemporary Old English and Latin. The contemporary Latin renders '*að 7 wedð*' in one clause as '*iuramenta et vota*'—'oaths and vows'.<sup>80</sup> There are numerous other references in the law codes throughout our period to keeping 'oath and pledge' ('*að 7 wed*').<sup>81</sup> Rather than all referring generally to oaths and vows, however, it seems that in some of these instances, '*að 7 wed*' is a formulaic phrase, akin to our modern understanding of the meaning of 'oath'. Indeed, *iuramenta et vota* may simply be a rendering of this phrase in Latin, rather than carrying a literal meaning. Matthias Ammon has argued that *að 7 wed* were not synonymous, but had 'contiguity of meaning' when appearing together, with *að* referring to purely verbal promises and *wed* denoting something more formal, perhaps involving a ritual transaction.<sup>82</sup> However, it is possible that the couplet simply referred to the entire oath-act, *að* to the spoken words, *wed* to the rituals involved in swearing. In the words of E. G. Stanley, the word pair was 'confirmative', and 'since an oath is confirmed by a pledge, it is not surprising that *að and wedd* is a recurring formula in the Laws'.<sup>83</sup> It seems from the evidence that the precise meaning of *wed* varied in different circumstances. For our purposes, when examining the phrase *að 7 wed* in Chapter 3, we can view it as essentially having the meaning of 'oath', so long as these qualifications are borne in mind.

## Latin

Although Latin was written in England before the Norman Conquest, and Old English continued to be used after, there was a sharp change. The language of government became Latin. Many native chroniclers turned to use it as well. As already noted, in the twelfth century, various Old English laws were translated into Latin. It is interesting to see how translators treated *að 7 wed*. The *Quadripartitus* author offered various phrases:

<sup>78</sup> VI *As*, 8.5, 8.6, 10, and 11 all refer to 'pledges' or 'pledging'. Only clause 8.8 and the first appendix refer to 'oaths', whilst clause 12.2 refers to 'swearing'; all three of these are in judicial contexts.

<sup>79</sup> V *Atr*, 5. By extension, 'vow' is seemingly what is meant when at the start of the code it is reported that the king confirmed 'by word and by pledge' ('*ge mid worde ge mid wedde*') that he would observe the Christian faith (V *Atr*, 1).

<sup>80</sup> VI *Atr*, 28; VI *Atr Lat*, 28. For the use of the plural here, see below, p. 112.

<sup>81</sup> *Af*, 1 (quoted); II *Em*, 5; IV *As Latin*, 3.2; V *Atr*, 22.2; I *Cn*, 19.1. Cnut's letter to the English in 1020 also contains a warning not to violate '*aðas oððe wedð*' (*Cn* 1020, 14). For a fuller discussion of these clauses, see Chapter 3.

<sup>82</sup> Ammon, "'Ge mid wedde ge mid aðe'", p. 532. Though he recognises some exceptions, his statement that oaths were generally assertory and pledges promissory is severely undermined by the number of exceptions, especially the frequently sworn oaths of loyalty (*bold að*). For this claim, see *ibid.*, p. 517.

<sup>83</sup> E. G. Stanley, 'On the Laws of King Alfred: The End of the Preface and the Beginning of the Laws', in *Alfred the Wise: Studies in Honour of Janet Bately on the Occasion of her Sixty-Fifth Birthday*, ed. by Jane Roberts and Janet L. Nelson, with Malcolm Godden (Cambridge, 1997), pp. 211–21 (217 and 214).

*fidelium fides et iuramentum*;<sup>84</sup> *iuramentum et vadium*;<sup>85</sup> the plural *iuramenta et vadia*;<sup>86</sup> and *fides et sacramenta*.<sup>87</sup> These efforts seem to reflect a belief that it was a word pair that simply meant ‘oath’. The last of these examples was from the first half of Cnut’s Winchester code, also translated by the author of the *Consiliatio Cnuti*, who rendered it *iusiurandum et manufirmacio*.<sup>88</sup> This use of an unusual word, *manufirmacio* (literally, a strengthening with hands),<sup>89</sup> might support the argument that the lack of uniformity in translation represents confusion with the word pair. We can see a similar thing in the Worcester chronicler’s translations of certain passages in Old English chronicles. When describing the submissions to Æthelflæd at York, quoted above, ‘*sume on wedde geseald, sume mid apum gefastnod*’ became ‘*quidam pacto, quidam iuramento*’.<sup>90</sup> However, when describing the 926 Eamont Bridge agreement, he translated the similar ‘*7 mid wedde 7 mid apum fryp gefastnodon*’ as ‘*datoque sacramento, firmum cum eo foedus pepigerunt*’.<sup>91</sup> In one instance *wed* became *pactum*, in another *foedus*.<sup>92</sup> This variation in the translations of the Old English word pair *að 7 wed* might suggest that twelfth-century writers struggled to get to grips with its precise meaning.

These attempts at translation also reveal something more fundamental. Three oath nouns in Latin are used to translate *að*. Throughout our Latin sources we read of *sacramentum*, *iuramentum*, or *iurandum*, the latter with numerous prefixes, the most common of which renders it *iusiurandum*. In Classical Latin, the words were not only derived from different roots, but were used in different contexts. *Iuramentum* was the simple word for an oath derived from the verb ‘to swear’, *iurare*.<sup>93</sup> Such oaths were perhaps first used in legal contexts, for *iurare* was in turn derived from *ius* (‘law’).<sup>94</sup> *Iusiurandum*, also simply meaning oath, was formed from *ius* with the addition of the gerund of *iurare*. *Sacramentum* has a more complex history. Derived from the verb *sacrare*, in turn derived from *sacer*, ‘sacred’

<sup>84</sup> *Quadr*, *Af*, 1.

<sup>85</sup> *Quadr*, *II Ew*, 5.

<sup>86</sup> *IV As Latin*, 3.2. This does not survive in Old English, but we can assume it translates *að 7 wed*. *Quadr*, *V As*, prol 3 gives ‘*iuramenta et vadia et plegia*’ for the Old English ‘*ða apas 7 þa wedd 7 þa borgas*’.

<sup>87</sup> *Quadr*, *I Cn*, 19.1.

<sup>88</sup> *ConsCn*, *I Cn*, 19.1.

<sup>89</sup> This is the only cited example in *DMLBS*, s.v. ‘manufirmatio’. Also see C. Du Cange et al., *Glossarium mediae et infimae latinitatis* (Niort, 1883–1887), s.v. ‘manufirma, manufirmatio, manufirmare’.

<sup>90</sup> *JW*, *II*, 378–79; *ASC(C)* 918 (p. 105). The use of *pactum* to translate *wed* is also seen in the translation of the description of the 1014 agreement between Æthelred II and his leading men: ‘*mid worde 7 mid wedde*’ was rendered ‘*verbis et pacto*’ (*JW*, *II*, 478–79; *ASC(E)* 1014 (p. 145)).

<sup>91</sup> *JW*, *II*, 386–87; *ASC(D)* 926 (p. 107).

<sup>92</sup> Such a translation was perhaps used by the author of the Ten Articles of William I. See below, p. 115.

<sup>93</sup> It takes the form *iuro* + *mentum* (*Oxford Latin Dictionary*, ed. by P. G. W. Clare, 2nd edn (Oxford, 2012), s.v. ‘iuramentum’)

<sup>94</sup> *Etymological Dictionary of Latin and the other Italic Languages*, ed. by Michael de Vaan (Leiden, 2008), s.v. ‘ius’.

or ‘holy’,<sup>95</sup> it originally only described specific types of oath. The earliest evidence of its use is in a specific legal context as an oath sworn by both parties in a civil dispute. However, most early references to the word are in a military context, as an oath of allegiance binding soldiers together under their leader and establishing a military community.<sup>96</sup> In Late Antiquity, it acquired other meanings, though writers such as Gregory of Tours, Isidore of Seville, and Bede were aware of the military context that *sacramentum* could imply.<sup>97</sup> Throughout our period of study, it carried the same meaning as *iuramentum* and *iusiurandum*, as the *Quadripartitus* translations above suggest.<sup>98</sup>

The sources used in this study do not seem to attach any difference in meaning to the words. Importantly, oaths of loyalty are referred to using all three. The following table, a sample of the word use of certain late-eleventh- and early-twelfth-century writers, is illustrative:<sup>99</sup>

	<i>sacramentum</i>	<i>iuramentum</i>	— <i>iurandum</i>
William of Jumièges	17	1	1
William of Poitiers	8	0	5
Eadmer, <i>HN</i>	14	1	7
Orderic Vitalis [HE]	14	6	10
Henry of Huntingdon	11	8	14
William of Malmesbury, GRA	42	5	6
Geoffrey of Monmouth, HRB	0	3	7

There is no specificity to how the words are used. What stands out from the table is that there was authorial preference for certain words. *Iuramentum* is the least frequently used for most authors, Eadmer using it only once (significantly this was in a copied letter)<sup>100</sup> and William of Poitiers not using it at all. Henry of Huntingdon and Geoffrey of Monmouth are the only authors who do not use *sacramentum* the most, it not appearing

<sup>95</sup> *Oxford Latin Dictionary*, ed. Clare, s.v. ‘sacramentum’; *Etymological Dictionary of Latin*, ed. Vaan, s.v. ‘sacer’.

<sup>96</sup> The first chapter of Owen M. Phelan, *The Formation of Christian Europe: The Carolingians, Baptism, and the Imperium Christianum* (Oxford, 2014), pp. 8–47, is a discussion of the word *sacramentum* from Antiquity to the Middle Ages. For its use in Antiquity, see *ibid.*, pp. 11–14. See also *Oxford Latin Dictionary*, ed. Clare, s.v. ‘sacramentum’.

<sup>97</sup> Phelan, *Formation of Christian Europe*, pp. 14–31.

<sup>98</sup> John Spurr states, in an uncited passage, that, in canon law, *iuramentum* and *sacramentum* were sometimes given different meanings: breach of the former was a venial sin; breach of the latter was perjury and a mortal sin (Spurr, ‘A Profane History’, p. 57). I have not yet found from where this statement is derived.

<sup>99</sup> Human error may have crept into this table. This is not hugely significant: the table is meant as a general illustration and if various entries increased in value by one or two, the overall picture would not change.

<sup>100</sup> Eadmer, ed. Rule, p. 247.

even once in Geoffrey's work. This preference for *sacramentum* is a feature of most writers, with the Williams of Jumièges and Malmesbury most notable in this choice. Both also scarcely use *\_\_iurandum*.

A closer examination of William of Malmesbury's *Gesta Regum Anglorum* is interesting. Of the five references to *iuramentum*, only one cannot be explained as anomalous in some way.<sup>101</sup> Of the six references to *\_\_iurandum*, much the same can be said: one stands without an obvious explanation on its own.<sup>102</sup> Most of the uses of *iuramentum* and *\_\_iurandum* are copied from other sources.<sup>103</sup> A few uses of *\_\_iurandum* seem to be in order to differentiate from different *sacramentums* in the surrounding text.<sup>104</sup> William's use of nouns other than *sacramentum* for the purpose of differentiating separate oaths is highlighted in a passage that uses all three oath words. In two long passages that concern, among other things, Harold's oath to William the Conqueror, *sacramentum* is used to refer to Harold's oath, *iusiurandum* is used to refer to a theoretical oath taken by a maiden in her father's house, whilst *iuramentum* is used when Gyrrh says that no oath has been taken by the rest of the English.<sup>105</sup> William of Malmesbury seems to have sometimes used different oath words to distinguish between different oaths.

Others clearly contradict this apparent logic. William of Jumièges says that Harold '*facta fidelitate de regno plurimis sacramentis*' ('Harold did loyalty concerning the realm with many oaths'), but then three sentences later has Duke William complain that Harold was not keeping the '*fidem quam iuramento sponponderat*' ('the faith which he had pledged with oath').<sup>106</sup> Thus two oath words appear to refer to the same thing, unless we take the *iuramentum* (singular) to refer to one specific oath of Harold and the *sacramenta* (plural) to refer to all the different oaths he swore. Another example comes from Eadmer. He has messengers of the king give Anselm two choices, to swear a *iusiurandum* or leave the

<sup>101</sup> The unexplained *iuramentum* is at William of Malmesbury, *GRA*, I, 480–81.

<sup>102</sup> The unexplained *\_\_iurandum* is at *ibid.*, pp. 546–47.

<sup>103</sup> Regarding *iuramentum*: one entry is copied from a papal letter; another is copied (in only two manuscript traditions) from William's book on Glastonbury; and a third is copied from a charter. See respectively, *ibid.*, pp. 774–75, 804–05, and 222–23. In this final example, there also appears a *iusiurandum*. Alfred goes to Rome to defend himself on oath (*iusiurandum*), but after he swears the oath (*iuramento*), he dies.

<sup>104</sup> One differentiates from a *sacramentum* two sentences earlier; another from a *sacramentum* 6 sentences earlier, but in the same passage; and a third from a *sacramentum* in a different passage, but only two sentences earlier. See respectively, *ibid.*, pp. 228–29, 352–53, and 464–65. Another *iusiurandum* differentiates from a *iuramento*, although this is copied from a charter (see n. 103).

<sup>105</sup> See respectively, William of Malmesbury, *GRA*, I, 446–47 and 452–53.

<sup>106</sup> William of Jumièges, *GND*, VII.13 (II, 160–61). This passage is also interesting in implying that *fides* could be the same as *fidelitas*. The *\_\_iurandum* used by William of Jumièges stands alone and is not used to distinguish from a different oath (*ibid.*, v.16 (II, 38–39)).

kingdom. In the following sentence it is stated that if he takes the *sacramentum*, then he should make restitution to the king in his courts for disturbing the peace.<sup>107</sup> There is one oath, but two oath words. Similarly, *Quadripartitus*, when translating the Alfred and Guthrum treaty, uses *iusiurandum* when translating the ‘*aðum*’ with which all confirmed the treaty in the prologue, but *iuramentum* at the end of the treaty when referring to the day on which (seemingly the same) oaths (*aðas*) were sworn.<sup>108</sup> There is no significant difference between the various words in our sources.

### Anglo-Norman French

More abrupt than the increased use of Latin as a result of the Conquest was the displacement of an English-speaking elite by aristocrats who spoke a dialect of French. Their word for oath was *serement*.<sup>109</sup> Perhaps this fed into the apparent preference for *sacramentum* seen above. In our period, French did not become the language of government record, law compilation, or chronicle writing. There are exceptions, such as the *Leis Willelme*, an ‘imposture’ of the twelfth-century, and some items were translated into French, such as the Articles of William I.<sup>110</sup> As the language of the court, many literary works were composed in French. Very little of this finds its way into this thesis. It is more important to bear in mind that French was the elite spoken language for much of our period. The difference between written languages and spoken languages must be borne in mind. After the Conquest our sources are mostly written in Latin about a populace that spoke either French or English. Even before the Conquest, written Old English could differ from the spoken word.<sup>111</sup> Are the words recorded in oath formulae the precise words spoken? Were oaths recited in Latin or in archaic forms of Old English? Or do our sources record translations or approximations? What language did twelfth-century nobles swear in? What about free men or serfs? In most cultures oaths are sworn in the vernacular, though there are exceptions.<sup>112</sup> It seems likely that when peasants swore, they swore in their vernacular. Why have them swear if they would not

<sup>107</sup> Eadmer, pp. 87 | 83–84.

<sup>108</sup> *Quadr*, *AGu*, prol and 5.

<sup>109</sup> Interestingly, modern French is the only major Romance language that takes its word for oath from the Latin *sacramentum* (*serment*). Others derive their word for oath from *iuramentum*, such as Italian (*giuramento*), Spanish (*juramento*), and Romanian (*jurământ*). The French word for a profane oath, *le juron*, is derived from the French verb *jur*er (to swear), which is in turn derived from the Latin *iurare*.

<sup>110</sup> *Leis Wl*; *Wl art Fr*.

<sup>111</sup> After *c.* 1000, spoken and written Old English seem to have diverged. Before that, the evidence is less clear, but attempts at standardizing spelling suggest that the languages might have also been diverging across the tenth century. I would like to thank Paul Bibire for this comment.

<sup>112</sup> François Billacois, ‘Rituels du serment: des personnages en quête d’une “voix off”’, in *Le Serment*, ed. Verdier, I, 23–33 (31). He notes as exceptions to this ancient Mesopotamia and contemporary Chad and Côte d’Ivoire.

understand what they were swearing? Such logic is less useful the higher up the social ladder we climb. Individuals could have sworn and understood what they were swearing in either Latin or French. It is certainly plausible that more formal oaths, such as those performed as part of doing homage, were spoken in Latin.

## Historiography

The only book-length study explicitly concerned with a similar topic to ours is Walther Kienast's 1952 *Untertaneneid und Treuvorbehalt in Frankreich und England*.<sup>113</sup> The subtitle of the work reveals the approach of the author: *Studien zur vergleichenden Verfassungsgeschichte des Mittelalters*. This is a study in comparative constitutional history. Kienast is concerned with society's hierarchical legal structure or, more simply, with who owes loyalty to whom. He examines the evidence through the lens of a 'feudal' model. In its perfect form this depicts a pyramid, with the king at the top with vassals who owe loyalty to him. These 'crown-vassals' (*Kronvasallen*) have their own vassals (*Aftervasallen*), who owe loyalty to them in turn. In this model, there is no loyalty link between the *Aftervasallen* and the king that bypasses the *Kronvasallen*. The *Aftervasallen* in turn have men beneath them, and the model extends down the social scale. Kienast examines the extent to which this model existed in medieval France and England by looking at two institutions. One of these is the *Untertaneneid*, the oath of the subjects. It is an oath of loyalty sworn to the king by those who are not necessarily *Kronvasallen*, thus deviating from the feudal pyramid. The second is the *Treuvorbehalt*, the reservation of fealty, a clause that can appear in the oaths sworn by man to lord that reserves loyalty to someone else—*salva fidelitate X*. Kienast's primary concern is with the appearance of the clause *salva fidelitate regis*, saving fealty to the king. His main argument is as follows. First, the *Untertaneneid* existed in Carolingian Francia, but had ceased to be sworn by the end of the ninth century and was not revived in Capetian France. By contrast, in England it was routinely sworn after 1066, and possibly from the ninth century. As a result of this, fealty to a lord in England routinely contained a clause reserving loyalty to the king—the *Treuvorbehalt*. In France, though such clauses appear in some of the oaths sworn by *Aftervasallen*, it was more sporadically used. Great importance is attached to the *Untertaneneid* in England, with

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<sup>113</sup> Walther Kienast, *Untertaneneid und Treuvorbehalt in Frankreich und England: Studien zur vergleichenden Verfassungsgeschichte des Mittelalters* (Weimar, 1952).

Kienast attributing to it the peculiar nature of the English parliament and the breakdown of the feudal hierarchy in England.<sup>114</sup>

The historiographical movement away from constitutional history over the twentieth century, especially the latter half, need not be discussed here. Nevertheless, some of the problems with Kienast's study need addressing, besides the grandiose statements such as those above, or the predictable attachment of great constitutional significance to the Salisbury oath.<sup>115</sup> Of greatest relevance to our thesis are the parts of the book concerned with the *Untertaneneid* in England.<sup>116</sup> What makes an oath an *Untertaneneid* seems to be that an oath of loyalty is sworn to the king or one of his heirs by those who are not tenurially linked to the king. As a result of this narrow definition, a host of different types of oath are lumped together. For example, the 1087 and 1100 oaths, reportedly sworn to William Rufus and Henry I respectively, are seen as renewals of the Salisbury oath of 1086, without any argument for why they should be thus associated.<sup>117</sup>

By contrast, John Maddicott recognises the importance of context in his 2011 paper on the 'Oath of Marlborough' of 1209.<sup>118</sup> This article primarily focuses on the political events of 1209, when all free men in the kingdom did homage and swore fealty to King John and his baby son Henry, some doing so at a central ceremony at Marlborough. In order to assess the 'novelty' of these events, Maddicott also examines a broader context.<sup>119</sup> This entails a brief look at earlier events, episodes, and institutions that he splits into three themes. First there is a page-long look at the oaths sworn when entering tithings; second is a survey of 'special oaths of fealty' sworn at times of crisis after 1066; third is a study of the oaths sworn to heirs, after 1066.<sup>120</sup> These mini-studies provide a useful framework for thinking about the types of oaths sworn to kings in medieval England, and this framework works for Maddicott's purpose of explaining a single

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<sup>114</sup> 'Aber die Bedeutung des englischen Prinzips reicht darüber hinaus und erstreckt sich auf die eigentümlichste Institution des mittelalterlichen Englands, das Parlament.' 'Die durchbrechung der feudalen Hierarchie beruht auf der direkten Verpflichtung aller Untertanen für die Krone.' *Ibid.*, p. 303.

<sup>115</sup> 'So wird in unserer Betrachtung der oath of Salisbury, unbeschadet der Frage seine praktischen Wirksamkeit, wieder zu einer der grundlegenden Tatsachen der englischen Verfassungsgeschichte' (*ibid.*, p. 183).

<sup>116</sup> See especially *ibid.*, pp. 173–204.

<sup>117</sup> 'Der Untertaneneid ist unter den beiden folgenden Regierungen *erneuert* worden, jetzt sofort nach der Thronbesteigung, sowohl Wilhelms II wie Heinrichs I' (*ibid.*, p. 190, emphasis added). Though Kienast speaks of the oath happening after the coronation, this is only a brief statement about context. The oaths sworn are the same as those in 1086.

<sup>118</sup> Maddicott, 'The Oath of Marlborough'.

<sup>119</sup> *Ibid.*, p. 292 for quote.

<sup>120</sup> See *ibid.*, pp. 292–93, 294–96, and 297–98 respectively.

political event of 1209. This thesis questions a number of the broader claims that Maddicott makes in the article, but seeks to build on his work rather than undermine it.

Other historians have also engaged in episodic studies. For example, much ink has been spilled, both within books and dedicated articles, on the famous oath of Salisbury.<sup>121</sup> Perhaps the most notable contribution among many is J. C. Holt's influential work, arguing that homages were done at Salisbury for the holdings listed in the Domesday survey.<sup>122</sup> In contrast to Kienast, context is key. A second example is the plethora of writing on the oaths sworn in Anglo-Saxon England.<sup>123</sup> Patrick Wormald's work has been most influential here. The posthumously published papers preparatory to volume II of his *The Making of English Law* puts most forcefully the argument made elsewhere that all free men swore loyalty to the king from Alfred's reign onwards.<sup>124</sup> Like Wormald, other historians concerned with different issues have touched upon things relevant to this thesis. Historians other than Kienast, such as William Stubbs and Frank Stenton, have asked questions of some of the sources from a constitutional perspective. Biographical studies, such as Matthew Strickland's on Henry the Young King or Stephen Church's on King John, have analysed some of the same events. Approaching the evidence solely from the theme of oath-taking allows for a different perspective. This approach also helps in beginning to fill a notable gap in the historiography of medieval England: the role, function, and form of oaths.

Historians of other time periods and other places have studied such things. John Spurr has noted that they often approach the topic in one of two ways. Either there is a history of oaths that sees 'a steady-state in which oaths are pragmatically justifiable because they bind some of the people some of the time' or 'a story of declining belief in their "awesomeness"'. Oaths are either something that we see universally in all cultures, where their effectiveness varies, or their usage and effect has declined in an increasingly secular world. Spurr proposes, in sketching a history of early modern oaths, to supplement this 'reverential' approach with a 'profane' one. Rather than only seeing oaths as 'a single

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<sup>121</sup> See Chapter 4.

<sup>122</sup> J. C. Holt, '1086', in *Domesday Studies: Papers Read at the Novocentenary Conference of the Royal Historical Society and the Institute of British Geographers, Winchester, 1986*, ed. by J. C. Holt (Woodbridge, 1987), pp. 41–64.

<sup>123</sup> See Chapter 3.

<sup>124</sup> Patrick Wormald, 'The Pursuit of Crime', in *Papers Preparatory to the Making of English Law: King Alfred to the Twelfth Century: Volume Two: From God's Law to Common Law*, ed. by Stephen Baxter and John Hudson (unpublished), ch. 9, pp. 1–73. See also Wormald, 'Engla Lond: The Making of an Allegiance', pp. 366–67; Patrick Wormald, 'A Handlist of Anglo-Saxon Lawsuits' in his *Legal Culture in the Early Medieval West*, pp. 253–87 (284); and Wormald, *The Making of English Law*, pp. 148 and 283.

action invoking a transcendent God with potentially serious consequences’, we should also read oaths as ‘a form of behaviour and a protean behaviour at that’. They exist in various forms and are a part of human interaction.<sup>125</sup> Despite the plethora of scenarios in which oaths are used, we can box them into certain useful categories. Some useful terms in defining the current thesis are whether oaths are promissory, committing a swearer to a future action, or assertive, supporting a matter of ‘fact’ that has already happened.<sup>126</sup> Also useful when thinking about context is whether they are socio-political or judicial.<sup>127</sup>

Building on such ideas, this thesis asks some fundamental questions about a type of socio-political promissory oath: those that subjects swore to kings. Who swore oaths to the king? When did they swear? What sorts of oaths were sworn? What commitments did swearing lead to? Where were oaths sworn, and what rituals were involved in swearing? A thematic approach is adopted in examining our evidence. As we are dealing with oaths sworn to kings, the cycle of kingship—accession; planning for succession; and the reign itself—provides an appropriate framework for thinking about the chronological context of swearings. The first three chapters examine ‘ordinary’ oaths sworn as part of this normal process. There are general patterns that repeat throughout the period at certain events. In this sense they were ‘ordinary’; they were routine, though elements of the oaths, such as their form, might change.

Such ordinary patterns are clearly revealed by our first chapter, which examines what oaths were sworn to newly acceding kings. As we will see, elites always swore oaths of loyalty around the time of the coronation. Who else swore when a new king was crowned? When, relative to the rituals of the consecration, did people swear? As there are limitations to the sources for answering such questions, we will also examine how subjects swore oaths to those who became kings through conquest.

The second chapter turns to look at how oaths were used in succession planning. Our sources are silent in England before 1066. It is only from 1115 onwards that we begin to see oaths used in such a way. Commitments were sometimes sworn to a designated heir,

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<sup>125</sup> Spurr, ‘A Profane History’, see especially pp. 39–41; quotes on pp. 41 and 62. For a reverential argument in discussing the importance of oaths during the English reformation, see Jonathan Michael Gray, *Oaths and the English Reformation* (Cambridge, 2013), pp. 8–9.

<sup>126</sup> Spurr, ‘A Profane History’, p. 38.

<sup>127</sup> J. Fezas and R. Jacob, ‘Fonctions sociales du serment pouvoirs et justices’, in *Le Serment*, ed. Verdier, I, 221.

generally by elites. Though there was considerable experimentation in succession practice in the twelfth century, it seems that this was an adaptation of a Norman custom that predated the Conquest. The chapter will therefore examine the sources for ducal succession in Normandy as well.

Narrative sources provide the bulk of evidence for these first two chapters. The third makes greater use of legal material. It examines the ordinary oaths sworn within reigns. The evidence allows this chapter to focus on an institution that concerned people lower down the social scale. Throughout the period some oaths were sworn by all over the age of twelve in certain social groups. Exactly who swore changes over our period of study. The oaths that they swore seem to have changed as well.

The final chapter turns to 'extraordinary' oaths. Sworn in response to unpredictable events, they were oaths in non-normal, non-ordinary circumstances. The main focus of the chapter is on swearings as a response to an external threat: looming invasions or the possibility of the excommunication of the king. We will also look at the introduction of certain other widely sworn oaths in the late twelfth century that may have been a reaction to different phenomena.

Finally, the conclusion seeks to address some questions raised by the thesis. Did women swear any of the oaths we discuss? Were there any refusals to swear oaths ordered by the king? What were the consequences of refusing? And what were the consequences of the oaths that were sworn?

## Accession

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In 1189, two days after his consecration, King Richard I ‘received the homages and fealties from the archbishops and bishops, abbots, earls and barons of his land’ (*recepit rex homagia et fidelitates de archiepiscopis et episcopis, abbatibus, comitibus et baronibus terrae suae*).<sup>1</sup>

Roger of Howden’s account of this accession is the most detailed of any in our period of study. It is probably that of an eyewitness.<sup>2</sup> Does it reflect the ordinary process of elite submission around the time of the accession of a new king?

We should first ask a more fundamental question: were any of the accessions in our period of study routine or regular? Only a handful entailed what we might see as the ordinary process of an eldest son succeeding a naturally dying father. Many of the accessions had more than one claimant. In a few instances, the disputes were so serious that it led to open violence and even to conquests. Nevertheless, some accessions can be seen as more ordinary than others. For example, William Rufus’s accession was less extraordinary than that of his conquering father. That there was an ordinary process entailed in the accession of a new king is clearly demonstrated by the survival of a relatively large number of consecration *ordines*. These lay out the details of the ceremony. They are conventionally split into three recensions. There are various arguments about when each one was first used.<sup>3</sup> As a corpus, they cover the ordinary consecration ceremony of West Saxon and English kings over our entire period of study. None state

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<sup>1</sup> Howden, *GRHS*, II, 84. Howden’s Latin does not necessarily mean that the ecclesiastics did homage to the king; this would have been at odds with the rule that they were forbidden from doing homage, for which, see below, pp. 62–63. See also Howden’s revised account in the *Chronica*, III, 13, where there is no mention of archbishops, and abbots are not mentioned in every manuscript.

<sup>2</sup> As noted in the Introduction, Howden was probably still a royal clerk at the time of the coronation. Richard’s consecration was on 3 September. Entries in the *Gesta* reveal that Howden was no longer a royal clerk by 18 September. If not a direct witness to the ceremony and the events in the days after it, he was close enough to be extremely well informed.

<sup>3</sup> The second recension is further split into ‘A’ and ‘B’ versions. Janet Nelson argues that the ‘A’ recension was used at Edward the Elder’s consecration. She convinces in arguing that this *ordo* was used in the early tenth century, but the *ordo* may rather (or also) have been used at Æthelstan’s consecration (Janet L. Nelson, ‘The Second English *ordo*’, in her *Politics and Ritual in Early Medieval Europe* (London, 1986), pp. 361–74 (365–67)). She also argues that the ‘B’ recension was first used at Edgar’s first consecration in 960 and that a later version was used in 973 (*ibid.*, pp. 370–74), revising Janet L. Nelson, ‘Inauguration Rituals’, in her *Politics and Ritual*, pp. 283–307 (296–303)). For the debate on the dating of the third *ordo*, see George Garnett, ‘The Third Recension of the English Coronation *ordo*: The Manuscripts’, *Haskins Society Journal*, 11 (1998), 43–71. This offers a convincing criticism of Janet L. Nelson, ‘The Rites of the Conqueror’, in her *Politics and Ritual*, pp. 375–401, where it is argued that it was first used at Harold Godwinson’s coronation in 1066.

that oaths or submissions were to be done to the king during the ceremony.<sup>4</sup> Such oaths were not part of the religious process of making somebody into a king (or queen). In Howden's account, the submissions of elites came two days after the ceremony that the *ordines* describe. Indeed, as we will see, oaths were sworn *around the time of* accessions. Some submissions on oath came before the ceremony; some came in the hours and days afterwards.

## The language of loyalty

Before turning to examine the evidence that directly touches on what oaths were sworn by subjects to newly ascended kings, we must expand on some of the terms in Howden's account: *homagium* and *fideltas*.

### Homage

'*Homagium*', and '*hominium*', are translated as 'homage'.<sup>5</sup> The Old English term, which does not appear in any recension of the Anglo-Saxon Chronicle before the twelfth century, is '*manræden*'. People 'did homage' (*fecit homagium*). Becoming someone's man frequently meant the same thing (*devenit hominem*), at least by the late twelfth century.

According to *Bracton*, homage was the 'bond of law' (*iuris vinculum*) between man and lord, by which the lord was bound to warrant, defend, and acquit a tenant holding property from him, in return for service and the keeping of faith (*fides*) to the lord.<sup>6</sup> Though written later than the limits for our period of study, this reflects what homage roughly amounted to in the late twelfth century. In the 1180s, *Glanvill* could state that:

homages are only done for lands and free tenements, for services, for rents precisely fixed in money or in other things.

fiunt autem homagia de terris et tenementis liberis tantummodo, de serviciis, de redditibus certis assignatis in denariis vel in aliis rebus.<sup>7</sup>

Though the things that homage was done for is broader than that seen in *Bracton*, it was still done for something.

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<sup>4</sup> For the first recension, the 'B' text, and the third recension, with English translations, see *English Coronation Records*, ed. by Leopold G. Wickham Legg (London, 1901), pp. 3–13, 14–29, and 30–42 respectively. For the 'A' text, see Paul L. Ward, 'An Early Version of the Anglo-Saxon Coronation Ceremony', *English Historical Review*, 57 (1942), 345–61 (350–61).

<sup>5</sup> A couple of authors attempted to combine them into *hominagium*. This appears in the writings of the London-based ecclesiastics Gilbert Foliot and Ralph of Diss. For cites, see *DMLBS*, s.v. 'hominagium'.

<sup>6</sup> *Bracton*, II, 228.

<sup>7</sup> *Glanvill*, IX.2. For the date of composition (1180s), see *ibid.*, pp. xxx–xxxii.

Historians have debated the extent to which these principles can be stretched back over the twelfth century. J. C. Holt, when writing about the Salisbury oath, sworn a century before *Glanvill* was written, states that:

it seems inescapable that by 1086 men had come to think that homage was part of a reciprocal act ... performed ... usually in return for recognised lawful seisin of land. ... Much more often than not, homage and tenure went hand in hand.<sup>8</sup>

Though made with characteristic force, there are caveats in Holt's prose: 'it seems inescapable that'; 'much more often than not'. John Hudson's caution over the evidence available even leads him to note that *Glanvill's* statement could have been seeking to eliminate a practice that the king's circle saw as improper, rather than expressing a generally accepted rule.<sup>9</sup> Regarding the necessary link between homage and landholding, the 'earlier evidence is less definite'.<sup>10</sup> That there was a refinement in classifications of both landholding and rituals over the twelfth century supports this cautious stance.<sup>11</sup> The principles of what homage amounted to are likely to have been more fluid in the late eleventh century. We should perhaps be thinking of loose tenurial structures when thinking about lordship, especially royal lordship. This is particularly important when considering a second passage in *Glanvill*:

for lordship alone homages are not done to anybody except to the prince.  
pro solo vero dominio non debent homagia alicui excepto principe.<sup>12</sup>

In the late twelfth century, non-tenurial homage could thus be done to a *princeps*.<sup>13</sup> If this principle can be stretched back to the Conquest, it means that, to some extent, we can sidestep the debate on whether or not homage was always tenurial.

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<sup>8</sup> Holt backs his statements up with a footnote citing two passages of William of Poitiers and one from Eadmer (J. C. Holt, '1086', in *Domesday Studies: Papers Read at the Novocentenary Conference of the Royal Historical Society and the Institute of British Geographers, Winchester, 1986*, ed. by J. C. Holt (Woodbridge, 1987), pp. 41–64 (59, n. 78)). George Garnett, making heavier use of Eadmer and William of Poitiers, has also argued that after 1066 homage went hand-in-hand with a tenurial relationship (George Garnett, *Conquered England: Kingship, Succession, and Tenure, 1066–1166* (Oxford, 2007), *passim*). For the Salisbury oath, see Chapter 4.

<sup>9</sup> John Hudson, *The Oxford History of the Laws of England: Volume II: 871–1216* (Oxford, 2012), p. 433; see also p. 336 for a discussion of the evidence.

<sup>10</sup> *Ibid.*, p. 433.

<sup>11</sup> For a discussion of some of the reasons for a refinement in the classifications of land holding, including the role of church reformers, see John Hudson, *Land, Law, and Lordship in Anglo-Norman England* (Oxford, 1994), pp. 104–06.

<sup>12</sup> *Glanvill*, IX.2.

<sup>13</sup> It is likely that the use of *princeps* rather than *rex* reflects Roman law. It may also have the rights of the duke of Normandy in mind. It is possible that it is also referring to sons of kings. As we will see in Chapter 2, non-tenurial homages seem to have been done to William Adelin and the young Henry, both before *Glanvill* was written.

Our sources also speak of ‘liege homage’, ‘liege lord’, and ‘liege man’: *ligium homagium*, *ligius dominus*, and *ligius homo*. These are some of the terms used to describe a specific type of lordship and the homage through which it was entered into. Men could have more than one lord. The liege lord was the superior among these. In the final quarter of the twelfth century, the royal treasurer Richard fitzNigel wrote that the *dominus ligius* was ‘the only one to whom [the man] is held in the rule of lordship so that he owes nothing against him for anyone else, except the king’ (*‘cui soli ratione dominii sic tenetur ut contra ipsum nichil alii debeat, rege dumtaxat excepto’*).<sup>14</sup> In *Glanvill* and *Bracton*, this lord is referred to as *capitalis dominus*: the chief lord.<sup>15</sup> For *Glanvill*, this lord was the one from whom the man held his *capitale tenementum*: his chief tenement.<sup>16</sup> *Homagia* could be done to several lords, ‘but one of these [homages] ought to be foremost and made with *ligeancia*’ (*‘sed unum eorum oportet esse precipuum et cum ligeancia factum’*).<sup>17</sup> *Ligeantia*, or *ligantia*, is a complex word, seemingly with multiple meanings. The passages in *Glanvill* have it as an action that was carried out—something that was ‘done’—but also as something that was subsequently ‘owed’. John Maddicott is right in stating that it is ‘an ambiguous word’, sometimes meaning fealty, sometimes homage, sometimes homage for lordship alone to the king, sometimes a ‘vager “allegiance”’.<sup>18</sup> Indeed, the adjective *ligius* could also have such varied meanings.<sup>19</sup> In the twelfth century, the terms are beyond a precise definition that works in all contexts, but both terms entailed a notion of supreme superiority.

## Fealty

*Fidelitas* is usually translated as ‘fealty’, although sometimes ‘loyalty’ is more apt. Sometimes oaths of fealty (*sacramentum fidelitatis*) are referred to; other times individuals swear fealty (*jurat fidelitatem*).<sup>20</sup> Sometimes, writers have *fides* sworn. This seems to be a

<sup>14</sup> Richard fitzNigel, *Dialogus de Scaccario: The Dialogue of the Exchequer and Constitutio Domus Regis*, ed. and trans. by Emilie Amt and S. D. Church (Oxford, 2007), pp. 124–25. For details on the author, Richard fitzNigel, and for the date of writing (begun in 1177), see *ibid.*, pp. xiii–xx.

<sup>15</sup> This lord is also referred to as *praecipuus et ligius* in *Bracton*, II, 230.

<sup>16</sup> *Glanvill*, IX.1. In another passage, the landholding is also referred to as *primum feudum*, stressing that the holding was the first or oldest of his lands (*ibid.*, VII.10). In this passage it also states that an individual could have more than one chief lord.

<sup>17</sup> *Ibid.*, IX.1. Elsewhere, it is stated that *ligeancia* was owed to the chief lord (*ibid.*, VII.10). *Ligeantia* is also to be ‘done’ in *Bracton*, II, 231, 236, 253, 255, and 259, and IV, 329.

<sup>18</sup> J. R. Maddicott, ‘The Oath of Marlborough, 1209: Fear, Government and Popular Allegiance in the Reign of King John’, *English Historical Review*, 126 (2011), 281–318 (306). See also DMLBS, s.v. ‘ligantia’.

<sup>19</sup> Hudson notes that although liege lordship was not necessarily the original or sole meaning of *ligius* ‘the word was easily applied in situations of multiple lordship’ (Hudson, *Oxford History of the Laws of England*, p. 432).

<sup>20</sup> It should be noted that sometimes just an oath word referred to an oath of loyalty. One manuscript of William of Malmesbury’s *Gesta Regum Anglorum* only gives ‘*sacramento*’, where others give ‘*fidelitatis sacramento*’ (William of Malmesbury, *GRA*, I, 662–63).

description of the same act. A statement of Anselm, recorded by Eadmer, is revealing in this respect:

However, it is well known that all faith which is legally promised to any man, whoever he may be, is strengthened by the faith of God. Thus for instance a man pledges to a man: 'By the faith which I owe to God, "I will be" faithful to you.'

Scitur tamen, quia omnis fides quae cuivis homini legaliter promittitur, ex fide Dei roboratur. Sic enim spondet homo homini, 'Per fidem quam debeo Deo, fidelis tibi "ero".'<sup>21</sup>

Instances of swearing faith may be referring to this 'faith' within the wording of the oath.<sup>22</sup> As this passage also suggests, *fides* was not only sworn, it could also be 'pledged'. Such pledges of faith seem to have been the *fidelitas* commitment but made without relics or books and any words of imprecation, and therefore without some of the features that define an oath.<sup>23</sup>

*Fidelitas* was sworn as part of doing homage. Whilst homage could not be done without *fidelitas*, *fidelitas* could be sworn without doing homage. We will see examples of this throughout the thesis. By the late twelfth century, there were two contexts in which *fidelitas* was routinely done without homage. First, there were certain types of landholding and certain circumstances of acquisition for which tenants swore fealty to their lord, and did not do homage.<sup>24</sup> Second, archbishops, bishops, and abbots, once consecrated, would swear fealty alone to the king. They were forbidden, as clerics, from doing homage to laymen after the Council of Clermont in 1095.<sup>25</sup>

### The form of loyalty oaths

In Old English, loyalty oaths were *bold aðas*. A text known as *Swerian* records various oath formulae, including the *bylðaðas* sworn by a man to a lord. The dates of the composition of each formula in the text, and of the subsequent compilation of texts together, are unknown. Patrick Wormald has suggested that the text was compiled after 900 and that

<sup>21</sup> Eadmer, pp. 88–89 | 85.

<sup>22</sup> When translating *fides* in such contexts, we thus keep it as 'faith', rather than 'fealty'. Cf. François Louis Ganshof, *Feudalism*, trans. by Philip Grierson (London, 1952), p. 68, who takes *fides* to mean 'fealty'. The *DMLBS* does not give 'fealty' as a definition (s.v. 'fides').

<sup>23</sup> Hudson, *Oxford History of the Laws of England*, p. 319, n. 89. Pledges of faith are an understudied topic. S1404, dated between 1045 and 1048 refers to someone having 'pledged the faith', but it is not clear this is the same as the post-Conquest pledge of faith, or whether pledges of faith have pre-Conquest origins (S1404; see Hudson, *Oxford History of the Laws of England*, p. 101).

<sup>24</sup> See *Bracton*, II, 225–26.

<sup>25</sup> For details on this, see below, pp. 62–63 and Garnett, *Conquered England*, pp. 206–07.

the clause concerning loyalty was probably post-Alfredian.<sup>26</sup> We are probably looking at a ninth-/early tenth-century text. The loyalty oath runs as follows:

By the Lord, before whom these holy things are holy, I will be loyal and true to N., and love all that he loves, and hate all that he hates, in accordance with God's justice and worldly custom, and never, willingly and intentionally, in word or deed, will I do aught that is hateful to him, on condition that he keeps me as I will deserve, and carries out all that was our agreement, when I bowed to him and chose his favour.

On ðone Drihten, þe ðes haligdom is fore halig, ic wille beon N. hold 7 getriwe 7 eal lufian ðæt he lufað 7 eal ascunian ðæt he ascunað, æfter Godes rihte 7 æfter woroldgerysnum, 7 næfre willes ne gewealdes, wordes ne weorces owiht don ðæs him laðre bið, wið þam ðe he me healde, swa ic earnian wille, 7 eall þæt læste, þæt uncer formæl wæs, þa ic to him gebeah 7 his willian geceas.<sup>27</sup>

The precise wording of an oath is vitally important in understanding the type of commitment entered into by the swearer. In such a solemn context, with the oath beginning with an invocation of God and the citing of the presence of relics, the words would have stuck in the swearers' minds in a powerful way.

Somewhat surprisingly, no text of the precise words sworn by a man to a lord survive from England between this text and the thirteenth century. *Bracton* gives details of the ceremony of *homagium*. The man was to put his hands between the two hands of the lord and say:

I become your man concerning the tenement which I hold of you, and I will bear you faith concerning life and limbs and earthly honour, and I will bear you faith against all people(s), saving the faith owed to the lord king and his heirs.

Devenio homo vester de tenemento quod de vobis teneo ... et fidem vobis portabo de vita et membris et terreno honore ... et fidem vobis portabo contra omnes gentes ... salva fide debita domino regi et heredibus suis.

Immediately after this, the man was to do an oath of *fidelitas* to the lord:

Hear this, lord N., that I will bear you faith concerning life and limbs, in body, goods, and earthly honour, so help me God and these holy things [relics].

Hoc audis domine N. quod fidem portabo de vita et membris, corpore et catallis et terreno honore, sic me deus adiuvet et hæc sancta.<sup>28</sup>

<sup>26</sup> Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century: Volume One: Legislation and its Limits* (Oxford, 1999), p. 384.

<sup>27</sup> *Swer*, 1. This is very similar to the oath given in Edmund's Colyton code. See below, pp. 107–11.

<sup>28</sup> *Bracton*, II, 232.

The first part of this ceremony was a personal ritual between two people. The second part invoked the divine, with the man swearing by God and upon relics. The wording of the two parts is effectively the same, though the oath omits the ‘*contra omnes*’ clause.

Although there are no surviving oath formulae in the eleventh and twelfth centuries, an aspect of the wording of homage in *Bracton*, absent from the oath in *Swerian*, can be seen to exist in loyalty commitments earlier in the twelfth century: the *contra omnes* clause. Three charters issued by the Empress Matilda mention *contra omnes* clauses.<sup>29</sup> The letter announcing the submission of Henry the Young King to his father at Bur in May 1175 also used such a clause.<sup>30</sup> The Treaty of Falaise of 1174 points in the same direction.<sup>31</sup> This was an agreement made between Henry II and William I of Scotland, part of which entailed William and the earls and barons of Scotland becoming the liege men of Henry II. The treaty states that William’s homage was *contra omnem hominem*, that the earls’ and barons’ homage was to be *contra omnem hominem*, that future heirs were to do homage *contra omnem hominem*, and that if the agreement was broken by William these elites were to hold with Henry *contra regem Scotiae et contra omnes homines*. That the submissions, which also entailed doing *fidelitas*, contained a clause stating that they were ‘as to a liege lord, just as the king’s men are accustomed to do’, points to this being the customary way that homage was done or at least when done to the crown. Roger of Howden’s works suggest the same thing. The formula, ‘X becoming the man of Y and swearing *fidelitas* to him *contra omnes homines*’, is Howden’s way of referring to homage when the man doing homage is the grammatical subject.<sup>32</sup> By contrast, when the lord is the subject, Howden has ‘Y receive *homagium* from X’ with no mention of a *contra omnes homines* clause. A good example of this is provided by Howden’s two accounts of the 1175 settlement at Bur

<sup>29</sup> A charter of 1139 records Miles of Gloucester receiving Matilda as heir and *domina* and doing liege homage to her *contra omnes homines* (RRAN, III, no. 391, p. 150); an 1144 charter similarly has Humphrey de Bohun becoming her liege man *contra omnes homines* (*ibid.*, III, no. 111, p. 40); and a third gives a slightly different form with William de Beauchamp doing homage to her *contra omnes mortales*, and especially against Waleran of Meulan (*ibid.*, III, no. 68, p. 26).

<sup>30</sup> Ralph of Diss, *Ymagines Historiarum*, I, 400.

<sup>31</sup> Howden, *GRHS*, I, 96–99; a trans is in *EHD*, II, 226–49.

<sup>32</sup> If proof were needed that this is describing homage, it is provided in one account. In 1188 Howden has Richard become the man of Philip, king of France, and swear fealty to him *contra omnes homines*. In return, ‘*pro hac igitur fidelitate et homagio*’, Philip promises to return certain castles to Richard. See Howden, *GRHS*, II, 50 and Howden, *Chronica*, II, 354–55.

For examples of this usage, see *GRHS*, I, 6 (*Chronica*, II, 4–5; submissions to Henry the Young King after his coronation in 1170); *GRHS*, I, 126 (*Chronica*, II, 105; submission of Gilbert of Galloway to Henry II in 1176); *GRHS*, I, 162–63 (John made king of Ireland and certain Irish made to become his men and swear fealty to him *contra omnes homines*); *GRHS*, II, 9 (*Chronica*, I, 318; Richard submitting to Henry II in 1187 after rebelling); *GRHS*, II, 164–65 (*Chronica*, III, 108; submissions of elites in Cyprus to Richard I in 1191); *Chronica*, IV, 141 (King William of Scotland submits to John in 1200).

between Henry II and Henry the Young King. In the *Gesta*, Howden has Henry II receive *homagium et ligantiam* from his son; in the *Chronica*, Henry the Young King is the subject and he becomes the liege man of his father and swears fealty to him *contra omnes homines*.<sup>33</sup>

It seems likely, when considering the above, that the homage formula given in *Bracton* was roughly the wording of the homage commitment in England from at least *c.* 1140. There is evidence from the continent that suggests that there was a similar oath formula in use in the early twelfth century. The chronicler Galbert of Bruges famously gives a description of the 1127 homages done to the Count of Flanders, William Clito. He states that the man doing homage was to state:

I promise on my faith that henceforth I will be faithful to Count William, and will observe my homage to him completely against all in good faith and without deceit.

Spondeo in fide mea me fidelem fore amodo comiti Willelmo, et sibi hominum integraliter contra omnes observaturum fide bona et sine dolo.<sup>34</sup>

After this he was to swear an oath upon relics. This ceremony is clearly similar to that in *Bracton*. By contrast, the text of an oath sworn in 1041 by Duke Břetislav I of Bohemia to Henry III of Germany is more reminiscent of that given in *Sverian*:

iusiurandum regi fecit ut tam fidelis illi maneret quam miles seniori esse deberet, omnibus amicis eius fore se amicum, inimicis inimicum.<sup>35</sup>

This may represent a form of the oath common across Germanic-speaking rather than Romance-speaking regions.<sup>36</sup> If this assumption is correct, we might see the change in usage in England as a result of the Conquest. As we shall see, the oaths sworn at Salisbury in 1086 were sworn *contra omnes homines*.<sup>37</sup> However, there is too little evidence to make a confident conclusion. It is unclear what form the oath of loyalty commonly took in the second half of the eleventh century.<sup>38</sup>

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<sup>33</sup> Howden, *GRHS*, II, 82–83; Howden, *Chronica*, II, 71.

<sup>34</sup> Galbert of Bruges, *Histoire du meurtre de Charles le Bon*, ed. by Henri Pirenne (Paris, 1891), p. 89.

<sup>35</sup> See Ganshof, *Feudalism*, trans. Grierson, p. 69.

<sup>36</sup> The Carolingian oaths that survive differ in wording from all these instances. For some of these, see below, pp. 113–14.

<sup>37</sup> See Chapter 4.

<sup>38</sup> There may also be a relationship with the development of warranty clauses. I would like to thank Matthew McHaffie for drawing my attention to *contra omnes mortales* warranty clauses being standard in charters of the eleventh and twelfth centuries, and for sharing a forthcoming article entitled ‘The Sources of Legal Language: The Development of Warranty Clauses in Western France, *c.* 1030 to *c.* 1239’. See also Paul Hyams, ‘Warranty and Good Lordship in Twelfth Century England’, *Law and History Review*, 5 (1987), 437–503 (475).

## Late-twelfth century accession practice

The individuals who directly held land from the king were known as tenants-in-chief. In this capacity they owed him tenurial homage. When tenants-in-chief died, their heirs did homage to the king. When a king died, submissions needed to be made to his successor. This was why, as we have already seen, the archbishops, bishops, abbots, earls, and barons did homage and fealty to the newly crowned Richard. That homages were done in such a way is to be expected in any late twelfth-century European kingdom. In 1189, the submissions came two days after the consecration ceremony. This chapter now returns to the question posed earlier: was this pattern indicative of normal practice? It also asks another: what other oaths were sworn around the time of accessions?

### 1189: Richard I

Howden also informs us of oaths sworn by a wider group. In both his *Gesta Regis Henrici Secundi* and his *Chronica*, he notes that in the immediate aftermath of Henry II's death, whilst Richard was arranging his affairs on the continent, his mother, Eleanor of Aquitaine 'sent honourable men through all the counties of England in order to carry out the order of Duke Richard in this form' (*'misit per universos comitatus Angliae viros honorabiles ... ad mandatum Ricardi ducis Normanniae filii sui exequendum in hac forma'*).<sup>39</sup> Included in this *mandatum* is the following order:

And each one of the free men of the whole kingdom should swear that they will bear faith to lord Richard, lord of England, son of the lord king Henry and the lady queen Eleanor, concerning his life and limbs and earthly honour, just as to his liege lord, against all men and women who are able to be alive and dead; and that they will be subject to his jurisdiction, and they will offer him aid towards peace and justice by keeping everything.

Et juret unusquisque liberorum hominum totius regni, quod fidem portabit domino Ricardo domino Angliae, filio domini regis Henrici et dominae Alienor reginae, de vita et membris suis et honore terreno, sicut ligio domino suo, contra omnes homines et foeminas qui vivere poterunt et mori; et quod ei justitiales erunt, et auxilium ei praestabunt ad pacem et justitiam suam per omnia servanda.<sup>40</sup>

Therefore a threefold oath was to be sworn to Richard by the free men of England. They were to keep faith with Richard as to their liege lord, that is, to be loyal to him; to be

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<sup>39</sup> Howden, *GRHS*, II, 74.

<sup>40</sup> *Ibid.*, pp. 74–75.

*justitiales* to him, seemingly meaning to be subject to his jurisdiction;<sup>41</sup> and to offer him aid (*auxilium*) against all mortal men and women.

The oaths were not sworn to him as *rex Angliae*, but as *dominus Angliae*, lord of England.<sup>42</sup> In a forthcoming article, Stephen Church argues that after Stephen's capture by Matilda's forces in 1141, Bishop Henry of Winchester provided the title *domina Anglorum* for Matilda in order to solve the problem of who could exercise royal power when there was no king.<sup>43</sup> The title did not mean someone was 'monarch designate', but held 'the special sense of the interim royal title'.<sup>44</sup> Church goes on to argue that the title *dominus Angliae* was subsequently used in a similar way by Richard and John whilst they remained on the continent before their coronations. They confirmed charters with the title, the implication being that the *dominus Angliae* had the same authority as the *rex Angliae*. Church's argument convinces. Does it have significance for the title that Eleanor of Aquitaine is given in Howden's account looked at above: *domina regina*? Both *dominus* and *domina* were used in other ways.<sup>45</sup> They could simply mean 'lord' or 'lady'. As we will see elsewhere in the thesis, kings were frequently referred to as *dominus rex* (lord king) without the specific technical meaning just examined. It is likely that Eleanor's title reflects this.

Another chronicler reported on these submissions to Richard. Writing in the late 1190s, William of Newburgh states that whilst Richard was on the continent, 'he was received with solemn vows and with joy by the nobles and also the common people' (*nobilium simul et plebium sollempnibus votis gaudiisque excipitur*).<sup>46</sup> William's language is both interesting and revealing. His use of the word 'vow' (*votum*) to refer to this type of oath is unusual.

<sup>41</sup> See DMLBS, s.v. 'justitialis'.

<sup>42</sup> The *Chronica* account is almost exactly the same as that in the *Gesta*. Worth noting, however, is that in the *Chronica*, Richard is referred to as *dominus* and *rex*, rather than the *dominus dominus* given in the *Gesta* (Howden, *Chronica*, III, 4–5).

<sup>43</sup> Stephen Church, 'Succession and Interregnum in the English Polity: The Case of 1141', *Haskins Society Journal* (forthcoming). I would like to thank Professor Church for sending me a draft of this paper. For an extensive earlier discussion of how the title *domina* was used by Matilda and those writing about her, see also Garnett, *Conquered England*, pp. 213–31, where it is concluded that 'the precise meaning of this title remains unclear'.

<sup>44</sup> Here, Stephen Church is quoting from J. H. Round, *Geoffrey de Mandeville* (London, 1892), p. 80.

<sup>45</sup> George Garnett has pointed to the use of *domina* for prospective queen-consorts, stating that it 'can reveal little about its use to describe Matilda's unprecedented status'. He correctly notes this after pointing out that although John of Worcester described Adeliza on her marriage to Henry I as *regni domina electa*, but as *regina* the following day, Eadmer referred to Adeliza as *futura regni domina* before her marriage, without any implication that this was only a pre-coronation status (Garnett, *Conquered England*, p. 213).

<sup>46</sup> WN, *HR4*, I, 293. For the debate over when exactly in the late 1190s William was working, see William of Newburgh, *The History of English Affairs*, ed. and trans. by P. G. Walsh and M. J. Kennedy, 2 vols to date (Warminster, 1988–), I, 4.

He also has *nobiles* swearing as well as the *plebes*. Should we therefore interpret the *liberi homines totius regni* of the *mandatum* in a broad sense as all those who were not villeins? Not necessarily. It is possible that different orders were sent to elites, and that they swore at a centrally organized ceremony.

### 1199: John

Howden writes of a similar process of submission before the consecration in 1199. Whilst John was still on the continent, Archbishop Hubert Walter and William Marshal were sent to England and

they made the men of the kingdom, whether from the cities or the towns, and the earls and barons and free tenants swear fealty and peace to John, duke of the Normans, son of King Henry, son of Empress Matilda, against all men.

fecerunt homines regni, tam de civitatibus quam de burgis, et comites et barones, et libere tenentes, jurare fidelitatem et pacem Johanni Normannorum duci, filio Henrici regis, filii Matildis imperatricis contra omnes homines.<sup>47</sup>

Unlike the *mandatum* copied into the 1189 account, this was a report of events as Howden saw them from Yorkshire. This may explain the slight differences in the detail of what precisely was sworn on the two occasions, such as there being a threefold commitment in 1189 and a twofold one in 1199.<sup>48</sup> Like William of Newburgh's account of 1189, Howden has both elites and commoners required to swear, though he is more specific about which groups both included—earls and barons on the one hand; free tenants and citizens of towns and cities on the other. Though it is far from certain, it is likely that Howden's list of those who submitted in 1199 was true of 1189 as well.

Rather than swear the oath, seemingly in protest against it, many of the elites prepared for war (*'universi, tam episcopi quam comites et barones, qui castella habebant, munierunt illa hominibus et vitu et armis'*).<sup>49</sup> Hubert Walter, William Marshal, and Geoffrey fitzPeter, the justiciar, convened an assembly at Northampton in response. Here, after being given certain assurances, the assembled swore fealty and faithful service to John against all men (*'sub hac igitur conventionione, supradicti comites et barones juraverunt Johanni duci Normanniae*

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<sup>47</sup> Howden, *Chronica*, IV, 88.

<sup>48</sup> That the 1199 account is said to be 'against all *homines*' in comparison to the 1189 'against all *homines et foeminas*' does not seem to carry any significance. *Homines* alone can include women. I believe both phrases also appear in warranty clauses (a commitment of the lord to the man), which were a counterpart to the commitment of the man to the lord.

<sup>49</sup> Howden, *Chronica*, IV, 88.

*fidelitatem et fidele servitium contra omnes homines*).<sup>50</sup> The king of Scotland refused to submit in order to wait for John's arrival, waiting to see what he would do regarding Northumbria and Cumbria. It is clear that these nobles did not want to swear oaths to an absent John before he had guaranteed certain things to them. Though there are possible factors—the character or reputation of John in 1199; the role of Eleanor of Aquitaine in 1189; the rival succession claims of John's nephew, Arthur—it is not clear why there had not been a similar reaction in 1189.

There is no mention of elite submission after John's accession. This does not mean, however, that such submissions were not done. Though no longer a witness of day-to-day courtly life, Howden's work is again useful. He mentions that, on the same day as the consecration, William Marshall and Geoffrey fitzPeter were invested with their earldoms and that Hubert Walter was made chancellor.<sup>51</sup> In one manuscript of Howden's *Chronica*, a marginal note, which has almost been entirely erased, records the incomplete sentence that 'on the same day of his coronation, John king of England gave to William de Braose ...' (*eodem die coronationis suae Johannes rex Angliae dedit Willelmo de Braiusa ...*).<sup>52</sup> Did investitures such as this go alongside the performance of homage? It seems likely.

The accessions of 1189 and 1199 allow certain things to be sketched, but they also raise a number of questions. It seems clear that submissions were made by the tenants-in-chief, via the performance of homage, to the newly crowned king in the hours and days that followed the coronation ceremony itself. The timing of this is what is perhaps most interesting, rather than that it happened. Less clear is the role that wider society played. Did the free men (or elites) who swore *before* the accession to a *dominus Angliae* also swear *after* the accession to a *rex Angliae*?<sup>53</sup> If so, no chronicler mentions it in 1189 or 1199. Did the wider community ordinarily swear oaths around the time of the accession? In considering these questions, it is imperative to keep in mind that silences are not necessarily evidence of absence.

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<sup>50</sup> *Ibid.*, p. 88.

<sup>51</sup> *Ibid.*, p. 90.

<sup>52</sup> *Ibid.*, p. 90.

<sup>53</sup> It is worth noting for comparison that in 802 Charlemagne had oaths sworn to him as an Emperor, required because the oaths sworn to him in 793 had been to a king. See below, 113–14.

## 1170: Henry the Young King

Though never sole king of England, Henry II's eldest son was crowned at Westminster on 14 June 1170.<sup>54</sup> Again, Roger of Howden gives detailed accounts of the crowning in both his *Gesta* and his *Chronica*. Again, the submissions came after the actual consecration. In this instance they were a day later:

*Gesta* Moreover, on the day after this consecration, the king made William, king of Scotland, and his brother David, and all the earls and barons, and the free tenants (*francos tenentes*) of his [Henry's] kingdom become the men of the new king, his son, and he made them swear *ligantias* and fealties against all men on the relics of saints, saving his fealty.

In crastino autem hujus consecrationis, fecit rex Willelmum regem Scotiae et David fratrem suum, et omnes comites et barones, et francos tenentes regni sui, devenire homines novi regis filii sui, et fecit eos super sanctorum relliquias jurare illi ligantias et fidelitates contra omnes homines, salva fidelitate sua.<sup>55</sup>

*Chronica* And on the day after his coronation, the king the father made William, king of the Scots, and David, his brother, and the earls and barons of the kingdom become the men of the new king, and swear fealties to him against all men saving his fealty.

Et in crastino coronationis illius fecit rex pater Willelmum regem Scottorum, et David fratrem suum, et comites et barones regni devenire homines novi regis, et jurare ei fidelitates contra omnes homines salva fidelitate sua.<sup>56</sup>

The two accounts are subtly different. The account in the *Chronica* is a summary of that given in the *Gesta*. The Latin is made clearer and the account is condensed. It is difficult to assess whether any significance should be placed on the minor changes in language. Is there a reason that *consecratio* becomes *coronatio*, or that *rex Scotiae* becomes *rex Scottorum*? They seem to be changes in prose rather than substance. For our purposes there are two significant differences. The first is the omission of the 'free tenants' in the *Chronica*. Rather than a correction, it seems likely that this is a simplification—an important reminder that the silence of chroniclers on oaths by all free men at other coronations is not evidence of absence. The second interesting change is that the swearing of *ligantias et fidelitates* in the *Gesta* becomes a swearing of *fidelitates* alone in the *Chronica*. Again this appears to be a simplification. Another account that mentions the 1170 submissions, that

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<sup>54</sup> For the oaths sworn to him as an heir, see below, pp. 75–79. The oaths discussed here are those sworn to him as *rex*.

<sup>55</sup> Howden, *GRHS*, I, 6.

<sup>56</sup> Howden, *Chronica*, II, 5.

of Gervase of Canterbury, only mentions fealty being sworn.<sup>57</sup> The process appears to be homage being done for lordship alone.<sup>58</sup>

## The post-Conquest kings

Does the earlier evidence contradict or add to what we have seen above? It could be argued that the accession of Richard was the most ‘ordinary’ of post-Conquest accessions. There was no serious other claimant to the throne. Even John’s accession, though his nephew Arthur was a potential rival, can be thought of as relatively ordinary. That of Henry II was more complex. In 1153, detailed arrangements were made for him to be Stephen’s successor. Even though Stephen had a son when Stephen died in 1154, Henry became king. There is very little evidence concerning any submissions made around the time of this accession.<sup>59</sup> What there is comes from a much later source. Gervase of Canterbury states that when Henry returned to England after spending time on the continent, he received fealties of the leading men of the kingdom at Winchester, before being crowned at London (*Wintoniam pervenit, ibique confluentium ad se principum fidelitates accepit*).<sup>60</sup> That the leading men reportedly submit *before* the coronation is reminiscent of the arrangements of his sons’ coronations looked at above, though in this instance the yet-to-be-crowned king was present. The swearing of *fidelitates* before the consecration, rather than the doing of homage, might have been designed as a pre-consecration acceptance of the settlement made in 1153. It may have been this act that was repeated in 1189. However, Gervase was writing over 30 years later.<sup>61</sup> His *Chronica* also has Richard I ‘received’ (*receptus est*) at Winchester before being crowned at London,<sup>62</sup> and, although it is unclear if being ‘received’ has any implication of oaths being sworn, Gervase may simply be projecting his knowledge of one accession onto another. Unfortunately there is no other evidence regarding any submissions made around the time of Henry’s accession. We therefore turn to look at the three accessions that preceded his, where there were serious rivals with potentially better claims to the crown.

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<sup>57</sup> GC, *Chronica*, p. 220. He reports the earls and barons swearing it.

<sup>58</sup> The phrasing is that which is frequently used by Howden to describe homage. See above, pp. 31–31.

<sup>59</sup> Though there is much on the arrangements made in 1153 for him succeeding, for which, see below, pp. 83–87.

<sup>60</sup> GC, *Chronica*, p. 159.

<sup>61</sup> For the date of Gervase’s writing, see *The Historical Works of Gervase of Canterbury*, ed. by William Stubbs, 2 vols (London, 1879–80), I, xx–xxi.

<sup>62</sup> GC, *Chronica*, p. 457.

### 1135: Stephen

Stephen's accession was controversial. In the late 1120s and early 1130s, various elite figures, including Stephen, had sworn to support the succession of Henry I's daughter Matilda.<sup>63</sup> When Henry died in 1135, Matilda was in France with her husband, Geoffrey of Anjou. Stephen seized the throne. Many seem to have been convinced that the oaths sworn to Matilda were invalid. Hugh Bigod helped this cause by swearing that Henry had appointed Stephen heir on his deathbed. However, others supported the claim of the Empress, provoking a complex civil war.

That elites submitted around the time of the accession is again clear.<sup>64</sup> The author of the *Gesta Stephani* reports that once it was known over England that Stephen was king,

almost all the chief men of the whole kingdom gladly and respectfully accepted him, and having received very many gifts from him, and also enlargement of their lands, they devoted themselves wholly to his service with a voluntary oath, after paying homage.

omnes fere primi totius regni laete eum et veneranter recepere, plurimisque ab eo muneribus donati, sed et terris amplificati, liberali cum iureiurando, praemisso hominio, eius sese servitio ex toto manciparunt.<sup>65</sup>

First, investitures were confirmed and gifts were made, then homage was done, and an oath of service was sworn. Presumably this oath was the fealty sworn along with the doing of homage. Submissions only coming once the news had spread that Stephen was king, rather than in the hours and days immediately after the coronation, probably reflects the political circumstances of his accession rather than representing a routine process. Indeed, according to William of Malmesbury, there were only three bishops and a 'handful' (*paucissimus*) of *optimates* present at the actual consecration.<sup>66</sup> The broader pattern whereby investitures and gifts came before the submissions might reflect the ordinary order of events. It is worth remembering for comparison that in 1199 investitures came on the same day as the coronation, but that in 1189 and 1170 submissions were done at least a day later.

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<sup>63</sup> For which, see below, pp. 64–73.

<sup>64</sup> Henry of Huntingdon stated that all who had sworn oaths to Matilda, whether prelates, earls, or magnates, did homage to Stephen (*HH*, pp. 700–03). In a famous passage the Peterborough Chronicler said that all had done homage and paid oaths to Stephen, before breaking them (*ASC(E)* 1137 (p. 263)). William of Malmesbury noted that bishops swore fealty to Stephen on the condition that he maintain the freedom of the church and observance of its discipline (William of Malmesbury, *HN*, pp. 32–33).

<sup>65</sup> *GS*, pp. 12–13.

<sup>66</sup> William of Malmesbury, *HN*, pp. 28–29.

There is some evidence of a broader swathe of the population submitting in the *Gesta Stephani*'s detailed account of Baldwin de Redvers' resistance to Stephen almost immediately after his accession.<sup>67</sup> Baldwin held the castle of Exeter against Stephen, in response to which the citizens of the town sent for the king. When Exeter castle fell, Stephen was convinced to allow those inside to depart unharmed. One of the arguments presented was that 'those men had not sworn to the royal majesty, nor had they taken up arms except in the fealty of their lord' ('*addebant et illos non in regiam maiestatem iurasse, nec nisi in fidelitatem domini sui arma movisse*').<sup>68</sup> Because Baldwin's men had not sworn oaths to the king, it was acceptable that they had followed their lord.<sup>69</sup> The implication is that had they sworn oaths to the king, this would have overridden the *fidelitas* owed to Baldwin. A further possible implication of this is that it was usual for those below tenants-in-chief to swear to the king around the time of the coronation.

There are problems with using the *Gesta Stephani* for these conclusions. This part of the *Gesta* is written from a vehemently pro-Stephen perspective. The author contrasts throughout the validity of the voluntary oaths of loyalty/fealty sworn to Stephen (as the tenant-in-chiefs' lord) with the invalidity of the forced oaths sworn to Matilda. Those who fight against Stephen are thus breaking their oaths to him. As part of this narrative drive, more generally those who keep oaths of loyalty are heavily praised; those who break them are condemned. Therefore, in the account of the Exeter siege, the praise or condemnation of Baldwin's followers is not based on their actions towards Stephen, but on their actions towards their own lord. Those Baldwin places inside the castle at Exeter are praised. They are 'no less than the flower of all England' ('*totius duntaxat Angliae florem*').<sup>70</sup> By contrast, Baldwin's men at Plympton, who surrendered when they heard that the king was approaching, are condemned as *inertissimi*, *inconstantis animi*, and *proditores* for abandoning their lord.<sup>71</sup> A pro-Stephen account thus praises certain rebels when it fits

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<sup>67</sup> For the motives for Baldwin's rebellion, amongst other things, see Robert Bearman, 'Baldwin de Redvers: Some Aspects of a Baronial Career in the Reign of King Stephen', *Anglo-Norman Studies*, 18 (1996), 19–46.

<sup>68</sup> *G.S.*, pp. 42–45.

<sup>69</sup> The contrasting treatment of Baldwin de Redvers, who was exiled, can be explained either by him earlier submitting to Stephen and then rebelling, or by a principle that tenants-in-chief who refused to submit to the king would be forced to do so.

Matthew Strickland suggests that Stephen's magnanimity 'may have set a dangerous precedent', highlighting that Orderic Vitalis said of his execution of the garrison at Shrewsbury in 1138 was 'because unruly men regarded his gentleness with contempt and many great lords scorned to come to his court when summoned' (Matthew Strickland, *War and Chivalry: The Conduct and Perception of War in England and Normandy, 1066–1217* (Cambridge, 1996), p. 249). More generally, on this siege of Exeter, see *ibid.*, *passim*.

<sup>70</sup> *G.S.*, pp. 34–35.

<sup>71</sup> *Ibid.*, pp. 34–37.

with the author's overall narrative argument. The detail concerning the reasons given for the treatment of Baldwin's men may reflect this rather than reality.

### 1086 and 1100: William Rufus and Henry I

Hugh the Chanter describes a relatively familiar process of elite submission in his account of Henry I's accession in 1100. After Henry's consecration, at a later council in London, 'the archbishop [of York] and bishops, the princes and leading men, and others, after homages had been done and fealties had been sworn, guaranteed possession of the kingdom to him' (*archiepiscopus et episcopi, principes et proceres et alii, factis regi hominiis et fidelitatibus iuratis, regnum ei assecraverunt*).<sup>72</sup> That these submissions came at a later council is probably a result of the coronation itself being carried out in great haste. Thomas, the archbishop of York, reportedly hastened towards London from Ripon as soon as he heard of Rufus's death, but on arriving discovered that Henry had already been crowned.<sup>73</sup> It is likely that many other bishops and nobles did not get to Westminster in time for the ceremony. That they 'guaranteed possession of the kingdom to him' at this later council is probably a further consequence of their earlier absence. Their approval of his consecration as king was still important.

Regarding wider submissions, there is an enigmatic account from the Peterborough Chronicle. The chronicler reports that after Henry had vowed before the altar at Westminster to abolish injustices and maintain good laws, he was consecrated by Maurice, bishop of London. The Chronicle continues: 'all in this land submitted to him and swore oaths and became his men' (*him ealle on þeosan lande to abugon 7 aðas sworon 7 his men wurdon*).<sup>74</sup> This is clearly describing a wider submission than the account of Hugh the Chanter. It is also strikingly similar to the account given by the Peterborough Chronicle of William Rufus's consecration: 'all the men/people in England submitted to him and swore him oaths' (*ealle þa men on Englalande him to abugon 7 him aðas sworon*).<sup>75</sup> Based upon

<sup>72</sup> Hugh the Chanter, *The History of the Church of York, 1066–1127*, ed. and trans. by Charles Johnson, rev. by M. Brett, C. N. L. Brooke, and M. Winterbottom (Oxford, 1990), pp. 18–19. That the archbishop of York and the bishops did homage may be doubted. According to Eadmer, when Anselm returned to England he refused to do homage to the king because of the ban on clerics doing homage to laymen, stated at the Council of Clermont in 1095 (Eadmer, ed. Rule, pp. 119–20). Those present at London would surely have been aware of this ban.

<sup>73</sup> Hugh the Chanter, *The History of the Church of York*, pp. 16–17. Anselm, the archbishop of Canterbury, was in Lyon. Henry was crowned by Maurice, bishop of London, possibly with the assistance of Gerard, bishop of Hereford. See Judith A. Green, *Henry I: King of England and Duke of Normandy* (Cambridge, 2006), pp. 43–44.

<sup>74</sup> ASC(E) 1100 (p. 236). For the phrase '7 his men wurdon' and whether or not it refers to homage, see below, pp. 122–25.

<sup>75</sup> ASC(E) 1087 (p. 222).

where in the Chronicle both these passages appear, the implication is that oaths were sworn simply because a new king acceded. Both also imply, in contrast to 1189 and 1199, that the submissions came after the consecration. More complex is who *ealle* were. It does not literally mean ‘all’. There will have been an age limitation, probably twelve or fifteen based on other evidence of oaths sworn lower down the social scale. The swearers would also probably have been male.<sup>76</sup> It is possible that significant female landowners and almost certain that females holding land directly from the crown also would have submitted.<sup>77</sup> Property and/or status may also have limited which males swore. It may have been only those who were free. As noted above, in the 1190s William of Newburgh used the vague term *plebes* to describe the group that Roger of Howden informs us were ‘free men’.<sup>78</sup> What is apparently clear from the Peterborough accounts of 1087 and 1100 is that a group wider than the tenants-in-chief swore oaths of loyalty to the king.

## Anglo-Saxon England

How did submissions around the time of an accession work in England before 1066? Did the Norman kings imitate their Anglo-Saxon predecessors? Or was there some special reason that oaths began to be sworn this way after the Conquest? It is important to bear in mind that in both 1087 and 1100 there was a rival succession claim from Robert Curthose, the eldest of the Conqueror’s sons. John Maddicott has noted that in both years, the oaths sworn in the localities could have been in response to this brotherly threat.<sup>79</sup> However, neither the Peterborough Chronicler nor Hugh the Chanter gives this as the context of the submissions. Furthermore, a year later, in 1101, Henry I did send out orders for those in the localities to swear an oath that was explicitly against Robert.<sup>80</sup> As already noted, instead it seems that in both 1087 and 1100 oaths were sworn to the newly consecrated king simply because it was a new king acceding.

Unfortunately, there is very little evidence from Anglo-Saxon England that would allow us to see whether the practice seen at Rufus’s and Henry I’s consecrations was that followed before 1066. As already noted, submissions to the king do not seem to have been part of the consecration ceremony itself—the *ordines* do not mention any. Men

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<sup>76</sup> The 1087 account may explicitly state this—‘*ealle þa men*’—although *man* can generally mean ‘people’.

<sup>77</sup> See below, pp. 149–51.

<sup>78</sup> See above, pp. 34–35.

<sup>79</sup> Maddicott, ‘The Oath of Marlborough’, p. 294. Maddicott goes no further than expressing this as a possibility.

<sup>80</sup> See below, pp. 129–31.

swore oaths of loyalty to lords;<sup>81</sup> the lord of great men was the king. The logical extension is that great men therefore swore oaths of loyalty to the king, and it is highly likely that they did so around the time of the coronation. There is some evidence of this in descriptions of Harold Godwinson's accession in 1066. William of Malmesbury has Harold seize the crown after 'he had extorted faith from the leading men' (*'extorta a principibus fide'*).<sup>82</sup> William's account was written about 60 years after the events it purports to describe.<sup>83</sup> Nevertheless, he is generally a trustworthy writer, used a number of now lost sources, and may have spoken to eyewitnesses of the pre-Conquest events of 1066. At the very least, we can probably take at face value the uncontroversial remark that elites submitted themselves on oath to Harold around the time of his accession. The use of the verb *extorquere* almost certainly has negative connotations, implying that the submissions were extracted by force. This aspect of the account may be derived from subsequent Norman propaganda. Because of the distance of William from the events described, we cannot attach any great significance to the submissions seemingly coming before the consecration, although this feature is paralleled in some of our post-Conquest evidence.

Though Harold's accession was an unusual one, it seems likely that this English earl would have used the accepted common mechanisms in order to secure legitimacy.<sup>84</sup> Indeed, we see a similar process in 1016. In April, Æthelred II died. England was partitioned between his son, Edmund, and a Danish invader, Cnut. Though writing much later, John of Worcester probably used now lost sources in his detailed account of these events. He describes a council at Southampton of bishops, abbots, ealdormen (*'duces'*), and all the nobles of England electing Cnut as king, renouncing Æthelred's descendants, and making peace and swearing loyalty to the Dane (*'pacem cum eo composuere, et fidelitatem illi iuravere'*), with Cnut swearing to be a faithful lord in return. Meanwhile, the London citizens and those nobles who were in London raised Edmund to the throne (*'in regem levavere'*).<sup>85</sup> It is not explicit, but it is likely, that oaths were sworn to Edmund in

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<sup>81</sup> For the process involved in this commendation and the commitments entailed, see Hudson, *Oxford History of the Laws of England*, pp. 220–24. See also Stephen Baxter, *The Earls of Mercia: Lordship and Power in Late Anglo-Saxon England* (Oxford, 2007), pp. 204–06.

<sup>82</sup> William of Malmesbury, *GRA*, I, 418–21.

<sup>83</sup> William probably finished a first draft of his *Gesta Regum Anglorum* in 1126 before making revisions (see *ibid.*, II, xvii–xxxv).

<sup>84</sup> George Garnett has made the same point regarding the use of innovation by either Harold Godwinson or William the Conqueror upon their accessions (Garnett, 'The Third Recension', p. 68).

<sup>85</sup> JW, II, 484–85). This is much more detailed than the account in the Anglo-Saxon Chronicle (*ASC(DEF)* 1016 (pp. 148–49).

London. John reports that he then approached Wessex, where he was received with great joy, and quickly subjected the people (*populus*) to his rule (*'sue ditioni subegit eam citissime'*). Many of the English 'gave themselves to him voluntarily' (*'illi se dederunt voountarie'*).<sup>86</sup> As in 1066, therefore, we might see oaths being sworn to rulers by elites and the citizens of significant towns around the time of their accession.

## Conquest

Of course, Cnut did not simply inherit the right to be king. He acquired it by conquest. When Edmund died later in the year, John of Worcester tells us that the nobles 'swore to [Cnut] that they were willing to elect him king, and obey him humbly, and make payments for his army' (*'iuraverunt illi quod eum regem sibi eligere vellent, eique humiliter obedire et suo exercitui vectigalia dare'*).<sup>87</sup> Here, oaths seem to come before the coronation. They are not simply oaths of loyalty. It sounds as if what happened was more akin to an agreement. Though the types of oath sworn to conquerors differed from what was sworn during more peaceful accessions, an analysis of what was sworn and by whom during conquests is worthwhile. It is interesting in and of itself, but it also shows what groups of people may have sworn around the time of more peaceful, ordinary accessions in Anglo-Saxon England.

## The expansion of Wessex and Scandinavian invasion

First we turn to look at an example from an early West Saxon conquest. In 921 the Anglo-Saxon Chronicle records that when Edward the Elder, king of Wessex, conquered East Anglia, the *here*, a word used to describe Danish forces in England,<sup>88</sup> swore that 'they wished all that he wished, protecting all that he protected, by sea and land' (*'þæt hie eal þæt woldon þæt he wolde, 7 eall þæt friþian woldon þæt se cyng friþian wolde, ægþer ge on sæ, ge on lande'*).<sup>89</sup> This clause is reminiscent of the oath to lords recorded in *Sverian* and in Edmund's Colyton code.<sup>90</sup> In addition, at Huntingdon, *'eal þæt þær to lafe wæs para landa leoda'* submitted to him. This phrase seems to refer to those who had remained on their land whilst the Danes had been there. Less specifically, *'micel folk'* submitted to him when

<sup>86</sup> JW, II, 484–485. *ASC*(DE) 1016 (p. 149) also notes that at some point the people of Wessex submitted to Edmund. It is interesting that John of Worcester often has English kings subjecting others, whereas the Chronicle has them submitting.

<sup>87</sup> JW, II, 494–95.

<sup>88</sup> Bosworth-Toller, s.v. 'here'.

<sup>89</sup> *ASC*(G) 920 (p. 103).

<sup>90</sup> See above, pp. 29–31, and below, pp. 107–08, respectively.

he was at Colchester.<sup>91</sup> We therefore see military elites, landholders, and perhaps citizens of towns submitting. This seems to be the population that would have carried arms.

A similar picture emerges from Scandinavian invasions in the eleventh century. We have already discussed who submitted to Cnut. In 1013 his father Swein landed in the north of England. John of Worcester names one individual and two general groups at first swearing loyalty (*‘fidelitatem ei iuraverunt’*) to Swein—‘Earl Uhtred and the Northumbrians and men of Lindsey’—before ‘the people of the Five Boroughs’ also swore. Then, ‘all the people’ (*‘omnis populus’*) who lived north of Watling Street swore.<sup>92</sup> It seems unlikely, however, that literally all would have sworn, or even a significant body of free men. Indeed, John of Worcester’s *omnis populus* may be a mistranslation. His account seems to be derived from that in an Old English chronicle. If so, the detail that oaths were sworn is John’s; the Anglo-Saxon account only has these groups submitting. The Old English does not have all north of Watling Street submitting, but *‘eall here be norðan Watlinga strate’*—all the Danish forces.<sup>93</sup> It seems that what we see is first the elites, then possibly the people of the towns (the Five Boroughs), and other military parts of the populace swearing loyalty.<sup>94</sup> Perhaps the most interesting thing to emerge from this discussion is the importance of the submissions of townsmen.

## 1066

We see a similar pattern in the submissions made in 1066 to William the Conqueror. The most detailed description of the events after the battle of Hastings comes from William of Poitiers’s *Gesta of William the Conqueror*, written between 1071 and 1077.<sup>95</sup> The ‘men of Canterbury’ met the Conqueror near Dover, where ‘they swore loyalty and gave hostages’ (*‘occurrunt ultro Cantuarii haud procul a Dovera, iurant fidelitatem, dant obsides’*).<sup>96</sup> Then, at Wallingford, Archbishop Stigand ‘gave himself to him with hands and confirmed faith with an oath, renouncing the ætheling, whom he had elected without due consideration’ (*‘manibus ei sese dedit, fidem sacramento confirmavit, abrogans Athelinum quem leviter*

<sup>91</sup> ASC(G) 920 (p. 103).

<sup>92</sup> JW, II, 472–73.

<sup>93</sup> ASC(E) 1013 (p. 143). There is no mention of any oaths; instead the same groups ‘submit’ to Swein. The groups that submit are described as *‘eall Norðhymbrā’*, *‘eall þæt folc on Lindesige’*, and *‘syððan þæt folc of Fijburbingan’*.

<sup>94</sup> William of Malmesbury says that others submitted because Uhtred had done so first (William of Malmesbury, *GRA*, I, 300–01).

<sup>95</sup> GG, pp. xx and xxvii.

<sup>96</sup> *Ibid.*, pp. 144–45. That William is describing the men of Canterbury submitting rather than the men of Kent is implied by the sentence that follows: *‘contremuit etiam potens metropolis metu, et ne funditus caderet ullatenus resistendo, maturavit impetrare statum obediendo’*.

*elegerat*).<sup>97</sup> As William moved towards London, ‘the leading men of the city came out to meet him; they handed over themselves and the whole city into his service, just as before the men of Canterbury had done; they brought hostages, whom and however many William demanded’ (*hinc procedenti statim ut Lundonia conspectui patebat, obviam exeunt principes civitatis; sese cunctamque civitatem in obsequium illius, quemadmodum ante Cantuarii, tradunt; obsides quos et quot imperat adducunt*).<sup>98</sup> That it was the *principes civitatis* who submitted probably reflects a common phenomenon when towns or citizens of towns are said to have submitted or sworn loyalty, namely that elites among the citizens were the ones to actually swear.

In the wake of William’s consecration at Westminster, more submissions followed. After staying in London, he moved to Barking where Edwin and Morcar came into his service, sought his pardon, and surrendered themselves and their property (*ibi veniunt ad obsequium eius Eduinus et Morcardus ... deprecantur veniam si qua in re contra eum senserant, tradunt se cunctaque sua eius clementiae*).<sup>99</sup> ‘Several other nobles and esteemed men with wealth’ (*alii complures nobiles et opibus amplii*) did the same and ‘the king readily accepted their oaths, as they had requested, freely gave grace to them, gave back to them all things which they had held, and he held them in great honour’ (*rex eorum sacramenta, ut postulaverunt, libens accepit, liberaliter eis donavit gratiam suam, reddidit eis cuncta quae possederant, habebat eos magno honore*).<sup>100</sup> The *opibus amplii* might be referring to more significant free men or significant individuals from other towns. The *Gesta* states that William then moved to other parts of the country and ‘everywhere they came to meet him, submitting or negotiating’ (*occurrunt passim obsequentes aut explicantes*).<sup>101</sup> Those who submitted to conquering kings were those who could be a military threat. It is important to stress that towns were military places too. William provides an important reminder of this when describing the Londoners: ‘cum solos cives habeat, copioso ac praestantia militari famoso incolatu abundat’.<sup>102</sup> It is reasonable to suppose that it was the same such groups that were required to swear around the time of more peaceful accessions.

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<sup>97</sup> *Ibid.*, pp. 146–47.

<sup>98</sup> *Ibid.*, pp. 146–47.

<sup>99</sup> *Ibid.*, pp. 162–63.

<sup>100</sup> *Ibid.*, pp. 162–63.

<sup>101</sup> *Ibid.*, pp. 162–63. ‘To negotiate’ is the editors’ (R. H. C. David and Marjorie Chibnall) translation of *explicare*.

<sup>102</sup> *Ibid.*, pp. 146–47.

## Conclusion

It remains unclear precisely who swore to acceding kings in Anglo-Saxon England, and when they did so. Indeed, generally the evidence throughout the period for who swore and when is limited. Very routine events are not necessarily reported by the narrative sources on which we rely. However, the broad patterns that we have sketched also come through when looking at a passage in Geffrei Gaimar's poetic *Estoire de Engleis*, written early in Stephen's reign.<sup>103</sup> It is a 'conscientious historical narrative' adapted into a verse chronicle.<sup>104</sup> Within, there are 'proto-romance interludes'.<sup>105</sup> One of these, known as the Havelock saga, effectively contains a description of an accession. After Havelock defeats a rival king in the narrative,

all swore fealty to him, the knights of the kingdom, the *prodome*, and the burgesses, all of whom recognized him as their lord and king.

tuz jurerent sa flējelté | li chevaler de cel regné, | e lis prodome e li burgeis | de lui firent seignur e reis.<sup>106</sup>

Though not a description of any real event, this passage reveals who might submit around the time of an accession in the second quarter of the twelfth century. 'All' explicitly include knights, the *prodome*, and townsmen. It is implicit that the unfree peasantry are excluded. *Prodome* can mean the unspecific 'worthy men', but can also have the legally specific meanings of 'law-worthy men' or 'freeholders'.<sup>107</sup> That Gaimar envisioned individuals of such status swearing fealty to the king might suggest that these groups ordinarily submitted around the time of accessions.

Unsurprisingly, elites swore loyalty to kings around the time of their consecration throughout the period. By the late twelfth century, this was individuals swearing oaths of loyalty as part of doing tenurial homage. It seems that a wider social group also submitted with oaths around the same time. At its broadest this might have included all free men and citizens in towns. It did not include the unfree. The evidence from Richard's and John's accessions might suggest these oaths were routinely sworn before the consecration, but this is probably just the specific context of their accessions. All

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<sup>103</sup> Ian Short states that the first version was probably written between 1136 and 1137, before possibly being revised later, perhaps after the Battle of Lincoln in 1141 (Geffrei Gaimar, *Estoire de Engleis: History of the English*, ed. and trans. by Ian Short (Oxford, 2009), p. xxvii).

<sup>104</sup> *Ibid.*, p. ix.

<sup>105</sup> *Ibid.*, p. xl.

<sup>106</sup> *Ibid.*, pp. 42–43 (ll. 753–56).

<sup>107</sup> *Anglo-Norman Dictionary Online* (Aberystwyth and Swansea, 2017) [<http://www.anglo-norman.net>], s.v. 'prudom'. Short translates it in this passage as 'gentry' (Gaimar, *Estoire de Engleis*, p. 43).

who submitted may have also sworn oaths *after* the consecration in both cases too—oaths to a king rather than a *dominus*—as was done in the wake of the coronation of Henry the Young King in 1170.

# Succession

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Having seen the irregular, uncertain, and insecure nature of many accessions from the early tenth century onwards, it is unsurprising that kings looked to make the position of their own heirs more secure. This chapter will examine how oaths were used in succession planning. For the most part, we are again reliant on narrative accounts, though the descriptions in the chronicles are often richer than the passages looked at in the previous chapter. We can therefore paint a more detailed picture of who swore, when they swore, and the ceremonies involved in swearing. However, the increase in the available source material also highlights the imperfections of chronicles, their descriptions sometimes amounting to simplified interpretations of what the consequences of swearing were, rather than providing precise and accurate details of what happened.

A serious limitation of our sources is that they are practically silent regarding the use of oaths in Anglo-Saxon succession practice. The evidence that exists, as we will see, is problematic. It is after the Conquest and in the twelfth century that we clearly see oaths being sworn by elites to designated heirs in England. This appears to be an adoption and adaptation of Norman practice in ducal succession, and so it is to this that we first turn.

## Normandy

### Early Norman Succession Practice

Dudo of St-Quentin seems to have had a special interest in successions, which he describes in great detail. Though his work is largely myth<sup>1</sup> and does not necessarily accurately portray the events he purports to describe, his accounts may reflect the succession process at the time Dudo was writing. He gives accounts of the first three Norman ducal successions. William I succeeded Rollo in 927; Richard I succeeded William in 942; and Richard II succeeded Richard I in 996. For the events surrounding the last of these, Dudo may have been present. He was in Normandy at the time and

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<sup>1</sup> See above, p. 10.

may have attended Richard's funeral.<sup>2</sup> We would therefore expect him to be better informed of the third succession. However, this is his least detailed account. It is also different in detail from the earlier two.

Dudo's accounts of the first two Norman successions have certain similarities. In both, elites swear a commitment to a designated heir and then renew that commitment upon the actual accession. The hands of the submitters are given into the hands of the designated heir.<sup>3</sup> Sometimes this is explicitly said to be as a token of their hearts (*vice cordis*).<sup>4</sup> Verbs of submission—*subdere* and *commendare*—are used.<sup>5</sup> In a few instances, the language used implies agreements between equals or near-equals. The oaths sworn are those of a *coniuratio*.<sup>6</sup> For the succession process from Rollo to William I, the verb *colligare*—to bind together—is used.<sup>7</sup> Elites are said to 'connect themselves to' (*'illi se connectentes'*) William I's heir, Richard, with an oath, as they submit (*commendare*) themselves to him.<sup>8</sup> The oaths sworn are 'oaths of the Faith', that is Christian oaths. The accompanying adjectives reveal this—*sacramentum nostrae fidei*, *juramentum sacrae fidei*, *sacramentum verae fidei*.<sup>9</sup> Perhaps this was the root of the later phrase 'oath of faith', frequently meaning an oath of loyalty. If so, this process was seemingly already underway in the early eleventh century. In Dudo's work, faith is also 'done' (*facere*), 'promised' (*spondere*), and 'vowed' (*vovere*).<sup>10</sup> Hands are given for the keeping (*servare, custodire, tenorem sancire*) of *fidelitas*, which is sometimes coupled with *militatio*.<sup>11</sup> In one instance this military commitment is against neighbouring people (*'voveruntque se militaturos contraque finitimas*

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<sup>2</sup> George Garnett, "Ducal" Succession in Early Normandy', in *Law and Government in Medieval England and Normandy: Essays in Honour of Sir James Holt*, ed. by John Hudson and George Garnett (Cambridge, 1994), pp. 80–110 (89); John Le Patourel, 'The Norman Succession, 996–1135', *English Historical Review*, 86 (1971), 225–50 (235).

<sup>3</sup> William I's succession of Rollo: Dudo, pp. 54|173, 60|182 (x2). Richard I's succession of William I: *ibid.*, pp. 78|202–03, 98–99|223 (x3). Richard II's succession of Richard I: *ibid.*, pp. 171|297.

<sup>4</sup> *Ibid.*, pp. 60|182, 98|222, 171|297.

<sup>5</sup> *Ibid.*, pp. 60|182 and 99|223, and 79|203 and 97|221 respectively.

<sup>6</sup> *Ibid.*, pp. 54|173 and 99|223. In other sources, this often means something more akin to a (usually illicit) conspiracy or assembly. For definition, see *DMLBS*, s.v. 'coniuratio'. In Dudo's accounts it does not seem to have any negative connotation.

<sup>7</sup> Dudo, pp. 54|173 (with an oath of a *coniuratio*) and 60|182.

<sup>8</sup> *Ibid.*, p. 79|203.

<sup>9</sup> *Ibid.*, pp. 60|182, 60|182, and 79|203 and 97|221 respectively. In William of Jumièges's reworked account of the end of Rollo's rule, we see the more familiar *sacramentum fidei* appear, rather than oaths of the Faith (William of Jumièges, *GND*, II.15 (I, 72–73)).

<sup>10</sup> Dudo, pp. 60|182 and 98|222.

<sup>11</sup> *Ibid.*, pp. 60|182, 78|202–03, and 99|223. See the latter two references for coupling with *militatio*. There is also a reference to making faith with an oath and with *militationes* (*'sacramento fidem ... et militationibus isti, precor, facite'*) (*ibid.*, p. 60|182). There is also the following statement—*'pactaque fidelitas verae fidei vestrae juramine obnixè firmetur'* (*ibid.*, p. 98|222).

*gentes debellaturos*)—a more specific commitment than the *contra omnes* clauses noted in Chapter 1.<sup>12</sup>

Those submitting to the designated heir appear to have been a narrow band of elites. In the accounts of the preparations for Richard succeeding William I, three counsellors make (*facere*) *securitas regni* to Richard, seemingly meaning guaranteeing succession to the position of duke, possibly indicating the giving of a pledge.<sup>13</sup> William is then said to summon the *optimates*, wishing to confirm and raise Richard to the *regnum* with the *sacramentum et juramentum* of his faithful followers.<sup>14</sup> Only seven *optimates* explicitly submit to Richard in the account.<sup>15</sup> When describing the first succession, the *principes* submit to William after being gathered ‘privately’ or ‘secretly’ (*secretius*).<sup>16</sup> These accounts may be taken to imply that only a narrow group of important elites swore a commitment to designated heirs. In the second succession, the seven are to get the rest of the *patria* to support the heir (*vestro consilio utilissimo ipsa tota patria prudenter rogetur*), but it is unclear whether this was to be done immediately or only when the reigning duke was dead, i.e. at the accession, and whether oaths or formal submissions were to be involved. At the first accession, on Rollo’s death, Dudo states that ‘the Normans and Bretons assembled together as one and confirmed a keeping of faith to William’ (*Northmani pariter et Britanni in unum convenerunt tenoremque fidei Willelmo ... sanxerunt*).<sup>17</sup> This may describe a wider group submitting. That they confirm a ‘keeping of faith’ may imply that this was a renewal and that they had also submitted to William as an heir. However, none of this is explicit. Indeed, in describing the second accession, on William’s death it is the *comites*, seemingly a narrower group, who submit to the new duke.<sup>18</sup>

What is apparent is that certain elites confirmed successions in early Normandy with oaths to a designated heir. Rollo’s retirement is given as the reason for the implementation of the first succession plan. He hands all his lands and the *regnum* to William. The *comites* state that William will be *dux haereditarius et opportunus*.<sup>19</sup> Dudo gives

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<sup>12</sup> *Ibid.*, p. 60|182.

<sup>13</sup> Dudo, pp. 96–97|221 (x2).

<sup>14</sup> *Ibid.*, p. 98|222.

<sup>15</sup> *Ibid.*, p. 98|222. Elsewhere the group submitting are referred to as ‘*nobilissimi principes*’ (*ibid.*, pp. 78|202–03).

<sup>16</sup> *Ibid.*, p. 60|182.

<sup>17</sup> *Ibid.*, pp. 60|182–83. Here *fides* is translated as ‘faith’, rather than ‘the Faith’. We can only be sure that Dudo meant ‘the Faith’ when there are accompanying adjectives, such as ‘our Faith’ or ‘the true Faith’.

<sup>18</sup> *Ibid.*, p. 99|223.

<sup>19</sup> *Ibid.*, pp. 54|173 and 58–60|181–82.

two reasons for the preparations for the second succession. In one instance he has the plans put in place because William I was retiring to become a monk.<sup>20</sup> Elsewhere, it is preparation for a *successor* because of the need for a ‘hereditary lord’ (*hereditarius dominus*)—Richard is to be made *haeres* and *successor*.<sup>21</sup> It is clear that Richard was young when these arrangements were made—Dudo has him sent to Bayeux after the ceremony to be brought up and educated. It is not entirely clear whether the heir was made duke by this process or whether there was some sort of joint rule. George Garnett has convincingly argued that slightly later evidence for an association between dukes (Richard II and Richard III) is ‘unconvincing’.<sup>22</sup>

## Eleventh-century practice

### *William II*

As noted, the third Norman succession is described in less detail: the dying duke says that his other sons should submit to his heir and be given lands in return.<sup>23</sup> This is the last succession/accession described by Dudo. The sources for the fourth and fifth Norman successions add nothing to our knowledge of the use of oaths in succession practice.<sup>24</sup> The sixth Norman ducal succession was that of William II (later Conqueror and king of England) succeeding Robert I. William of Jumièges describes the arrangements in some detail. He wrote his *Gesta Normannorum Ducum* in two phases, first completing his work in the 1050s, before resuming writing in the late 1060s, possibly at the request of William the Conqueror.<sup>25</sup> According to Jumièges, Duke Robert decided to set out on pilgrimage to Jerusalem and summoned the archbishop of Rouen and his ‘leading men’ (*optimates*), presenting his son to them. Then ‘all in the town readily and unanimously approved him as their prince and lord, promising *fidelitas* to him with inviolable oaths’ (*omnes opido ... eum promta unanimitate suum collaudavere principem ac dominum, pangentes illi fidelitatem non violandis sacramentis*).<sup>26</sup> The oaths are not to William as duke, but as *princeps* and *dominus*. These may carry some sort of technical meaning.<sup>27</sup> William is also referred to as ‘lord-in-his-place’ (*dominus loco sui*) and ‘military leader’

<sup>20</sup> *Ibid.*, pp. 78–79 | 202–03.

<sup>21</sup> *Ibid.*, p. 96 | 220.

<sup>22</sup> Garnett, “Ducal” Succession’, p. 91.

<sup>23</sup> Dudo, p. 171 | 297.

<sup>24</sup> For some tentative suggestions on the succession of 1027, see Garnett, “Ducal” Succession’, pp. 105–09.

<sup>25</sup> See above, p. 10.

<sup>26</sup> William of Jumièges, *GND*, VI.11 (II, 80–81).

<sup>27</sup> Any such meaning would have been different to the use of *dominus* in England after 1141 examined in Chapter 1.

(*militiae princeps*). The *Brevis Relatio*, an independent twelfth-century work written at Battle Abbey, states that Robert made William ‘heir’, when describing the same events (*quem heredem de Normannia faciebat*).<sup>28</sup>

This seems very similar to the second succession described by Dudo. Furthermore, as with the second succession, William, aged seven or eight, is entrusted to his tutors and guardians after the ceremony.<sup>29</sup> However, the group submitting to the heir seems to be wider. Jumièges has ‘all in the town’ swear. Elisabeth van Houts has convincingly argued from a charter of 1035 that this town was Fécamp.<sup>30</sup> Although writing much later, William of Malmesbury also has submissions made to William at a Fécamp council of the *proceres*. According to this account the oath was sworn ‘*ab omnibus*’.<sup>31</sup> It is possible from these accounts to see townsmen swearing alongside elites. It is certain that we see a wider group than the narrow, private submissions of elites to heirs described by Dudo.

William of Jumièges’s reworking of Dudo’s accounts may also reflect such a change in practice. Although the first four of his seven books have a close relationship to Dudo’s work, he was, in van Houts’ words, not ‘a slavish copyist, for he drastically abbreviated Dudo’s history, rewrote the text, and inserted his own information’.<sup>32</sup> It is *proceres totius Normannie* who submit to William at Rollo’s order and *cuncti principes* who submit to Richard at William’s instigation.<sup>33</sup> Though this could be a simplification of Dudo’s accounts, it might be that there was wider participation in the submissions when William was writing and that he projected his own knowledge of such practice back onto Dudo’s work. Regarding the third Norman succession, William’s account is not a rephrasing of Dudo’s work.<sup>34</sup> William adds that Richard I summoned his ‘leading men’ (*optimates*), presented his son (Richard) to them to be chosen as duke, and they did so ‘promising

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<sup>28</sup> ‘The *Brevis Relatio de Guillelmo Nobilissimo Comite Normannorum*, Written by a Monk of Battle Abbey’, ed. by Elisabeth M. C. Van Houts, in *Chronology, Conquest, and Conflict in Medieval England, Camden Miscellany*, 34, Camden Fifth Series, 10 (1997), 5–48 (26). The author was, according to Van Houts, ‘almost certainly Norman’ and seems to have primarily used oral sources, with no overlap with William of Jumièges or William of Poitiers. See *ibid.*, pp. 12 (for dates), 14 (for this quote), and 22 (for sources used by the author).

<sup>29</sup> For William’s age, see *GND*, II, 81, n. 5. Robert of Torigni gives his age as five.

<sup>30</sup> *GND*, II, 80, n. 2.

<sup>31</sup> William of Malmesbury, *GRA*, I, 426–27.

<sup>32</sup> *GND*, I, xxxv–xxxix (quote on p. xxxv).

<sup>33</sup> William of Jumièges, *GND*, II.15 (I, 72–73); III.8 (I, 88–89).

<sup>34</sup> Nor does it contradict what Dudo says. George Garnett has also noted this, although he sees it as complementary to Dudo’s account: Garnett, ‘“Ducal” Succession’, p. 89.

loyalty to him' (*pacta ei fidelitate*).<sup>35</sup> It is possible that the eleventh century saw wider participation in the submissions to designated heirs.

### *Robert Curthose*

It is clear that such submissions were also made to Robert Curthose. It is possible that there were as many as four separate occasions on which elites swore oaths to Robert as an heir. There were certainly at least two. When explaining Robert's rebellion against his father in 1079, the D recension of the *Anglo-Saxon Chronicle* states that one of the reasons was that 'the best men in the land [in Normandy] had sworn him oaths and accepted him as lord' (*þe betst wæron on þam lande hæfdon aðas him gesworon 7 hine to blaforde genumen*).<sup>36</sup> Writing much later, but also describing a rebellion of Robert, Orderic Vitalis wrote in his *Historia Ecclesiastica* that:

before the battle of Senlac [Hastings] and afterwards when he was sick, Duke William had made his first-born son Robert his heir, and he ordered all the leading men to do homage and fealty to him.

ante Senlaciū bellum et post in quadam sua aegritudine Rodbertum primogenitum sobolem fecerat suum haeredem, et iussit omnes optimates ei facere homagium et fidelitatem.<sup>37</sup>

There is no reason to doubt Orderic's accounts. Indeed, an eyewitness probably gave him the details that make up his account of Curthose's rebellion.<sup>38</sup> Elsewhere, Orderic identifies where the king was sick: Bonneville.<sup>39</sup> It is possible that this was in the spring of 1073, a charter being issued from this place on 30 March 1073. If so, the illness may have been connected with William's campaigning in Maine around this time.<sup>40</sup>

It is difficult to judge whether any significance should be attached to Orderic's use of the term *homagium*. When writing about the 942 accession of Richard I, Orderic states that he

<sup>35</sup> William of Jumièges, *GND*, IV.20 (I, 134–35).

<sup>36</sup> *ASC(D)* 1079 (pp. 213–14). Oddly, neither William of Jumièges nor William of Poitiers mentions any submissions to Robert. Nor do any of the redactions of the *GND*. R. H. C. Davis has suggested that if William of Poitiers was writing in 1077, his silence could be explained by writing in the middle of Robert Curthose's rebellion against his father (R. H. C. Davis, 'William of Jumièges, Robert Curthose and the Norman Succession', *English Historical Review*, 95 (1980), 597–606 (601)).

<sup>37</sup> *OV*, II, 356–57. Orderic also has William the Conqueror say on his deathbed that he 'granted' (*concedere*) Normandy to Robert before the battle of Hastings and that Robert had received the *hominium* of almost all (*pene omnium*) the barons of the country (*ibid.*, IV, 92–93).

<sup>38</sup> One of the messengers of Queen Matilda (William the Conqueror's wife) was a man named Samson. When William discovered that Matilda was sending messengers to Robert, he threatened to have Samson arrested and blinded. Samson escaped to Saint Évroul, the abbey where Orderic was later to write his works. See William M. Aird, *Robert Curthose, Duke of Normandy, c. 1050–1134* (Woodbridge, 2008), p. 71.

<sup>39</sup> *OV*, III, 112–13.

<sup>40</sup> Aird, *Robert Curthose*, pp. 68–69.

received *'hominiumque et fidelitatem'* of all the leading men before his father's burial.<sup>41</sup> This is not how either Dudo of St-Quentin or William of Jumièges describe it. Instead, it is Orderic projecting twelfth-century language onto the tenth. He may also be projecting back when describing these submissions to Robert Curthose. Indeed, his knowledge of the submissions to William Adelin as heir in 1115 and 1116 and the terminology then used may also have influenced these accounts.

It is possible that oaths were also sworn to Robert in the early 1060s. A charter of 29 June 1063 was confirmed not only by William and Matilda, but also their son Robert, 'whom they have chosen to govern the realm after their death' (*'quem elegerant ad gubernandum regnum post suum obitum'*).<sup>42</sup> Around this time William was involved in a military campaign in Maine, which came to an end with the fall of Le Mans before the end of 1063. In the peace arrangements made between William and Geoffrey of Anjou, Robert did homage for Maine.<sup>43</sup> The chronology of these events is unclear, but it seems likely that the appointing of Robert as heir to Normandy was related to them. Another charter, dating to between 1063 and 1066, tells us William lay ill at Cherbourg (*'quos consul Willelmus constituit in ipsa infirmitate sua quam habuit Cesarisburgo'*).<sup>44</sup> This raises the further possibility that such a succession plan was put in place at a time when the duke was ill.<sup>45</sup> In 1063, Robert would have been between ten and thirteen years of age.<sup>46</sup> Although none of these sources mention an oath, in light of the arrangements made for earlier ducal successions it is probable that oaths were sworn to Robert in the early 1060s. Oaths had been sworn to both Richard I and William the Conqueror as heirs when they were still in childhood. It is unlikely, however, that these are the submissions 'before Senlac' that Orderic refers to, as he seems to be referring to submissions made either just before the battle or before the embarkation for the Conquest.

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<sup>41</sup> OV, III, 306–07.

<sup>42</sup> *Recueil des Actes des Ducs de Normandie de 911 a 1066*, ed. by Marie Fauroux (Caen, 1961), no. 158, pp. 343–44.

<sup>43</sup> Aird, *Robert Curthose*, pp. 42–45.

<sup>44</sup> This has been highlighted by Emily Tabuteau (Emily Zack Tabuteau, 'The Role of Law in the Succession to Normandy and England, 1087', *Haskins Society Journal*, 3 (1991), 141–69). See *Recueil des Actes des Ducs de Normandie*, ed. Fauroux, no. 224, pp. 426–32 (429 for quote). This charter is now lost, but copies survive.

<sup>45</sup> Charles Wendell David thought that a succession ceremony could 'hardly have been as early as the charter of 1063'. He does not say why he has reservations, although they were presumably due to the age of Robert and his apparent belief that there was only one ceremony before 1066 (Charles Wendell David, *Robert Curthose, Duke of Normandy* (Cambridge, MA, 1920), p. 12, n. 42).

<sup>46</sup> It is likely that he was born between 1050 and 1053 (Aird, *Robert Curthose*, p. 26).

It is possible that a fourth submission came in 1080. Oaths may have been sworn when, as Orderic states, at a peace agreement between father and son, ‘by the advice of his chief men William again granted Robert the duchy of Normandy after his death, as he had done when he was sick at Bonneville’ (*Normanniae quoque ducatum sicut olim apud Bonamvillam aeger concesserat ei post obitum suum, nunc iterum facta recapitulatione concessit optimatum consultu suorum*).<sup>47</sup> So, there were at most four occasions on which oaths were sworn to Robert Curthose during his father’s lifetime: one around 1063 when William was sick at Cherbourg; a second on the eve of Conquest; a third when the king was sick at Bonneville at some point between 1066 and 1079, probably in 1073; and a fourth in 1080. There were certainly at least two submissions, one before Hastings and one when the king was sick. This is the first example we have of oaths to an heir being renewed. The renewals, like the first submission, seem to have come at important political junctures, when the ruler was sick or about to campaign, or at peace negotiations after a rebellion.

These mechanisms were clearly designed to make for a smoother, more peaceful succession. However, Robert Curthose was seemingly prompted to rebel as a result of the arrangements that his father made. Why did William’s succession arrangements cause such instability when those made by his predecessors apparently did not? The first explanation is the possibility that Robert was actually made duke in 1067. As the Anglo-Saxon Chronicler put it, he rebelled because William ‘would not let him govern his earldom in Normandy, which he himself and also King Philip with his consent had given him’ (*forþan þe his fæder ne wolde him lætan waldan his eorldomes on Normandige þe he sylf 7 eac se kyng Filippus mid his gefafunge him gegyfen hæfdon*).<sup>48</sup> William of Jumièges writes that in 1067, William ‘entrusted the lordship of the Norman duchy to his son Robert, who was blossoming in the flower of his youth’ (*Rodberto filio suo iuvenili flore vernanti, Normannici ducatus dominium tradidit*).<sup>49</sup> However, *dominium* of the duchy may have been different to being in full control, perhaps chiming with what we saw above when oaths were sworn to the young William as a *princeps* and a *dominus*, rather than a duke. Nevertheless, as van

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<sup>47</sup> OV, III, 112–13.

<sup>48</sup> ASC(D) 1079 (pp. 213–14).

<sup>49</sup> William of Jumièges, GND, VII.19 (II, 178–79). He also refers to Robert as ‘duke’ on three occasions. Davis, ‘William of Jumièges, Robert Curthose and the Norman Succession’, p. 597, first drew attention to this.

Houts has pointed out, it seems that some people in Normandy considered Robert duke as a result of the ceremonies of 1067.<sup>50</sup>

Others later believed that the promotion originated with his rebellion. This may have been Robert's personal belief. Two charters dated 24 May 1096—one a grant by Odo, bishop of Bayeux, and the other its confirmation by Robert—state that this was the nineteenth year of Robert's '*principatus*'. As R. H. C. Davis has pointed out, if the years of his *principatus* were calculated in the same manner as regnal years, running from the day of investiture, this would place the first year of his *principatus* beginning anywhere between 25 May 1077 and 24 May 1078, overlapping with Robert's rebellion, rather than with any of the submissions we have examined.<sup>51</sup>

There are other explanations as to why Robert rebelled. Perhaps being appointed 'heir' itself came with certain expectations. Robert of Torigni's continuation of the *Gesta Normannorum Ducum* mentions Robert rebelling against his father as he was not allowed to act with his own will in Normandy, 'even though he had made him heir after him' (*licet eum ipse post se fecisset heredem*).<sup>52</sup> Obviously, the Conquest itself also made a difference. There were now two lands in the control of the family. Furthermore, the simple fact that William lived also played an important role. Of the successors who had oaths sworn to them examined above, all became duke due to the demise of their predecessor soon after the ceremony.

## Anglo-Saxon England

It is clear that in Normandy, before 1066, it was routine for elites to submit via oath to a designated heir. This seems to have been a narrow group in the tenth century; in the eleventh century, it was wider. It is also possible that urban elites were included in the ceremonies. The occasion for the submissions was seemingly prompted by risk to the existing duke—illness, pilgrimage, embarkation on a military campaign, retirement—although it is possible that such prompts were not always a prerequisite for arrangements to be made. The submissions and commitments that elites made were not those of

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<sup>50</sup> *GND*, I, xxxiv.

<sup>51</sup> These charters have been published in Charles Homer Haskins, *Norman Institutions* (Cambridge, MA, 1918), p. 67, n. 19. Also see Davis, 'William of Jumièges, Robert Curthose and the Norman Succession', p. 602.

<sup>52</sup> Robert of Torigni, *GND*, VII.(44) (II, 194–95).

normal lordship, but a specific commitment of loyalty to an heir with a guarantee of support for the succession. That we can describe these practices in such detail is thanks to our sources. By contrast, we are faced with near total silence when looking at England before the Conquest.

The evidence that we have comes from Edward the Confessor's succession plans. These sources are highly problematic for our purposes, shrouded as they are in the mists of propaganda. There are various post-Conquest reports that Harold Godwinson committed England to William of Normandy on oath. Norman sources claim that this was part of a succession plan in which Edward had made William his heir.<sup>53</sup> William of Poitiers has the Conqueror claim that Archbishop Stigand and the earls Godwine, Leofric, and Siward had confirmed on oath that William would be Edward's heir, with Harold being sent in person to swear.<sup>54</sup> By contrast, English writers have Harold going to Normandy for different reasons, though still swearing.<sup>55</sup> Eadmer completely contradicts the Norman message, having Harold later say that he could not promise England as it was not his to give.<sup>56</sup> There is the suspicion that the Norman sources are either inventing or that they are projecting Norman practice onto the events surrounding Harold's oath. Even if Edward did make such plans, we cannot project back onto earlier Anglo-Saxon practice, as it may have been an innovatory measure. Edward had no heirs of his own and had spent time before 1041 in Normandy, where he may have learnt of their succession practice.

The other glimpse of evidence comes just 25 years before the Norman Conquest. The C and D recensions of the *Anglo-Saxon Chronicle* report that in 1041, Edward was 'sworn in as king' ('*ðeh waes to cinge gesworen*').<sup>57</sup> This was after King Harthacnut had invited his half-brother back to England, seemingly to become a junior partner in the regime. John Maddicott has suggested that this may have resembled the associative consecration used by the Capetian kings and that it associated Edward with Harthacnut's kingship.<sup>58</sup> Oaths to the associated king may have formed a part of this.<sup>59</sup> However, even if they did, as

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<sup>53</sup> See William of Jumièges, *GND*, VII.16 (II, 158–61); *GG*, pp. 70–71; and *OV*, II, 134–37.

<sup>54</sup> *GG*, pp. 120–21.

<sup>55</sup> See Eadmer, pp. 6–8|6–8; William of Malmesbury, *GRA*, I, 416–17.

<sup>56</sup> Eadmer, p. 8|8.

<sup>57</sup> *ASC*(CD) 1041 (p. 162). This refers to Edward's oath, rather than to oaths sworn to him.

<sup>58</sup> J. R. Maddicott, 'Edward the Confessor's Return to England in 1041', *English Historical Review*, 119 (2004), 650–66 (654–55 and 665–66).

<sup>59</sup> For more on Capetian practice, see below, pp. 88–89.

George Garnett has noted, there are no obvious English parallels with the 1041 events.<sup>60</sup> Oaths may have been used in some way in ordinary English succession practice, but the sources do not allow us to see what such practice looked like.

## William Adelin

It is not until the second decade of the twelfth century that we see oaths sworn to a designated heir in English succession practice. William the Conqueror did not have oaths sworn to an heir for England, perhaps reflecting Anglo-Saxon practice. After 1080, it was likewise in Normandy, oaths seemingly not being sworn to a successor until 1115. In part this was because of the lack of legitimate offspring. The Conqueror's successor to the English throne, William Rufus, did not marry. His elder brother, Robert Curthose, inherited Normandy; he did not have a legitimate son until 25 October 1102. Their younger brother Henry, king from 1100 after Rufus, did not produce any legitimate offspring until 1102. These brothers made agreements between themselves regarding the succession before 1102. These will be discussed towards the end of this chapter.

## Normandy

There is no evidence that Robert Curthose tried to have oaths sworn to his son William Clito before or during the military campaigns that culminated in Robert's capture at Tinchebray in 1106. Nine years later, in 1115, various sources demonstrate that the elites of Normandy submitted to Henry I's eldest son, William Adelin. A charter granting certain things to the monks of Tiron was issued at Rouen 'on the day on which the barons of Normandy were made the men of the son of the king' (*in die qua barones Normannie effecti [sunt] homines filii regis*).<sup>61</sup> The Peterborough Chronicler described the submission: Henry 'made all the leading men in Normandy do homage and oaths of loyalty to his son William' (*he dyde þæt ealle þa beafod mæn on Normandig dydon manræden 7 hold aðas his sunu Willelme*).<sup>62</sup> This is the first use by any of the Anglo-Saxon chroniclers of the term *manræden*. Henry of Huntingdon's account of the submissions does not use such explicit homage terminology. Instead, Henry 'made the leading men of the country swear to his son William the loyalty owed to a lord' (*fecit omnes proceres patrie fidelitatem domino*

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<sup>60</sup> George Garnett, *Conquered England: Kingship, Succession, and Tenure, 1066–1166* (Oxford, 2007), p. 186, n. 427.

<sup>61</sup> RRAN, II, no. 1074, pp. 120–21.

<sup>62</sup> ASC(E) 1115 (p. 246).

*debitam Willelmo filio suo iurare*).<sup>63</sup> The differences between the accounts appear just to be ones of wording. This was a special type of commitment: homage to an heir, for lordship alone. It seems to represent a change in language rather than a change in practice from earlier Norman successions.

There are a number of factors that must be borne in mind when considering why oaths were sworn at this juncture. Though Henry had been ruler of Normandy since capturing his brother at Tinchebray in 1106, the duchy was not undisputedly his to give. Robert remained imprisoned until he died in 1135, but he may have kept the title of *dux*. More importantly, he had a son, William Clito, who was twelve years old in 1115 and was in the custody of Count Baldwin VII of Flanders, an enemy of Henry.<sup>64</sup> This William was knighted by Baldwin in 1116 or 1117 and was the base around which war was made against the English king until a peace settlement in 1120. In having oaths sworn to William Adelin in 1115, Henry was attempting to secure the duchy for his son against the potential and growing threat of his nephew who was approaching an age of political maturity.<sup>65</sup>

The oaths were also part of a wider strategy. The king of France, Louis VI, expected Henry to do homage for Normandy.<sup>66</sup> Henry refused. After the oaths had been sworn to his son, he sent messengers to Louis offering money in return for the French king conceding Normandy to William and receiving his homage.<sup>67</sup> The oaths sworn to William were meant to strengthen the argument that this should be done, tightening the grip on control of the duchy. This was a similar strategy to that deployed by William the Conqueror when having a young Robert Curthose do homage for Maine.<sup>68</sup> However, Louis rejected the offer, preferring to support the claims of William Clito. At the

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<sup>63</sup> HH, pp. 460–61.

<sup>64</sup> For William Clito's impact on Henry I's policies, see Sandy Burton Hicks, 'The Impact of William Clito upon the Continental Policies of Henry I of England', *Viator*, 10 (1979), 1–21. For his date of birth (25 October 1102), see Aird, *Robert Curthose*, p. 212.

<sup>65</sup> William Adelin was approaching such an age himself. He was probably eleven years old in 1115, having probably been born in the third quarter of 1103. On 23 November 1103, Pope Paschal sent a letter congratulating Henry on the birth of William (J. F. A. Mason, 'William [William Ætheling, William Adelinus, William Adelingu] (1103–1120)', *Oxford Dictionary of National Biography* (Oxford, 2004) [<http://www.oxforddnb.com/view/article/29453>]). The oaths must have been sworn when Henry was in Normandy between January and July 1115.

<sup>66</sup> See Judith A. Green, *Henry I: King of England and Duke of Normandy* (Cambridge, 2006), pp. 96–97, 118–19 and Judith A. Green, 'Le gouvernement d'Henri I<sup>er</sup> Beauclerc en Normandie', in *La Normandie et l'Angleterre au Moyen Âge*, ed. by Pierre Bouet and Véronique Gazeau (Caen, 2003), pp. 61–73 (64–66).

<sup>67</sup> See C. Warren Hollister, *Henry I* (New Haven, CT, 2001), p. 238. This arrangement may have been agreed in advance at the peace made at Gisors in 1113 (Green, *Henry I*, pp. 126–27).

<sup>68</sup> See above, p. 55.

conclusion of the ensuing struggle, Henry's plans came to fruition: in 1120 William Adelin did homage to Louis, and the leading men of Normandy renewed their homages and fealties to him.<sup>69</sup>

## England

Eadmer gives a detailed, possibly eyewitness, account of further submissions to William in England at an assembly at Salisbury on 20 March 1116 of bishops, abbots, and leading men (*principes*). Eadmer states that on the king's wishes 'all the leading men were made the men of William, after he had been confirmed with faith and oath' (*omnes principes facti sunt homines ipsius Willelmi, fide et sacramento confirmati*).<sup>70</sup> John of Worcester's account of the events states that the *optimates et barones* did 'homagium' to William and swore 'fidelitatem e'.<sup>71</sup> Orderic Vitalis also stated that 'hominium' had been done by the *optimates* of the kingdom.<sup>72</sup> Again, this homage does not appear to have been tenurial.<sup>73</sup>

Broadly, of course, these oaths represent an extension of Norman succession practice into England. Eadmer gives the simple and obvious reason for the submissions—concern about the fragility of life and a desire to secure the succession:

Since he [Henry] had arranged himself to go over the sea into Normandy soon, and, [since] anything which was to come about was unknown to him, he wished to set up William, whom he had acknowledged as a son from his noble spouse, as heir of the realm to him.

Siquidem in Normanniam se proxime transfretaturum disposuerat, et, quid sibi eventurum foret ignorans, Willelmum, quem ex ingenua conjugis sua filium susceperat, haeredem regni substituere sibi volebat.<sup>74</sup>

<sup>69</sup> See SD, II, 258 and *Annales Monasterii de Wintonia*, in *Annales Monastici*, ed. by Henry Richards Luard, 5 vols (London, 1864–69), II (1865), 129–411 (46). It is possible that at this juncture there was a more concrete transfer of power. The Annals of Winchester state '*suscepitque concessu patris Normanniam*'.

<sup>70</sup> Eadmer, ed. Rule, p. 237.

<sup>71</sup> JW, III, 138–39. Much of John of Worcester's account of 1116 is derived from Eadmer's work; indeed much is directly copied (*ibid.*, III, 139 generally, and n. 2). His account of the Salisbury assembly, however, is either independent or a clumsy summary. John makes no mention of the presence of members of the church (unless these are the *optimates*). He also gives a different date: 19 March. One manuscript—Oxford, Bodleian Library, Bodley, 297—does give the same date as Eadmer's account (*ibid.*, III, 139, n. 2). This manuscript is a Bury manuscript containing the annals up to 1131, copied from the main witness (Oxford, Corpus Christi College, 157) before the main witness was corrected by John. Therefore, John either originally agreed with Eadmer on the date, before later changing it to the 19th, or the scribe of Bodley 297 made a mistake in copying John's work.

<sup>72</sup> OV, VI, 302–03. It is odd that the Peterborough Chronicler makes no mention of the 1116 submissions.

<sup>73</sup> George Garnett sees this as the first time after 1066 that homage in England did not have a tenurial link (Garnett, *Conquered England*, pp. 83, n. 276, and 206).

<sup>74</sup> Eadmer, ed. Rule, p. 237.

Henry was approaching 50 and would have expected to campaign on his return to Normandy.<sup>75</sup> But why did the extension come at this point? Henry was the first king since the Conquest who had enough political leeway to introduce such a new practice. He was born in England and had married into the House of Wessex. 20 March was the feast of St Cuthbert. That the oaths were sworn on the feast date of this most English of saints was no doubt meant to highlight the Englishness of William Adelin being made heir.<sup>76</sup> This may have also been meant to contrast with the Norman William Clito, also a potential rival to the English throne. That the oaths were sworn at Salisbury was probably also meant to evoke the submissions to the Conqueror 40 years earlier.<sup>77</sup>

### *Ecclesiastics*

The ecclesiastics present in 1116 were not merely bystanders to these events. Eadmer continues:

Ralph, archbishop of Canterbury, and the other bishops and abbots of the kingdom of the English, declared, with faith and oath, that they—if they were alive after the death of his father—would transfer both the kingdom and the crown of the kingdom to him, after every claim and pretext has been disregarded, and that they would do homages to him with a faithful mind when he became king.

Radulfus autem archiepiscopus Cantuariensis et alii episcopi atque abbates regni Anglorum fide et sacramento professi sunt se et regnum et regni coronam, si, defuncto patre suo, superviverent, in eum, omnia omni calumnia et occasione, translaturus, eique, cum rex foret, hominia fideli mente facturos.<sup>78</sup>

Importantly, these prelates did not do homage to William Adelin. The Council of Clermont of 1095 had forbidden clerics (*clericus*) from doing homage to laymen. At the Council of Rouen in 1096, this was reiterated—priests (*presbiter*) were not to do homage to laymen.<sup>79</sup> There were disputes over this rule between the secular and religious powers throughout Europe. In England, a compromise was reached in 1106, promulgated in

<sup>75</sup> See *ASC(E)* 1016 and 1017 (pp. 246–47), where it is stated that when Henry returned to Normandy he took part in military campaigns.

<sup>76</sup> On the popularity of St Cuthbert, see Dominic Marnier, *St Cuthbert: His Life and Cult in Medieval Durham* (London, 2000), p. 9: ‘Cuthbert was considered perhaps the most popular saint in England prior to the death of Thomas Becket in 1170’. For the cult of St Cuthbert, see, *inter alia*, Mechthild Gretsch, ‘Cuthbert: From Northumbrian Saint to Saint of All England’, in her *Ælfric and the Cult of Saints in Late Anglo-Saxon England* (Cambridge, 2006), pp. 65–126; Victoria Tudor, ‘The Cult of St Cuthbert in the Twelfth Century: The Evidence of Reginald of Durham’, in *St Cuthbert, his Cult and his Community to ad 1200*, ed. by Gerald Bonner, David Rollason, and Clare Stancliffe (Woodbridge, 1989), pp. 447–67; and Sally Crumplin, ‘Cuthbert the Cross-Border Saint in the Twelfth Century’, in *Saints’ Cults in the Celtic World*, ed. by Steve Boardman, John Reuben Davies, and Ella Williamson (Woodbridge, 2009), pp. 119–29.

<sup>77</sup> See below. George Garnett and Judith Green have also noted this: Garnett, *Conquered England*, p. 206; Green, *Henry I*, p. 135.

<sup>78</sup> Eadmer, ed. Rule, p. 237.

<sup>79</sup> OV, v, 22–23. See p. 23, n. 5 for decrees at Clermont.

1107 at an assembly at Westminster, whereby those who had done homage to the king were allowed to keep their office but investitures were not to be allowed in the future.<sup>80</sup> A letter dated 23 March 1106 from Pope Paschal to Archbishop Anselm states that those who did homage would not be banned from holding ecclesiastical office.<sup>81</sup> This was seemingly interpreted as allowing prelates to do homage to a king. Hence in 1116 they promised to do homage to William Adelin when he became *rex*.

The interpretation of the prohibition seems to have changed over the twelfth century. *Glanvill* states that bishops-elect could do homage before their consecration, but that bishops did not do homage. Instead they ‘provided fealty with the insertion of an oath’ (*fidelitatem ... iuramentis interpositis ... prestare*).<sup>82</sup> George Garnett has argued that this probably derived from the settlement between the papacy and the empire known as the Concordat of Worms (1122) and can probably be seen in England as early as 1135.<sup>83</sup>

### *All free men?*

William of Malmesbury states that

when he [William Adelin] was scarcely twelve years old, all the free men of England and Normandy—of whatever order and dignity, of whichever lord they were the faithful—were compelled to give themselves to him with hands and with oath.

Nam et ei, vix dum duodecim annorum esset, omnes liberi homines Angliae et Normanniae cuiuscumque ordinis et dignitatis, cuiuscumque domini fideles, manibus et sacramento se dedere coacti sunt.<sup>84</sup>

That Malmesbury states that William Adelin was ‘scarcely twelve’ makes it clear that he is describing the events of 1115 and 1116.<sup>85</sup> There are reasons to doubt the veracity of the account. No other source states that this wider group swore. There is also no other evidence of free men submitting to dukes or appointed heirs in Normandy throughout our period of study. Malmesbury has them giving themselves ‘with hands’, suggesting a

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<sup>80</sup> For the settlement of 1106, see Anselm, *epistola*, no. 397, in Anselm, *Opera Omnia*, ed. by F. S. Schmitt, 6 vols (Edinburgh, 1938–61), v, 341–42, translated in Anselm, *The Letters of Saint Anselm*, trans. by Walter Fröhlich, 3 vols (Kalamazoo, MI, 1990–94), III (1994), 157–59. For the Westminster proclamation in 1107, see Eadmer, ed. *Rule*, p. 186.

In another letter (no. 389) (dated 1105), Anselm states that he thinks that Henry was willing to obey the decrees on investitures but wanted to keep the homage of prelates (*hominia praelatorum*) (in Anselm, *Opera Omnia*, v, 333–34, translated in Anselm, *Letters*, III, 147–48).

<sup>81</sup> Anselm, *epistola*, no. 397, in Anselm, *Opera Omnia*, v, 341–42, translated in Anselm, *Letters*, III, 157–59.

<sup>82</sup> *Glanvill*, IX.1.

<sup>83</sup> See Garnett, *Conquered England*, pp. 206–07.

<sup>84</sup> William of Malmesbury, *GRA*, I, 758–59.

<sup>85</sup> See above, n. 65. For the Normandy oath he was probably eleven. In March 1116, he would have been twelve.

personal homage ceremony, but all free men certainly would not have submitted to William Adelin individually. Malmesbury's account also oddly uses *cogere* to describe the king's order. When describing oaths, this word sometimes points towards forced oaths that are thereby invalid, though it does not seem to have such an implication here.<sup>86</sup> William of Malmesbury is also the only chronicler to state that all free men swore when describing the Salisbury oath of 1086.<sup>87</sup> However, it is certainly plausible that in both 1086 and 1116 a wider group of free men swore oaths after those sworn at centralized councils, and that most chroniclers were simply not interested in reporting oaths sworn by those lower down the social scale.<sup>88</sup> Furthermore, the first draft of Malmesbury's work was probably finished only ten years after the events it is describing.<sup>89</sup> Though there are peculiarities regarding William's statement, we cannot discount that a wider group of free men did swear in 1116.

## Matilda

In 1120, Henry's plans for the succession were scuppered when the White Ship sank. William Adelin's body lay at the bottom of Barfleur's bay. In an ultimately futile effort to produce another male heir, the quinquagenarian married again in 1121. His only remaining legitimate offspring was Matilda. When her husband, the Emperor Henry V, died in 1125, she returned to her father. At the Christmas court of 1126/7 oaths were sworn to Matilda promising to secure the realm for her as her father's successor.<sup>90</sup> These oaths were renewed in the 1130s and became a cause around which her supporters could rally when Stephen seized the throne after Henry's death in 1135. This represents an adaptation of the Norman succession practice—there was a novelty in the commitment being made to a female heir. The subsequent civil wars of Stephen's reign created a

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<sup>86</sup> See below, pp. 154–60.

<sup>87</sup> See below, pp. 126–27. Note also his statement concerning the oaths sworn to William at Fécamp, examine above, where the oaths are *ab omnibus*.

<sup>88</sup> Though outside our period of study, it is worth noting that in 1215 oaths were ordered to be sworn by the wider community after oaths had been sworn at Runnymede. In 1258, oaths were sworn at a centralized council before (seemingly slightly different) oaths were sworn by the wider community a few months later. Strangely, no chronicler reported the more widely sworn oaths in this latter case. Elsewhere, I have discussed these oaths of 1258. Part of this article suggests some other possible reasons that the oaths sworn later in the year may not have been picked up by narrative writers: Joshua Hey, 'Two Oaths of the Community in 1258', *Historical Research*, 88 (2015), 213–29.

<sup>89</sup> For the date of writing, see William of Malmesbury, *GRA*, II, xvii–xxxv.

<sup>90</sup> Karl Leyser has argued that Matilda was also the planned successor between 1120 and 1125 (Karl Leyser, 'The Anglo-Norman Succession 1120–1125', *Anglo-Norman Studies*, 13 (1991), 225–41). In his *De contemptu mundi*, Henry of Huntingdon stated that after William Adelin's death, William Clito was the 'king's sole heir' (*'solus regius esset heres'*) (HH, pp. 594–95). That Henry's purpose in writing this here was to show the futility of seeking power in this world is sufficient reason to doubt his statement.

plethora of source material about the oaths to Matilda. They are the best-documented oaths of the period we are examining. Comparing these different sources is important not only for understanding the specifics of what was sworn, but also in order to attain a better understanding of how such ceremonies worked more generally, and how chroniclers described such events.

### When and where

The Peterborough Chronicler, probably writing contemporaneously, stated that an oath was sworn to Matilda at the Christmas court at Windsor of 1126.<sup>91</sup> William of Malmesbury, writing in the early 1140s, in a very detailed account, also has oaths sworn to Matilda at Christmas 1126, but he places it in London.<sup>92</sup> The Peterborough Chronicler appears to be condensing, for John of Worcester has the assembly going to London, where the oaths are sworn, after celebrating Christmas at Windsor.<sup>93</sup> Symeon of Durham also has Henry hold his Christmas court at Windsor before going to London, where oaths are sworn on 1 January. However, he gives 1128 as the year.<sup>94</sup> This is nothing more than a misdating. Symeon (erroneously) dates certain events to 1126, 1127, and 1128, which the Peterborough Chronicler (correctly) dates respectively to 1125, 1126, and 1127.<sup>95</sup> It seems likely that the oaths were sworn on 1 January 1127, although none of our sources explicitly states this.<sup>96</sup> There is also an account strangely dated 29 April 1128, but which appears to describe the oaths of 1126/7. This appears in a revised passage of John of Worcester's chronicle. It is the most detailed account of the oaths sworn to Matilda. It is possible, as discussed in Appendix I, that it is a conflation of multiple accounts.

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<sup>91</sup> *ASC(E)* 1127 (p. 256). Between 1122 and 1131, the Peterborough Chronicle appears to have been written in six separate blocks. The account of the Christmas court of 1126/27 appears in the 1126 (December)–1127 block, probably written at the end of 1127. For the blocks, see *The Peterborough Chronicle*, ed. by Cecily Clarke, 2nd edn (Oxford, 1970), pp. xvi and xxv.

<sup>92</sup> William of Malmesbury, *HN*, pp. 6–7. For when William was writing, see *ibid.*, p. xxxii.

<sup>93</sup> *JW*, III, 164–67.

<sup>94</sup> *SD*, II, 281–82.

<sup>95</sup> *Ibid.*, pp. 278–83; *ASC(E)* 1125–27 (pp. 255–58).

<sup>96</sup> C. Warren Hollister dated the oath to 1 January 1127 (C. Warren Hollister, 'The Anglo-Norman Succession Debate of 1126: Prelude to Stephen's Anarchy', in his *Monarchy, Magnates and Institutions in the Anglo-Norman World* (London, 1986), pp. 145–69 (145)). Marjorie Chibnall opted for the less specific 'beginning of January 1127' (Marjorie Chibnall, *The Empress Matilda: Queen Consort, Queen Mother and Lady of the English* (Oxford, 1991), p. 51).

### Renewals

The oaths were renewed in the 1130s.<sup>97</sup> William of Malmesbury states that in 1131, ‘after a large assembly of the leading men was held at Northampton, she made new the former faith from those who had given it, and she accepted it from those who had not given it’ (*habitoque non parvo procerum conventu apud Northamptonam, priscam fidem apud eos qui dederant novavit, ab his qui non dederant accepit*).<sup>98</sup> Though not mentioning any oaths, Henry of Huntingdon reports that there was a council at Northampton in 1131 at the nativity of St Mary (8 September).<sup>99</sup> This is probably the occasion on which the oaths were sworn. There is almost certainly significance in the oaths being sworn on a Marian feast day, emphasising positive female attributes. Indeed, the 1126/7 oath taking place at the Christmas court may also have had such links to the Virgin in mind. It is also worth noting one very significant change between 1127 and 1131, namely that Matilda was married to Geoffrey of Anjou. Those who swore were implicitly accepting the marriage and the likelihood that she would have children.

This seems to have been the last time that Matilda visited England during her father’s lifetime.<sup>100</sup> Nevertheless, two late twelfth-century writers mention further renewals. Ralph of Diss reports that, in 1133:<sup>101</sup>

In the month of March, Henry of Maine was born, the first born of Geoffrey Plantagenet, count of Anjou, and the Empress Matilda. When King Henry heard this, after the leading men of the kingdom had been called together, he set up his daughter and the heirs of his daughter as successors to him. He bound all to observe his disposition with an oath which was made in person. Stephen, son of Adela, his sister, presented the oath first at Westminster.

Mense Martio natus est Cenomannis Henricus primogenitus Gaufredi Plantegenest comitis Andegavorum, et Matilidi imperatricis. Quod cum rex Henricus audisset, convocatis regni sui principibus, filiam suam et haeredes filiae suae sibi successuros instituit. Dispositionem suam omnes observaturos astrinxit, sacramento corporaliter

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<sup>97</sup> J. H. Round’s discounting of the evidence has been dismissed by both Warren Hollister and Chibnall (Warren Hollister, ‘The Anglo-Norman Succession Debate of 1126’, p. 156, n. 43; Chibnall, *The Empress Matilda*, p. 59, n. 65).

<sup>98</sup> William of Malmesbury, *HN*, pp. 18–21.

<sup>99</sup> *HH*, pp. 486–87. Henry notes that it was decided that Matilda should be restored to her husband, who was asking for her (*ibid.*, pp. 486–89). An undated charter issued at Northampton ‘*in concilio*’ gives a long witness list which may represent some of those at the assembly (*RRAN*, II, no. 1715, p. 253).

<sup>100</sup> Chibnall, *The Empress Matilda*, p. 61.

<sup>101</sup> In Appendix I, we suggest that this was sworn at Easter 1133.

praestito. Stephanus filius Alae sororis suae primus praestitit sacramentum apud Westmustier.<sup>102</sup>

This was effectively a new oath rather than a renewal. The succession was to be guaranteed on oath not just to Matilda, but also to her heirs. That Matilda was not present and that this was done immediately after the birth of her son highlights that the emphasis would have been on the baby Henry at this event.

The most recent editor of the *Historia Novella*, Edmund King, is not sure of the veracity of this account, stating that Ralph ‘clearly wished to highlight the significance of Henry’s birth ... and the new oath may have been supplied for additional effect’.<sup>103</sup> On the other hand, he suggests that Ralph may have had access to a source unknown to other writers, as he had original material on London events as an important London ecclesiastic.<sup>104</sup> He also notes that there was a meeting of the royal court at Westminster in early 1133 where the oaths could have been sworn.<sup>105</sup> It could be the finding of a new source that explains why the passage was a later addition to Ralph’s account, only appearing in the manuscript tradition that Stubbs believed was the text with the latest alterations which the compiler thought worthwhile to make.<sup>106</sup> A section of the *Gesta Stephani*, entirely written after any possible renewals, when describing what was sworn, overlaps with some of the detail described by Ralph. The author states that the oath was not to accept as heir anyone ‘but his daughter, whom he married to the Count of Anjou, or her heir, if an heir survived her’ (*‘nisi aut filiam, quam comiti Andegavensi maritarat, aut illius, si superfuisset, heredem’*).<sup>107</sup> The mentioning of marriage to Geoffrey and an heir may be representative of an oath sworn after the birth of the young Henry.

Roger of Howden gives an account of another renewal in 1135:

<sup>102</sup> Ralph of Diss, *Abbreviationes Chronicorum*, in *The Historical Works of Master Ralph de Diceto, Dean of London*, ed. by William Stubbs, 2 vols (London, 1876), I, 3–263 (246–47).

<sup>103</sup> For King’s views, see William of Malmesbury, *HN*, p. xcvi, n. 411.

<sup>104</sup> As noted in the Introduction, Ralph became archdeacon of Middlesex in 1152/3 and was later made dean of St Paul’s in 1180/1 (Antonia Gransden, *Historical Writing in England*, 2 vols (London, 1974–82), I: *c. 550 to c. 1307* (1974), p. 230). Stubbs suggested that he may have been at St Paul’s as early as 1136, as ‘his notices of events touching the history of St Paul’s begin in 1136, and certainly have the appearance of personal recollections’ (*Historical Works of Ralph de Diceto*, ed. Stubbs, I, xx). Ralph had also known both Gilbert Foliot, who wrote a letter supporting Matilda’s cause, and Arnulf, archbishop of Lisieux, who argued against Matilda’s cause at the papal court. Perhaps he remembered a conversation with one of these, who had been heavily involved in the arguments concerning the oath to Matilda. For the friendships with, respectively, Gilbert and Arnulf, see *ibid.*, I, xxxix–xl and xxxi. Alternatively, he may have simply found a new source.

<sup>105</sup> For evidence of the meeting at Westminster he cites *RRAN*, II, no. 1761 (p. 262). Stephen was present.

<sup>106</sup> *Historical Works of Ralph de Diceto*, ed. Stubbs, I, xcvi.

<sup>107</sup> *GS*, pp. 10–11.

King Henry stayed in Normandy because of the joy of his grandson whom Geoffrey, count of Anjou, had begat of his [Henry's] daughter, and he [Henry] made the archbishops, earls, and barons of all his domains swear fealty to the Empress Matilda, his daughter, and to Henry, her son, as yet still very small, and he appointed him king after him.

rex Henricus moratus est in Normannia prae gaudio nepotum suorum, quos de filia eius Gaufridus consul Andegavensis genuerat, et fecit archiepiscopos et comites et barones totius suae dominationis jurare fidelitates Matildi imperatrici filiae suae et Henrico filio eius adhuc minimo, et constituit eum regem post se.<sup>108</sup>

This account, written, like Ralph of Diss's, much later than the events it describes, raises a number of questions. Though it is possible that at some point Henry held a ceremony on the continent, archbishops, earls, and barons of all his *dominationes* (dominions, territories) swearing is not corroborated by any other source. The statement that the child Henry was actually made Henry I's heir is also not strongly supported by other evidence, although Richard of Hexham believed that England and Normandy had been assigned by oath to 'Geoffrey's son' (*'cuius filio Anglia ac Normannia iurata fuit'*).<sup>109</sup> Symeon of Durham even believed that the marriage, which he placed in 1127, meant that Geoffrey would succeed.<sup>110</sup> All three were northern chroniclers.<sup>111</sup> Perhaps there was a common erroneous northern source.

### What was sworn in 1126/7?

It is clear that the commitment made in the 1126/7 oaths was to secure the succession. It is interesting to note the different ways this was described by twelfth-century writers. According to the Peterborough Chronicler, the most contemporaneous account, at the Christmas court those present swore 'England and Normandy after his day into the hand of his daughter Æthelic' (*'þær he let swere'n' ercebiscopes 7 biscopes 7 abbotes 7 eorles 7 ealle þa ðeines ða þær wæron his dohter Æðelic Engaland 7 Normandi to hande æfter his dæð'*).<sup>112</sup> This is the only account of the 1126/7 oath to state that the succession was to both England and Normandy. However, that this was the case is supported by other evidence. William of Malmesbury, in his account of a Winchester council in 1141, has the legate say that both

<sup>108</sup> Howden, *Chronica*, I, 187.

<sup>109</sup> Richard of Hexham, *De Gestis Regis Stephani et de Bello Standardii*, in *Chronicles of the Reigns of Stephen, Henry II, and Richard I*, ed. by Richard Howlett, 4 vols (London, 1886), III, 139–78 (145).

<sup>110</sup> SD, II, 281–82: *'remque ad effectum perduxit, eo tenore, ut regi, de legitima conjuge haeredem non habenti, mortuo gener illius in regnum succedere'*. It is possible, and perhaps probable, that he was just reporting what he believed the marriage would mean, rather than any formal change.

<sup>111</sup> The passage in Howden's work appears in his *Chronica*, written when he was no longer a royal clerk but a parson in Yorkshire.

<sup>112</sup> ASC(E) 1127 (p. 256).

England and Normandy had been sworn to Matilda.<sup>113</sup> Similarly, both Gilbert Foliot, in a letter to Brian FitzCount, and John of Salisbury, in his account of a papal council of 1139, state that the oath concerned both England and Normandy.<sup>114</sup> These three accounts were all written after the renewals of the oaths in the 1130s, at least one of which Malmesbury was aware of, but it is probable that all three were referring to the 1126/7 oath concerning Matilda.<sup>115</sup> Though there is no evidence that there was a similar ceremony in Normandy itself in the 1120s, it is possible that there was one.

Where the Chronicler had the oaths about the succession, other writers explicitly described an oath of fealty. Writing his *Gesta Normannorum Ducum* in the late 1130s at Bec in Normandy, Robert of Torigni states that those present were made

to promise fealty, under a most firm oath, to her in this manner, that they themselves would strive for their strength, so that the same Empress would obtain, after the death of her father, the monarchy of greater Britain, now called England.

sub artissimo sacramento illi fidelitatem hoc pacto promittere, quatinus ipsi pro suis viribus obniterentur, ut eadem augusta, post decessum patris, monarchiam Majoris Britannie, quam nunc Angliam vocant, obtineret.<sup>116</sup>

Robert thus describes a special *fidelitas* being sworn that included a commitment to securing the succession. John of Salisbury described the oaths in almost exactly the same terms. Writing about Stephen in his account of the 1139 papal council, he states:

he had sworn fealty to the Empress Matilda, Henry's daughter, and sworn that he would help her against all men in the securing and holding of England and Normandy, after her father's death.

iuraverat enim Matilidi imperatrici, filie iam dicti Henrici, fidelitatem, et quod post decessum patris illam in adoptione et conservatione Anglie et Normannie contra omnes homines adiuveret.<sup>117</sup>

Henry of Huntingdon also states that fealty was sworn to Matilda (*sacramentum fidelitatis*), although he gives no detail of the oath specifically concerning the succession.<sup>118</sup>

John of Worcester describes the oaths in a different manner. Those present

<sup>113</sup> William of Malmesbury, *HN*, pp. 92–93.

<sup>114</sup> *GFL*, p. 63; *HP*, p. 83.

<sup>115</sup> George Garnett also believes that the evidence 'strongly suggests that this arrangement was intended to cover the duchy too', also noting that there appears to have been no parallel ceremony in Normandy (Garnett, *Conquered England*, p. 209).

<sup>116</sup> Robert of Torigni, *GND*, VIII.25 (II, 240–41). For when Robert was writing, see *GND*, I, xxi.

<sup>117</sup> *HP*, p. 83.

<sup>118</sup> *HH*, pp. 700–01.

pledged themselves to the daughter of the king with faith and oath, that they would defend the whole kingdom of the English for her against all, if she survived her father, unless he still begat, before his death, a son of a lawful marriage who would succeed him.

fide et sacramento sponponderunt filie regis se totum regnum Anglorum illi contra omnes defensuros, si patrem suum superviveret, nisi de legali coniugio filium qui sibi succederet, adhuc ante obitum suum procrearet.<sup>119</sup>

The pledging of the individuals with faith and oath to Matilda probably refers to the *fidelitas* mentioned in other accounts. Symeon of Durham describes the commitment in a similar way. They swore that

they would keep/preserve the kingdom of England for his daughter the Empress, with faith having been kept, justly as heir after him, unless he himself, when dying, left behind a son of a legitimate marriage as heir to him.

juraverunt, ut filiae suae imperatrici fide servata regnum Angliae haereditario jure post eum servarent, nisi ipse moriens filium de legitimo matrimonio sui haeridem relinqueret.<sup>120</sup>

The clause ‘with faith having been kept’ (*fide servata*) probably refers to fealty. These two writers also state that the oaths were conditional. If Henry had a legitimate son, the oaths would be invalidated. William of Malmesbury, whose account of the event is one of the most detailed, also mentions this condition: those present were bound with an oath ‘that, if he [Henry] should die without a male heir, they would receive Matilda, his daughter, formerly Empress, unhesitatingly and without any reconsideration, as lady’ (*ut, si ipse sine herede masculo decederet, Mathildam filiam suam quondam imperatricem incunctanter et sine ulla retractatione dominam reciperent*).<sup>121</sup> That the commitment is specifically to accept her as *domina* does not necessarily carry significance in uncovering what was sworn in 1126/7. As seen in Chapter 1, Stephen Church has argued that the title *domina Anglorum* was created for Matilda in 1141; that William was writing between 1140 and 1142 and that no other chronicler uses this language to describe the 1126/7 oath suggests that his use of the term was a projection back.<sup>122</sup> There is no explicit mentioning of fealty, but William

<sup>119</sup> JW, III, 166–67.

<sup>120</sup> SD, II, 281.

<sup>121</sup> William of Malmesbury, *HN*, pp. 6–7. He repeats that there was this condition much later in the *Historia* (see *ibid.*, pp. 92–93). He also notes that Roger, bishop of Salisbury, claimed there was the condition that the king should not marry Matilda to anyone outside the kingdom without consultation (*ibid.*, pp. 10–11). This is almost certainly erroneous, as William suspected, especially in light of the renewals.

<sup>122</sup> See above, p. 34 for Church’s argument; for William’s writing dates, see above, pp. 7–8.

does note, at the end of his account of the council, that ‘all had been bound by faith and oath’ (*obstrictis omnibus fide et sacramento*).<sup>123</sup> Again, this probably refers to fealty.

Clearly an oath was sworn assigning England and Normandy to Matilda. The commitment seems to have entailed a special type of *fidelitas* that promised aid and counsel to support an accession.<sup>124</sup> This appears to match the type of homage commitment made to William Adelin. But homage was not done to Matilda. No chronicler mentions it. Homage could theoretically be done to women, though they were rarely in a position to accept it.<sup>125</sup> George Garnett may be correct in suggesting that homage was not given because of the conditional nature of the commitment.<sup>126</sup>

### The ceremony

Some of the accounts give a generic list, although with slight variation, of who attended the council: archbishops; bishops; abbots; earls; and barons.<sup>127</sup> In his letter to Brian FitzCount, Gilbert Foliot states that ‘all the bishops and all those of the nobles of the kingdom’ (*episcoporum omnium et totius regni huius nobilium*) had sworn.<sup>128</sup> The *Gesta Stephani* author gives the less specific ‘first men of the whole kingdom’ (*primos totius regni*).<sup>129</sup> John of Hexham twice has the oath taken by ‘the community of the kingdom/England’ (*universitas regni*; *universitas Angliae*), although there is no evidence that the oath was ever taken by those lower down the social ladder.<sup>130</sup> This is an important reminder of the problems, seen throughout Chapter 1, in using narrative accounts stating that ‘all’ swear an oath. No sources state that Normans, Welsh, or Scots (besides King David, who was

<sup>123</sup> William of Malmesbury, *HN*, pp. 8–9.

<sup>124</sup> Gilbert Foliot’s letter states: ‘no one was left behind who did not promise counsel to her concerning the obtaining and protecting of the kingdom of England and duchy of Normandy, after the death of the king, under the sanction of an oath’ (*nemo plane relictus est qui non ei consilium de optinendo et tuendo post regis obitum regno Anglie et ducatu Normannie sub iuramenti religione promitteret*) (*GFL*, p. 63).

<sup>125</sup> Garnett, *Conquered England*, p. 210.

<sup>126</sup> *Ibid.*, pp. 209–10. However, that conditional homage could be done might be suggested by William of Malmesbury’s statement that Robert of Gloucester did conditional homage to Stephen (William of Malmesbury, *HN*, pp. 30–32).

<sup>127</sup> *ASC(E)* 1127 (p. 256), gives ‘thanes’ (*ðeines*), rather than barons; *SD*, II, 281, adds ‘David, king of the Scots’ after the abbots; *JW*, III, 166–67, adds the name of William, archbishop of Canterbury, and adds ‘all of the other English bishops of the provinces, together with leading men of the land itself’ (*ceterique Anglice regionis episcopi omnes, cum principibus terre ipsius*); Robert of Torigni, *GND*, VIII.25 (II, 240–41) has ‘bishops and archbishops and the most important of the abbots and also the earls and noblemen of the whole English kingdom’ (*episcopos et archiepiscopos et abbatum potentiores necnon comites et satrapas totius Anglici regni*). Robert’s use of *satrapas* in the ‘barons’ slot is unusual, but seemingly refers to the same group.

<sup>128</sup> *GFL*, p. 63.

<sup>129</sup> *GS*, pp. 10–11.

<sup>130</sup> John of Hexham, *Historia*, in *SD*, II, 284–332 (286–7; 293). For the use of the word *universitas*, see below, p. 162.

brother-in-law of Henry I and an English landholder as earl of Huntingdon) were summoned.

After stating that ‘a great number of the clergy and leading men’ (*‘magno cleri et optimatum numero’*) had been summoned, and that ‘all the leading men of the whole kingdom, and the bishops and the abbots’ (*‘omnes totius Angliae optimates, episcopos etiam et abbates’*) swore, William of Malmesbury gives a more detailed account of the oath-taking ceremony.<sup>131</sup> He later states that ‘all in that council swore who were regarded as carrying any weight’ (*‘iuraverunt ergo cuncti, quicumque in eodem concilio alicuius viderentur esse momenti’*). This may tie in with Robert of Torigni’s statement that of the abbots it was only the most important who swore (*‘abbatum potentiores’*).<sup>132</sup> The lists cited above imply an order in which individuals and groups swore. William is more specific. First William, archbishop of Canterbury swore, ‘then the other bishops, and not least, the abbots’ (*‘mox ceteri episcopi, nec minus abbates’*). Then, of the laity, King David swore first, followed by Stephen (later king), and then Robert, earl of Gloucester, Henry’s illegitimate son and half-brother of Matilda. He also states that Stephen and Robert competed as to who swore first.<sup>133</sup> The rest swore after them.

A revised account of John of Worcester also gives great detail of the ceremony, but with some minor disagreements with Malmesbury’s account.<sup>134</sup> As argued in Appendix I, this revision may be a jumbled account of two events. Yet the account is nevertheless interesting in demonstrating how such ceremonies could work. The revision has the archbishops swear first, and then the bishops in order, with Roger, bishop of Salisbury, proposing the oaths to them. Then, instead of the abbots swearing next, David, king of the Scots swore. The narrator then notes that Queen Adeliza also swore, adding a condition to the oath that it would only be kept if the king did not have an heir of either sex. Robert of Gloucester was then asked to swear, but he refused, saying that Stephen was born before him and should do so first. After this ‘all the earls, barons, sheriffs, and more noble knights swore’ (*‘iurant postmodum omnes comites, barones, vicecomites et quique*

<sup>131</sup> William of Malmesbury, *HN*, pp. 6–9 for his account of the council.

<sup>132</sup> Robert of Torigni, *GND*, VIII.25 (II, 240–41).

<sup>133</sup> William describes a *certamen* between them and uses the verb *contendo* to describe their argument. He also describes their dispute much later in his *Historia*, as a *contentio*. In this much later passage he has Robert swearing before Stephen (William of Malmesbury, *HN*, pp. 112–13). Perhaps William got confused with the 1131 council where Robert may have been the first of the laymen to swear. The witness list from the charter of the 1131 Northampton council does not contain either David’s or Stephen’s names, and Robert is the first earl listed (*RRAN*, II, no. 1715, p. 253).

<sup>134</sup> JW, III, 176–183.

*nobiliore milites*). Finally the abbots were asked to swear. They complained about being preceded by the laymen but were told to stop whinging and swear.<sup>135</sup>

This account demonstrates a number of interesting things about how oath-swearing ceremonies with high participation might function. It would seem that the bishops, King David, Queen Adeliza, Stephen, and Robert of Gloucester swore in order, as individuals. It is not made explicit whether the wider secular body present, or the abbots, swore *en masse* or individually. Included in this wider group were sheriffs. This is the first time a chronicle mentions royal office holders swearing at such events. It is probable that earls at least would have sworn as individuals on such occasions. It is also noteworthy that there was a *diindicator* (a regulator or adjudicator) of the ceremony, in this case Roger, bishop of Salisbury.<sup>136</sup> He said to Robert of Gloucester ‘get up, get up, and swear the oath as the king wants!’ (*surge, surge et pro regio velle iuramentum effice*), and to the abbots, the more conciliatory ‘let the abbots come forward and swear the oath’ (*abbates procedant; iuramentum faciant*). Also interesting is that individuals could vary the form of the oath for themselves (in this case Queen Adeliza) and that there were arguments about precedence (Robert of Gloucester and Stephen; the abbots).<sup>137</sup>

## Oaths and crowns

Two kings of England tried to have their sons crowned during their own lifetime. One failed; the other succeeded.

### Eustace

The oaths sworn to Matilda did not have their intended effect. Stephen seized the throne, his reign as king of England beginning in December 1135. He did not go to Normandy until March 1137, Orderic Vitalis reporting that Louis VI invested him as duke in May.<sup>138</sup> Henry of Huntingdon and Robert of Torigni both state that Stephen’s

<sup>135</sup> William of Malmesbury seems to have them swear straight after the bishops.

<sup>136</sup> That Roger played such a role is supported by Henry of Huntingdon, who uses the verb *predictare* when describing the bishop’s part in the ceremony (HH, pp. 700–01).

<sup>137</sup> The detail about Adeliza is not matched elsewhere. McGurk has argued that John’s revised account shares detail with William of Malmesbury’s: ‘namely, that Archbishop William swore first of all, and King David first of the laity, and that the relative precedence of Earl Robert and Count Stephen was an issue’ (JW, III, 182–83, n. 7). However, where William has Robert and Stephen both claiming precedence and arguing about it, John has Robert insisting that Stephen precede him. William’s patron was Robert of Gloucester. It could be argued that William’s account would be more accurate here, reporting what Robert had told him. However, it could contrarily be that William made up the argument to push the importance of his patron or to set up the later narrative of conflict between Stephen and Robert.

<sup>138</sup> OV, IV, 482–83.

son Eustace did homage for the duchy.<sup>139</sup> Though no sources mention any oaths being sworn to either the king or his son, it is possible that submissions were made to both at Stephen's Easter court at Rouen.<sup>140</sup> Stephen left Normandy in 1137 and did not return. After a gradual conquest of the duchy, Rouen fell to Count Geoffrey of Anjou on 23 April 1144. At this point he may have been invested as duke.<sup>141</sup> It is clear that he planned to pass the duchy to his son Henry, and at some point between November 1149 and March 1150 Henry was invested as duke.<sup>142</sup> Again, although no sources mention oaths being sworn to Henry, it is possible that they were.

Stephen envisaged establishing a lasting royal dynasty in England: his foundation of Faversham Abbey seems to have been in part designed as a huge royal mausoleum, 'without parallel elsewhere'.<sup>143</sup> In England, he also took an unprecedented step in attempting to have his eldest son Eustace consecrated as co-king. Henry of Huntingdon reported that this attempt came at a council in April 1152.<sup>144</sup> It failed because of papal prohibition. However, he may have succeeded in having elites do oaths to Eustace as an heir. The Annals of Waverley report that in London in 1152, 'the earls and barons of the whole of England submitted themselves to Eustace with faith and oath' (*Eustachio ... fide et jusjurando universi comites atque barones Angliae se subdiderunt*).<sup>145</sup> This was probably at the same council.<sup>146</sup> That the account neither explicitly mentions homage nor seems to imply that it was done may carry significance. The louder silence of ecclesiastics not submitting may also represent a reality—the papal prohibition of the crowning probably extended to submitting to him as heir as well. Although submissions may have been made to Eustace, they were seemingly weaker than those made to William Adelin (and Matilda), lacking

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<sup>139</sup> HH, pp. 708–09; Robert of Torigni, *Chronica*, p. 132.

<sup>140</sup> For Stephen's early movements in Normandy, see Edmund King, *King Stephen* (New Haven, CT, 2010), pp. 70–73.

<sup>141</sup> David Crouch notes that this is the point that Robert of Torigni begins to refer to him as duke, although some charters from 1143 also use the title. See David Crouch, *The Reign of King Stephen, 1135–54* (Harlow, 2000), p. 195 and n. 15.

<sup>142</sup> W. L. Warren, *Henry II* (London, 1973), pp. 32 and 38, n. 2.

<sup>143</sup> Brian Philp, *Excavations at Faversham, 1965: The Royal Abbey, Roman Villa and Belgic Farmstead* (Crawley, 1968), p. 15; Stephen Church, 'Aspects of the English Succession, 1066–1199: The Death of the King', *Anglo-Norman Studies*, 29 (2007), 17–34 (30).

<sup>144</sup> HH, pp. 758–59. This may be an eyewitness account (see *ibid.*, p. lvi).

<sup>145</sup> *Annales Monasterii de Waverleia*, in *Annales Monastici*, ed. Luard, II, 129–411 (234). This portion of the annals was written in a hand that was late twelfth- or early thirteenth-century. Roger of Torigni's *Chronica* is the principle source for the annals at this point, though additions are made in the annalist's own language from 1138. There is no reason to doubt the veracity of the statement. See *Annales Monastici*, ed. Luard, II, xxxi and xxxv).

<sup>146</sup> For the attempt at anointing Eustace, see also Garnett, *Conquered England*, pp. 264–65. He also argues that bishops and abbots could not have sworn any corresponding *fidelitas*, because of the papal prohibition of the anointing.

homage and the support of the Church. Regardless, Eustace died in 1153. Though Stephen had a surviving son, he came to an agreement with Henry, Matilda's son, making him heir to the kingdom. This arrangement will be discussed towards the end of the chapter. That Henry II became king and enjoyed a long reign may explain why only one source mentions the oaths that seem to have been sworn to Eustace.

## Henry the Young King

Prior to 1173, securing the English succession appeared to be one of Henry II's main aims. Considering the difficulties his mother Matilda had faced in securing a succession guaranteed by oaths and the comparative ease with which Henry himself had succeeded after the interlocking homages of 1153 and 1154,<sup>147</sup> it is unsurprising that he was concerned with the mechanics of ensuring that his own successor was of his line.

### 1155

According to Robert of Torigni, on 10 April 1155, less than six months into the reign,

King Henry, at Wallingford, made the leading men of the English kingdom swear fealty to William his firstborn son, concerning the kingdom of England, and, if the same boy were to meet with an untimely death, to his brother Henry.

Henricus rex, apud Warengafort, fecit optimates Anglici regni jurare fidelitatem Willelmo primogenito suo, de regno Angliae; et si idem puer immatura morte occumberet, Henrico fratri suo.<sup>148</sup>

Fealty was thus sworn not only to Henry's eldest son, but also to his second son Henry, conditional on the elder brother's death. William was not yet two at the time of the oath. His brother Henry was less than two months old. That oaths were sworn to such young heirs and to two of them marks a change from the practices we have examined thus far. It is likely that there were already signs that William's health was poor—he was to die the following year. It is possible that Henry II, anticipating the loss of his eldest son, wished to hammer home that his offspring would inherit the kingdom and to quash in advance any claims that Stephen's surviving son, also named William, might make. This William was about twenty years old and, as a result of the Winchester agreement of 1153, the

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<sup>147</sup> See below, pp. 83–87.

<sup>148</sup> Robert of Torigni, *Chronica*, p. 184. Gervase of Canterbury reports the same events, stating that 'England was sworn to the king and his heirs, to William ... and to the little boy Henry, if William died' (*'ubi adjurata est Angli regi et haeredibus suis, Willelmo ... et Henrico puerulo si Willelmo fataliter accidisset'*) (GC, *Chronica*, 162), again demonstrating the different types of language used to describe these commitments to heirs. The dating of 3 April by Matthew Strickland seems to be a mistake; Robert of Torigni dates it to 'the Sunday after the octaves of Easter, namely the fourth ides of April' (10 April) (Matthew Strickland, *Henry the Young King, 1155–1183* (New Haven, CT, 2016), p. 19).

foremost baron in England. Henry was clearly concerned about his second cousin. In 1157, he took advantage of a clash in East Anglia between William and Hugh Bigod to confiscate all of William's English and Norman lands, only handing back to him his maternal and paternal inheritance.<sup>149</sup>

Matthew Strickland has highlighted the importance of the site where the oaths were sworn to the two infants. Wallingford had been an important Angevin stronghold during the civil war and had been the site of negotiations between Henry and Stephen in 1153. In Strickland's words, 'a place indelibly associated with civil strife now witnessed a promise of lasting peace in the recognition of the heirs to a new king'.<sup>150</sup> That the oaths to the young Henry do not seem to have been renewed in the immediate aftermath of his brother's death implies that the 1155 ceremony was considered to have created a sufficient bond for securing the dynasty.

## 1162

It was not until 1162 that submissions were again made to Henry. Stephen's son William died in 1159. For the first time since the Conquest, there were no immediate rival heirs to the throne.<sup>151</sup> Ralph of Diss reports that,

The bishops [and] abbots of the whole of England swore fealty to Henry, the firstborn son of the king, on the king's order. Moreover, Thomas the chancellor did homage to him first of all, saving faith to the king while he lived and wished to be in charge of the kingdom.

Episcopi, abbates totius Angliae mandato regis fidelitatem juraverunt Henrico primogenito filio suo. Thomas autem cancellarius primus omnium ei fecit homagium, salva fide regis quamdiu viveret et regno praeesse vellet.<sup>152</sup>

In this account it is explicit that leading ecclesiastics swore fealty to the young Henry. In the statement that Thomas Becket did homage '*primus omnium*', it is implicit that other elites also submitted in this way. It is interesting that Becket swore first among the laymen. Though this could be because of his position as chancellor, it is perhaps more

<sup>149</sup> For William's career, see Thomas K. Keefe, 'William, earl of Surrey (c. 1135–1159)', *Oxford Dictionary of National Biography* (Oxford, 2004) [http://www.odnb.com/view/article/46707]. Matthew Strickland has also pointed to the potential threats of Henry II's own younger brothers, Geoffrey and William, but this was mainly confined to the continent (Strickland, *Henry the Young King*, p. 19).

<sup>150</sup> Strickland, *Henry the Young King*, p. 19.

<sup>151</sup> Matthew Strickland has noted that Henry of Champagne and Theobald V of Blois (Stephen's nephews) might press a claim (*ibid.*, p. 30). They were not, however, pressing such a potential claim in the early 1160s. It could be argued that during the two-year period when Henry I was king after the death of Robert Curthose, there were no rival heirs to Matilda.

<sup>152</sup> Ralph of Diss, *Ymagines Historiarum*, I, 306.

likely that it was because he was about to become archbishop of Canterbury. These were, on the face of it, homages to an heir in a similar way to those to William Adelin almost half a century earlier. Diss places his account after the death of Richard, bishop of London, on 4 May 1162 (*'iiii nonas Mai'*). He also places the oaths before his account of the council at Westminster where Becket's election was confirmed, dated 23 May.<sup>153</sup> It would appear that the oaths were sworn at some point between these two dates. That Diss refers to Becket as *cancellarius* in the account further suggests that it was before his election. As R. W. Eyton pointed out long ago, the submissions to Henry the infant almost certainly came at the same council where Becket's election was confirmed.<sup>154</sup>

These submissions were part of a wider plan to have the young Henry crowned. In June 1161 the king had obtained a mandate from Pope Alexander III to allow Roger, archbishop of York, to crown the boy. By 1162, Henry II planned to have Becket, as the new archbishop of Canterbury, crown his son. Matthew Strickland has explored the reasons for this plan: securing the dynasty; contemporary exemplars, most importantly in Capetian France, but also in Germany, Byzantium, the kingdom of Jerusalem, and Sicily; and royal status linked to the general policy Henry pursued since 1154 of restoring royal authority.<sup>155</sup> The immediate prompt for beginning this process seems to have simply been that the young Henry had reached the minimum age required for coronation. He had turned seven on 28 February 1162. In 1059, King Henry I of France had his son Philip crowned at this age, and, in 1172, Archbishop Henry of Champagne suggested that Louis VII's son Philip, aged seven, ought to be crowned.<sup>156</sup>

That the homage commitment to the young Henry entailed the odd provision that *fides* was to be saved to the father whilst 'he wished to be in charge of the kingdom' implies that the king may have pictured a concrete transfer of power, or of aspects of royal authority. It does not seem that he envisioned retirement in the model of some earlier Norman dukes, either because of age (he was not yet 30) or to a monastery. Instead it seems that he planned for a regency government, based around Becket as archbishop, chancellor, and guardian of the young king, allowing him to concentrate on continental

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<sup>153</sup> *Ibid.*, pp. 306–07. This is before his ordination and consecration at Canterbury, dated 2 and 3 June respectively.

<sup>154</sup> R. W. Eyton, *Court, Household, and Itinerary of King Henry II* (London, 1878), p. 56.

<sup>155</sup> See Strickland, *Henry the Young King*, pp. 40–48.

<sup>156</sup> This suggestion was refused. See *ibid.*, p. 41, n. 62 (p. 342). It should be noted that Frederick Barbarossa's heir was crowned at the age of four (Andrew W. Lewis, *Royal Succession in Capetian France: Studies on Familial Order and the State* (Cambridge, MA, 1981), p. 74).

affairs.<sup>157</sup> Strickland has noted a possible parallel with Henry II's father handing control of Normandy to him when he reached an appropriate age, and has also pointed to a crown-wearing at Easter 1158, where the king and queen vowed not to be crowned again.<sup>158</sup> It is also possible that Henry had departure for a crusade in mind.<sup>159</sup>

These submissions seem to have been renewed. Robert of Torigni reports that in 1163:

In the month of January, King Henry travelled to England, himself and the queen, and with great joy he was received by almost all the leading men of the country, who were awaiting him on the coast. Indeed already, Henry, his son, had gone before, and just as he did in Normandy, so he received the homages and fealties of the barons and knights in England.

Mense Januario, rex Henricus transivit in Angliam, ipse et regina, et cum magno gaudio susceptus est ab omnibus fere proceribus patriae, qui eum in littore exspectabant. Jam enim Henricus, filius ejus, praecesserat, et sicut in Normannia fecerat, sic in Anglia homagia et fidelitates baronum et militum suscepit.<sup>160</sup>

This account could be read as still referring to the submissions of 1162, though one might expect *susceperat* rather than *suscepit*. However, it is more likely that Robert is reporting a renewal of the oaths on Henry II's return to England. Later in 1163, further submissions came at Woodstock. Diss reports that, on 1 July, the king of Scots and various Welsh princes 'did homage to the king of the English and Henry, his son' (*fecerunt homagium regi Anglorum et Henrico filio suo*).<sup>161</sup> This seems to be the first time that submissions from other British rulers were made to the heir to the English throne. That the oaths came before the coronation itself highlights that this was still an adapted version of Norman practice. They were submissions to an heir, not a king.<sup>162</sup>

While we can see that what had been Norman practice was being used in England, our sources are again silent regarding whether Norman elites submitted to the young Henry. It seems likely that oaths were sworn to him around the same time that he did homage to Louis VII for Normandy, in 1160. This was at the tender age of five, just prior to his

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<sup>157</sup> Strickland, *Henry the Young King*, p. 47.

<sup>158</sup> *Ibid.*, p. 47: 'in this context, it is possible that as early as 1158 Henry II had already begun to envisage young Henry taking over the ceremonial dimensions of the kingship of England when he reached a suitable age.'

<sup>159</sup> For Henry's plans for a crusade as early as 1163, see *ibid.*, p. 75.

<sup>160</sup> Robert of Torigni, *Chronica*, p. 216.

<sup>161</sup> Ralph of Diss, *Ymagines Historiarum*, I, 311.

<sup>162</sup> For the oaths sworn after his coronation, see above, pp. 37–38.

marriage to the French king's daughter Margaret.<sup>163</sup> This arrangement would parallel that made by Henry I in the 1110s with his son William Adelin, although to a much younger heir. It is also possible that submissions were made in 1162, at the Easter council at Falaise, before Becket and the boy left for England.

## Demands for oaths as heirs

After the younger Henry's rebellion in 1173, no English kings had their sons jointly crowned. There also does not seem to have been any demand on the part of heirs to be recognized as co-king. We do, however, see a continued use of oaths in succession practice. Importantly, when it looked as if the institution might lapse, heirs demanded that oaths be sworn to them.

### Richard

Henry the Young King died in 1183. Henry II was 50. As far as we know, he made no new plans for the English succession.<sup>164</sup> His third eldest legitimate son to reach adulthood (Geoffrey) died three years later in 1186. Still no preparations were made for the succession. This might seem odd considering the apparent concern about succession arrangements evident from early in the reign to as late as 1170. The Young King's rebellion in 1173 doubtless played a role in this lack of subsequent succession plans. William of Newburgh, looking back from the late 1190s, stated that when the rebellion happened Henry II realised that it had been foolish to appoint his successor so early (*'praemature creando sibi successorem'*).<sup>165</sup> When Richard demanded oaths be done to him as an heir at the end of 1188, Henry refused. According to Roger of Howden he was 'not unmindful of the injuries which the king his son had done to him for similar exaltation' (*'non immemor injuriarum quas rex filius suus ei fecerat pro consimili exaltatione'*).<sup>166</sup>

<sup>163</sup> Robert of Torigni, *Chronica*, p. 208.

<sup>164</sup> Henry II seems to have wanted Richard to take up Henry the Young King's position as heir in England, Normandy, and Anjou, and John to take Richard's position in Aquitaine. Richard wanted to keep Aquitaine, and the plans fell through. See Stephen Church, *King John: England, Magna Carta and the Making of a Tyrant* (London, 2015), pp. 16–17. It is plausible that Henry would have envisaged the use of oaths within these plans.

<sup>165</sup> William of Newburgh, *The History of English Affairs*, ed. and trans. by P. G. Walsh and M. J. Kennedy, 2 vols to date (Warminster, 1988–), II, 118–19. For date of writing, see *ibid.*, I, 4.

<sup>166</sup> Howden, *Chronica*, II, 354–55. Ralph of Diss reported that Henry refused as it would seem in the circumstances that he had been compelled to make such arrangements, rather than them being voluntary (*'quoniam hoc potius videretur facere coactus quam spontaneus'*) (Ralph of Diss, *Ymages Historiarum*, II, 58). Considering some of the claims made concerning the invalidity of the oaths sworn to his mother, Matilda, Henry may have been mindful of this as well. See below, pp. 154–60, for a discussion regarding the invalidity of oaths sworn under compulsion.

These demands of Richard, made through King Philip of France in 1188, survive in the works of Ralph of Diss and Roger of Howden.<sup>167</sup> Regarding the succession, Diss reports that Richard requested ‘that he [Henry] make his land be established with an oath to him as to an heir’ (*petens ... terram suam sibi velut haeredi suo faceret juramento firmari*). Howden, in the *Gesta*, describes this as Richard wanting the ‘fealties of the men of the kingdom of England and all his other lands’ (*fidelitates hominum regni Angliae et aliarum terrarum suarum*). In the *Chronica*, he adds that ‘homages’ were also requested (*homagia et fidelitates ab hominibus terrarum suarum*). At a later conference, in 1189, the *Gesta* has him demand ‘*securitatem ... de regno Angliae habendo post decessum patris sui*’, whereas the *Chronica* has Richard demanding ‘*fidelitates terrarum suarum*’.<sup>168</sup> In both works, Howden also copied out the terms of peace drawn up between Henry and Philip, which were ultimately not put into action. Here Richard was to have the ‘*fidelitates hominum de terris patris sui citra mare et ultra*’.<sup>169</sup> It is clear that these all refer to submissions to an heir, variously described as *homagium*, *fidelitas*, and *securitas de regno*. But should we read anything into these subtle differences in language? It is possible that they are just examples of the variety in the language that chroniclers used to describe submissions to heirs. Howden’s addition of ‘*homagia*’ in 1188, and the changing of ‘*securitatem*’ to ‘*fidelitates*’ in 1189, do not appear to be changes of substance. What is clear from all the accounts is that Richard was demanding submissions via oath to him as an heir.

## John

King Richard left for crusade in the summer of 1190. By the summer of 1191, there was an open conspiracy seeking to oust his chancellor William Longchamp. John played a leading role in this opposition. Stephen Church has rightly emphasized that Longchamp’s downfall by the end of the year was as a result of his own actions, and that John was not trying to unseat his brother as king.<sup>170</sup> He was, however, working to be recognised as heir. Richard seemingly made no preparations for the succession on his departure in 1190. However, when in Sicily in September, he openly declared that his nephew, Arthur, was his heir. This news reached England in early November.<sup>171</sup>

<sup>167</sup> Ralph of Diss, *Ymagines Historiarum*, II, 58; Howden, *GRHS*, II, 50; Howden, *Chronica*, II, 354–55.

<sup>168</sup> Howden, *GRHS*, II, 66; Howden, *Chronica*, II, 362.

<sup>169</sup> Howden, *GRHS*, II, 70; Howden, *Chronica*, II, 365.

<sup>170</sup> For an account of the disputes of 1191, see Church, *King John*, pp. 37–49.

<sup>171</sup> *Ibid.*, p. 36. See Howden, *GRHS*, II, 133–35; Howden, *Chronica*, III, 61–64. The Winchester annalist has Richard making Arthur heir before leaving for crusade (*Annales de Wintonia*, p. 64).

Almost a year later, John successfully had oaths sworn to him as heir at the London council of October 1191, which deposed Longchamp as chancellor and granted the citizens of London a commune.<sup>172</sup> Howden reports in his *Gesta* that

the citizens of the Londoners, the bishops, the earls, and the barons swore fealties to King Richard and to his brother Count John of Mortain, saving the fealty [to Richard], and that they would receive him as their lord and king, if the king died without offspring.

et cives Landoniarum et episcopi et comites et barones juraverunt fidelitates regi Ricardo, et Johanni comiti de Meretone fratri ejus salva fidelitate, et quod illum in dominum suum et regem reciperent, si rex sine prole decesserit.<sup>173</sup>

The *Chronica* gives a slightly different account. Here the citizens, after having their commune granted,

swore faithful service (*fidele servitium*) to the lord king Richard, and his heir; and if he himself died without offspring, they would receive Count John, brother of King Richard, as king and lord (*in regem et dominum*); and they swore fealty to him against all men, saving the fealty of King Richard his brother.

juraverunt fidele servitium domino regi Ricardo, et haeredi suo; et si ipse sine prole decessisset, reciperent comitem Johannem, fratrem Ricardi regis, in regem et dominum; et juraverunt ei fidelitatem contra omnes homines, salva fidelitate regis Ricardi fratris sui.<sup>174</sup>

Again, without supplementary evidence it is unclear how we should interpret the slight differences between the two accounts. Importantly, both describe John having oaths sworn to him as an *heir*.<sup>175</sup> Richard of Devizes paints this as a primary aim of John throughout the year. He states in an account of early 1191 that John went about the country with a large retinue and ‘did not prohibit or restrain his followers from calling him the king’s heir’ (*nec proibeat (vel coibeat) suos se regis nominantes heredem*).<sup>176</sup> He notes

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<sup>172</sup> We discuss some of the other oaths sworn at this council in Chapter 3.

<sup>173</sup> Howden, *GRHS*, II, 214.

<sup>174</sup> Howden, *Chronica*, III, 141.

<sup>175</sup> The ‘*et haeredi suo*’ in the first clause of the passage is presumably either a routine form of writing about such submissions or a reference to John. Of Howden’s four accounts of the oaths sworn to Richard in 1191 and 1192, in three of them Howden has the oaths sworn not just to Richard, but also ‘*haeredi suo*’. The exception is the account in the *Gesta* of the 1191 oaths. Richard had no legitimate children. His nephew Arthur may have been designated heir when Richard left for the crusade, but, as we have seen, a council in 1191 appears to have seen John designated heir, with various oaths sworn to him. So what is Howden referring to when he states that the oaths were sworn to Richard and his heir? This may have been a formulaic way that oaths of fealty were sworn. Just as Howden repeatedly reports the *contra omnes homines* clauses within the homage commitment, so he reports the *et haeredi suo* clauses here.

<sup>176</sup> Richard of Devizes, *Chronicle of the Time of King Richard the First*, ed. and trans. by John T. Appleby (London, 1963), pp. 29–30.

that various groups swore oaths to John.<sup>177</sup> Presumably these were also oaths to him as an heir.

It was only on his deathbed that Richard actually did confirm John as his heir. According to Howden, the elder brother granted England and all his other lands to John, and ‘he made those who were near do fealties to the aforesaid John’ (*fecit fieri praedicto Johanni fidelitates ab illis qui aderant*).<sup>178</sup> What is clear was that both Richard and John had attempted to have oaths sworn to themselves as heirs, seeking to emulate the oaths sworn to their brother Henry, their father Henry, and their great uncle William Adelin.<sup>179</sup> But since the rebellion of Henry the Younger, both Henry II and Richard had been reluctant to appoint heirs and have oaths sworn to them.

## Agreements

Three kings in our period of study made succession arrangements via agreements with a rival heir. It is to these that we now turn.

### Fraternal agreements

As noted above, William the Conqueror did not have oaths sworn to a designated heir. Between 1087 and 1102, no king of England or duke of Normandy had any legitimate male heirs. In 1091 and 1101, Duke Robert made agreements with his royal brothers about the succession to both Normandy and England.<sup>180</sup> In 1091, that between Rufus and his elder brother included the provision that if Robert died without legitimate sons, Rufus was to be heir of all Normandy; if the king died, Robert was to be heir of all

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<sup>177</sup> He reports that ‘the knights willingly but secretly consented to Count John; however the clergy, more fearful by nature, were not so bold to swear in words of either master’ (*militia comiti libenter sed latenter consentiebat; clerus vero, natura meticulosior, neutrius audebat iurare in verba magistris*) (*ibid.*, p. 30). That Devizes states that the clergy were not bold enough to swear implies that the *militia* did swear to John. That Devizes account has the clergy unwilling to swear ‘to either master’ may suggest that at this political juncture, John was seeking submissions as a rival regent to Longchamp.

He also states that it was reported to Longchamp ‘that Gerard de Camville, a factious man and prodigal of faith, had done homage to Count John, the king’s brother, for Lincoln castle’ (*nuntiatur illi quod Girardus de Camvilla, homo factiosus et fidei prodigus, homagium fecerat Iohanni comiti fratri regis de castello Lincolnie*) (*ibid.*, p. 30).

<sup>178</sup> Howden, *Chronica*, IV, 83.

<sup>179</sup> John’s actions of 1191 are in stark contrast to 1193, where he seems to have been attempting to usurp the realm. See Church, *King John*, pp. 53–57.

<sup>180</sup> It is possible that oaths were used in the agreements between Alfred and his brothers about who ought to succeed to what in the late tenth century. For these agreements, see Alfred’s will (S1507; translated in *Alfred the Great: Asser’s ‘Life of Alfred’ and Other Contemporary Sources*, trans. by Simon Keynes and Michael Lapidge (Harmondsworth, 1983), pp. 174–78.

England. Twelve men from each side swore to keep the agreement.<sup>181</sup> In 1101, Robert Curthose launched an invasion of Henry I's kingdom. Before any fighting, the brothers came to a similar arrangement to that of 1091.<sup>182</sup> Again, there was a provision that whoever survived the other would be heir to England and/or Normandy, provided neither had a legitimate heir.<sup>183</sup> Again this was ratified '*mid adē*' by twelve men from each side.<sup>184</sup> The Norman succession practice of having elites swear a loyalty commitment to a designated heir was not used. Instead these were treaties confirmed by oaths by representatives.

### The agreement between Stephen and Henry, 1153

We see more detailed succession arrangements made between King Stephen and Duke Henry in 1153. On 17 August 1153, Stephen's eldest son Eustace died. Although the king had another son, William, this death paved the way for a peace process with Duke Henry to move forward. It seems that Theobald, archbishop of Canterbury, and Henry, brother of the king and bishop of Winchester, were the main negotiators.<sup>185</sup> A peace was made at Winchester on 6 November.<sup>186</sup> Later, at Westminster, Stephen issued a 'charter' containing details, though not necessarily all the details, from the agreement.<sup>187</sup>

This charter begins by recording that Henry had been made successor (*'successorem'*) to the kingdom and Stephen's heir (*'heredem'*).<sup>188</sup> In return, Henry 'did homage and security with

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<sup>181</sup> *ASC(E)* 1091 (p. 226). John of Worcester's account is very similar to the Peterborough Chronicle (JW, III, 58–59). William of Malmesbury states that the treaty was ratified by oath from both sides (William of Malmesbury, *GRA*, I, 448–51). See also Robert of Torigni, *GND*, VIII.3 (II, 204–07); *OV*, IV, 236–37.

<sup>182</sup> *ASC(E)* 1101 (p. 237). Orderic Vitalis and John of Worcester mention the agreement but not the succession or the oaths (*OV*, V, 318–21; JW, III, 98–99).

<sup>183</sup> *ASC(E)* 1101 (p. 237).

<sup>184</sup> *ASC(E)* 1101 (p. 237).

<sup>185</sup> *HH*, pp. 770–71. The Peterborough Chronicle says that 'the archbishop and the wise men' came between king and duke, whilst John of Hexham and the author of the *Gesta Stephani* only mention Henry of Winchester's role (*ASC(E)* 1153 (p. 268); John of Hexham, *Historia*, p. 331; *GS*, pp. 240–41).

<sup>186</sup> The contemporaneous Robert of Torigni gives 6 November as the date (Robert of Torigni, *Chronica*, p. 177). Henry of Huntingdon tells us that the peace was made at Winchester, before Christmas (*HH*, pp. 770–71). Gervase of Canterbury, writing much later and heavily relying on Henry of Huntingdon's work for his account, gives the more precise, but probably wrong 'end of November' (*'mense Novembri, in fine mensis'*) (*GC, Chronica*, p. 156).

<sup>187</sup> *RRAN*, III, no. 272, pp. 97–99. J. C. Holt points out that it is not a treaty and that although it refers to itself as a 'charter', it is not a 'charter' as we usually understand it, as it granted nothing specific and had no beneficiary. In Holt's words it was 'a formal promulgation of terms previously agreed'. See J. C. Holt, '1153: The Treaty of Winchester', in *The Anarchy of King Stephen's Reign*, ed. by Edmund King (Oxford, 1994), pp. 291–316 (293–95). Since the document terms itself a 'charter', I will continue to refer to it as the charter of Westminster.

<sup>188</sup> For the charter, see *RRAN*, III, no. 272, pp. 97–99. The charter is addressed to archbishops, bishops, abbots, earls, justices, sheriffs, and barons.

Gervase of Canterbury, writing much later and heavily using Henry of Huntingdon's account (he copies the report of the Oxford homages), reports that at London, after the Winchester agreement,

an oath' to Stephen (*dux ... homagium mihi et sacramento securitatem feci*).<sup>189</sup> The charter explains what this commitment involved: 'that he will be faithful to me and he will protect my life and honour as far as he is able, through the agreements arranged between us' (*scilicet quod fidelis mihi erit et vitam et honorem meum pro posse suo custodiet, per conventiones inter nos prolocutas*). The charter goes on to state that 'I [Stephen] did security with an oath to the duke, that I will protect life and honour to him as far as I am able' (*ego etiam securitatem sacramento duci feci, quod vitam et honorem ei pro posse meo custodiam*).<sup>190</sup> Stephen did not do homage to Henry. The commitment contains a similar clause about protecting life and honour, but omits the clause about being faithful (*fidelis*). This seems to be what swearing *securitas* amounts to here. Stephen's son, William, did an unspecific *securitas* to Henry alongside liege homage (*Willelmus autem filius meus ligium homagium et securitatem duci Normannie fecit*). It is made explicit that this commitment meant that William now held his lands from Henry: *dux ei concessit ad tenendum de se omnes tenuras quas ego tenui antequam regnum Anglie adeptus essem, sive in Anglia, sive in Normannia, sive in aliis locis.* This use of tenurial bonds appears to be unique in the arrangements within our period for designated heirs.<sup>191</sup>

Similar interlocking commitments were made by the followers of each faction. The charter states that 'the earls and barons of the duke who had never been my men ... did homage and an oath to me' (*comites et barones ducis qui homines mei nunquam fuerant ... homagium et sacramentum mihi fecerunt*). The followers of Henry who had done homage to Stephen before 'did fealty to [him] as to a lord' (*ceteri vero qui antea mihi homagium fecerant, fidelitatem mihi fecerunt sicut domino*). We can infer from this that they were forgiven for rebelling and their re-submission was symbolically done with the swearing of fealty. Interestingly, there is no explicit renewal of homage. In return for this, the charter states that 'my earls and barons did liege homage to the duke, saving my fealty whilst I am alive and hold the kingdom' (*comites etiam barones mei ligium homagium duci fecerunt, salva mea fidelitate quamdiu vixero et regnum tenuero*). That they would 'save my fealty' does not detract

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Stephen 'ordered that Henry be proclaimed lord of the whole of England' (*dominumque totius Angliae praedicari eum praecepit*) (GC, *Chronica*, 156). It is possible that a technical title was used for this specific situation, akin to the use of *domina* for Matilda noted above. Though Gervase was writing much later, and in the wake of the use of the *dominus* title by Richard and John, his terminology may be accurate. John Gillingham has suggested to Garnett that Archbishop Theobald could have been one of Gervase's sources. See Garnett, *Conquered England*, p. 266, n. 34.

<sup>189</sup> George Garnett has pointed out that the homage given by Henry therefore involved no tenure (Garnett, *Conquered England*, p. 267).

<sup>190</sup> It is curious that *vita et honor* are to be protected 'to him' (*ei*), rather than 'his life and honour' (*vitam et honorem eius*) being protected, though the significance of this, if there is any, is not clear.

<sup>191</sup> Garnett, *Conquered England*, p. 274.

from what appears to amount to an imbalance in the treaty. The king's men were explicitly to hold Henry as their liege lord, above the king, whilst Henry's men merely did normal homage to the king, seemingly keeping Henry as liege lord. George Garnett has noted that this suggests the opposite of the expected tenurial pyramid with the king at the top.<sup>192</sup> The commitments of both sides also contained an extra security clause. If either the king or the duke reneged from the agreement, their men would be free from their service to them until they corrected their error.<sup>193</sup> This was part of the force behind the agreement.

On the ecclesiastical side, 'the archbishops and bishops of the kingdom of England and the abbots did fealty with oath to the duke at my order' (*archiepiscopi vero et episcopi de regno Anglie atque abbates ex precepto meo fidelitatem sacramento duci fecerunt*). George Garnett has pointed out that this broke entirely both with English custom and papal ruling: prelates, once they had been consecrated, swore *fidelitas* to no laymen, except the king. He also points out that a papal ruling must have allowed this, as Theobald, heavily involved in the negotiations, was papal legate.<sup>194</sup>

These arrangements were different from those made in 1091 and 1101. In a sense, they were similar to the succession practice used by Henry I and earlier Norman dukes. Special types of homage were made to a designated heir by political elites. However, the circumstances were clearly different. In 1153, the arrangements were as much about keeping the peace in the present as guaranteeing a future succession. Stephen was around 60 years of age, but no one could have foreseen his death in 1154. Indeed, the charter states that

the citizens of the cities and the men of the castles, which I have in my dominion, did homage and security to the duke according to my order, saving my fealty whilst I am alive and hold the kingdom.

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<sup>192</sup> *Ibid.*, p. 274.

<sup>193</sup> Concerning Henry's followers, it is unclear from the text whether this was only to apply to those who had previously done homage to Stephen or to apply to all of his men. As all of Stephen's men explicitly made the same commitment, it is reasonably safe to assume that all of Henry's men would have as well. It should be borne in mind that the charter was merely recording what had happened (or was to happen), rather than being the legal commitment itself. The Latin is more-or-less the same for the respective commitments: '*et si dux a premissis recederet omnino a servitio ejus ipsi cessarent, quousque errata corrigeret*'; '*simili lege quod si ego a predictis recederem omnino a servitio meo cessarent, quousque errata corrigerem*'. George Garnett notes of this that 'the diffidation which had been one of the most notable characteristics of relations between kings and barons during Stephen's reign, had been institutionalized as a means of enforcing the agreement' (*ibid.*, p. 273).

<sup>194</sup> *Ibid.*, p. 275.

cives etiam civitatum et homines castrorum que in dominio meo habeo ex precepto meo homagium et securitatem duci fecerunt, salva fidelitate mea quamdiu vixero et regnum tenuero.

Stephen's continuing reign was stressed.

This passage also notes a wider swearing than we have seen elsewhere in this chapter. Indeed, the *cives civitatum* and the *homines castrorum* seem to mean a wider group than a few urban elites or representatives and castellans. 'Those who guard' (*'illi ... qui ... custodiunt'*) the Angevin-controlled castle of Wallingford also did homage to Stephen and gave pledges about keeping fealty to him. Specific arrangements were also made for the Tower of London, the 'motte' of Windsor, the 'motte' of Oxford, the 'fortification' (*'firmitatem'*) of Lincoln, the castle of Winchester, and the fortification of Southampton, all of which entailed the appointed castellan swearing to hand the castle to Henry if Stephen died.<sup>195</sup> These military arrangements emphasize that this was a peace pact as well as a succession arrangement.

### *Chronicles*

No chronicler gives a full account of all the different oaths recorded in the charter, although a number of chroniclers picked up on the homages done. The Peterborough Chronicler states that 'all did [Henry] homage and swore to keep the peace' (*'alle diden him manred 7 suoren þe pais to balden'*), but does not mention any homages to Stephen.<sup>196</sup> Conversely the author of the *Gesta Stephani* only mentions homages being done to the king.<sup>197</sup> Henry of Huntingdon's account does not mention any homages as part of the peace agreement, but states that on 13 January 1154 there was an assembly at Oxford where 'the leading men of the English, at the king's command, presented to the duke the homage and the fealty owed to a lord, but the honour and faith due to the king were to be preserved while he lived' (*'igitur ibi principes Anglorum iussu regis hominum et domino debitam fidelitatem duci simul exhibuerunt, regi tamen honorem debitum fidemque dum viveret conservatur'*).<sup>198</sup> It seems likely that some, and perhaps all, of the homages recorded in the Westminster charter were done not at Winchester in 1153, but at Oxford in early 1154. The Peterborough Chronicler has Henry being received in Winchester and London *after*

<sup>195</sup> Henry, bishop of Winchester, was responsible for Winchester and Southampton. He did not swear, but pledged in the hand of the archbishop of Canterbury. The significance of the verb *affidare* is not clear.

<sup>196</sup> *ASC(E)* 1153 (p. 268).

<sup>197</sup> *GS*, pp. 240–41.

<sup>198</sup> *HH*, pp. 770–73. The Peterborough Chronicler seemingly implies that the homages to Henry were done at Winchester and/or London, although the writer is not explicit (*ASC(E)* 1153 (p. 268)).

the agreements were made. In this account, homages and oaths to keep the peace also come in the wake of the agreement.<sup>199</sup>

William of Newburgh, writing much later and deriving much of his account from Henry of Huntingdon, reported, uniquely among the chroniclers, that Stephen's son William 'did homage to the duke' and that likewise 'the duke gave satisfaction to him after the agreement had been introduced' (*Willelmus autem regis filius junior iubente patre duci hominium fecit; dux quoque illi pactis interpositis satisfecit*).<sup>200</sup> In contrast to these accounts, Robert of Torigni reports that, on the day of the peace at Winchester, 6 November 1153,

the king himself and the bishops and the rest of the powerful ones confirmed with oath that the duke, after the king's death, if he survived him, would hold the kingdom peacefully and without contradiction.

rex et episcopi et ceteri potentes sacramento firmarent quod dux post mortem regis, si ipse eum superviveret, pacifice et absque contradictione regnum haberet.<sup>201</sup>

This was a report of what the oaths upholding the agreement amounted to, rather than what they necessarily were.<sup>202</sup> Such incidents must be kept in mind when considering what precisely was sworn to heirs (or kings). When we are reliant on narrative evidence, as we have been for our first two chapters, we cannot know the precise details of what was sworn. The same can also be said of other sources. The words that each swearer spoke might vary slightly, and there may have been negotiations at councils over what each person was to swear.

## Concluding remarks

This chapter has traced how oaths were used in succession practice in England and Normandy before 1200. The twelfth century saw English kings experiment with different mechanisms for planning a succession. Henry I appears to be the first English king to have had oaths sworn to his eldest son as heir, and this seems to have been an adaptation of Norman practice. Whilst this pre-Conquest model often saw the submissions made at

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<sup>199</sup> ASC(E) 1153 (p. 268). The account in the *Gesta Stephani* may also imply that homages were done in early 1154. He states that in 1154 Henry, 'after homage was done to the king with all his followers, withdrew to Normandy' (*facto regi hominio cum omnibus qui sibi parverant, Normanniam secessit*) (GS, pp. 240–41). That the Westminster charter reports the submissions and oaths in the past tense is not necessarily inconsistent with this. As J. C. Holt points out, the charter speaks in 'an evidentiary rather than a historic past' (Holt, '1153', p. 296).

<sup>200</sup> WN, HRA, I, 91.

<sup>201</sup> Robert of Torigni, *Chronica*, p. 177.

<sup>202</sup> W. L. Warren believed that what was reported in Robert's account was the 'basis for a settlement' (Warren, *Henry II*, pp. 51–52).

a moment of potential crisis, in England submissions seem to have occurred at more peaceful times. It is clear in both England and Normandy that the oaths were sworn by elites, variously described as *proceres*, *principes*, and *optimates*. Townsmen may have also sworn oaths in Normandy before 1066. From the eleventh century, *fidelitas* is used to describe every commitment to an heir via oath. Sometimes this went hand-in-hand with non-tenurial homage. The submissions are often explicitly to a *heres*, which may have been something akin to an office, with certain expectations that went along with it.

It was not Norman succession practice alone that influenced the models used in England. Different succession planning models used all over Europe probably interacted with each other. Though beyond the scope of this thesis, it would be illuminating, for example, to examine practice in Anjou before 1154 and to search for Norman footprints in Sicily. We have seen that in the third quarter of the twelfth century English kings also attempted to have their sons crowned. When looking at the oaths sworn to the young Henry in 1162, we noted that some of the inspiration for such a coronation could be found in contemporary exemplars, especially France. Though again outside the remit of this thesis, it would be interesting to undertake a detailed comparison between Capetian and Angevin practice. We can, however, make a few observations. Prior to the twelfth century, Capetian kings used ‘anticipatory association’, where the heir was crowned in the father’s lifetime. In 1108, Louis VI was the first Capetian king to accede without having been consecrated before his father’s death.<sup>203</sup> The practice was resumed when Louis had his eldest son, Philip, crowned in 1129.<sup>204</sup> Nine years earlier, in 1120, he had made those at an Easter assembly swear to crown his son, who was not yet four, if he died.<sup>205</sup> Did elites ordinarily take oaths to a designated heir before consecration?<sup>206</sup> Or was this an adaptation of Norman practice, perhaps immediately inspired by the oaths sworn to William Adelin? Of interest to this thesis is that both Angevin and Capetian kings seem to have experimented with succession practice in the twelfth century.

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<sup>203</sup> Andrew W. Lewis, *Royal Succession in Capetian France: Studies on Familial Order and the State* (Cambridge, MA, 1981), p. 53.

<sup>204</sup> *Ibid.*, pp. 55–56. Philip died before his father when he fell from a horse in 1131.

<sup>205</sup> *Ibid.*, pp. 55–56.

<sup>206</sup> In the years before the consecration of Philip (Augustus) in 1179, Henry the younger had done homage to him when he was three, and the counts of Mâcon and Beaujeu had sworn fealty to both him, aged six, and his father Louis VII (*ibid.*, p. 73). It seems likely that other nobles also submitted. I do not know the evidence well enough to comment on Capetian practice before 1100. Lewis does not mention oaths being sworn to heirs, though this is not the primary concern of his study.

In France, the last anticipatory association was in 1179. Andrew Lewis has argued that it fell out of use because of the increasing strength of the principle of primogeniture and because provisions were made for younger sons.<sup>207</sup> Perhaps Henry the Young King's rebellion in 1173 also highlighted the potential dangers of co-crowning to the Capetians. It seems to have done so in England, where the practice was not seen again. Indeed, the wariness of Henry II, in particular, in having oaths sworn to a designated heir after 1173, seems certain to have been because of his eldest son's rebellion.

Also beyond the scope of this thesis, though important to glance at, is how oaths were used after 1200. The thirteenth century did see oaths sworn to heirs. In September 1209, John had all the free men of England and the Welsh do homage to him and his baby son Henry in the face of a potential excommunication.<sup>208</sup> In 1252, the London chronicle records that the '*Communa Civitatis*' swore fealty to Henry III's son Edward before the king left for a campaign in Gascony.<sup>209</sup> In March 1263, in the midst of the political instability that had begun with the reform movement of 1258, Henry had all in the counties swear to faithfully adhere to him and his son against all and to have his 23-year-old son Edward as 'lord and prince as the king's heir' and to 'labour for him to obtain his crown of the realm of England'.<sup>210</sup> It is interesting that, in some ways, this represents a return, though almost certainly not a conscious one, to the Norman practice that we saw before 1066: oaths sworn at moments of potential threat to the reigning king; the participation of townsmen. What is also striking, and different from everything that we have seen in this chapter, is that free men swore.

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<sup>207</sup> *Ibid.*, p. 194: 'The practice of anticipatory association was thus discontinued at precisely the time when inheritance provisions for cadet sons were first systematically made.'

<sup>208</sup> J. R. Maddicott, 'The Oath of Marlborough, 1209: Fear, Government and Popular Allegiance in the Reign of King John', *English Historical Review*, 126 (2011), 281–318. See below, pp. 137–38.

<sup>209</sup> *De antiquis liber: chronica maiorum et vicecomitum Londoniarum*, ed. by Thomas Stapleton (London, 1846), p. 19; *Chronicles of the Mayors and Sheriffs of London, 1188–1274*, trans. by Henry Thomas Riley (London, 1863), p. 20. Oaths of fealty were also to be sworn to Queen Eleanor, who was to govern in Henry's absence. The oaths were sworn at St Paul's Cross.

<sup>210</sup> *Calendar of the Patent Rolls Preserved in the Public Record Office*, prepared under the superintendence of the Deputy Keeper of the Records (London, 1901–), [v]: *Henry III: 1258–1266* (1910), pp. 285–86.



## Ordinary (re)affirmation

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The previous chapters have looked at the use of oaths in the processes surrounding a change of ruler. The remainder of this thesis will examine oaths connecting king and subject within reigns. Was loyalty ever reaffirmed? If so, when? What was sworn besides loyalty? The focus of this chapter also moves away from narrative sources and turns to examine legal material. This evidence allows us to reach further down the social scale. In the thirteenth century, it is clear that at the age of twelve, when entering ‘frankpledge’, villeins (and others) swore an oath not to be a thief or a thief’s accomplice alongside an oath of loyalty to the king. Much of this chapter will focus on the earlier evidence for a similar phenomenon. When was there an association between these two types of oath? When were such oaths sworn? Who swore them? There are two temporal blocks of evidence to help us answer these questions: about 120 years of Anglo-Saxon royal law codes; and about 80 years of legal compilations from the thirteenth century. There is very little in between.

### Royal gatherings and royal officials

First, however, some aspects of routine oath swearing within reigns must be sketched. Very little needs to be said of elite practice. At the end our period, when a tenant-in-chief died, their heir swore loyalty and did homage to the king. Setting aside the late twelfth-century specifics of tenure and homage, something similar will have occurred throughout our period. Those who became part of the political elite via inheritance or election to ecclesiastical office swore oaths of loyalty to kings.

Loyalty may also have been frequently reaffirmed at royal councils. Oaths of loyalty were sworn to an absent Richard I at a council in London in October 1191.<sup>1</sup> Ralph of Diss, possibly an eyewitness, states that after the main business of the council was done,

in turn first Count John swore fealty to King Richard. Next the two archbishops, then all the bishops: only the bishop of London added by oath ‘saving his order and ecclesiastical justice.’ Furthermore, however many earls and barons had convened, they also swore.

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<sup>1</sup> The oaths sworn to John at this council were discussed above, p. 81.

adinvicem habitos Johannes comes primus fidelitatem regis Ricardi juravit. Deinceps archiepiscopo duo, postmodum omnes episcopi: solus episcopus Lundoniensis addidit juramento, ‘Salvo ordine suo et justitia ecclesiastica.’ Juraverunt etiam comites et barones quotquot convenerant.<sup>2</sup>

Roger of Howden adds in the *Gesta* that the citizens of London swore ‘*fidelitates*’ alongside bishops, earls, and barons.<sup>3</sup> In the *Chronica*, these townsmen swear ‘faithful service’ (*fidele servitium*), seemingly the same thing.<sup>4</sup> William of Newburgh differs from both of these accounts in having fealty sworn to Richard at the beginning of the council rather than the end.<sup>5</sup> Of course, it may be that such oaths were only sworn at this council because Richard was away on crusade, a ritualized acceptance of his rule at various stages as the council progressed. Though there is no other evidence that I am aware of that such reaffirmations were routinely made when kings were present, it seems likely that loyalty was often professed at councils.<sup>6</sup>

These accounts also allow us to glimpse the process of how oaths were sworn when large numbers of people were gathered. Ralph of Diss makes clear that the more important people, at the very least, swore individually, paralleling what we saw in the evidence for the oaths sworn to Matilda. Again it is unclear how the wider body participated. Also obscure are why the bishop of London, Richard fitzNigel, swore ‘*salvo ordine suo et justitia ecclesiastica*’, and what the significance is of only him swearing in this way. It is noteworthy that the same Richard fitzNigel had earlier begun the *Dialogus de Scaccario* with a passage stating that, because all power was from God, it was proper and suitable, even for clerics, to serve kings and *also safeguard their rights* (*‘serviendo sua iura’*).<sup>7</sup> There may also be a relation with the legacy of the Becket dispute. It is a similar clause that Becket wanted inserting in the oath to uphold the Constitutions of Clarendon. The first archbishop of Canterbury after Becket was also said by Ralph of Diss to have sworn fealty ‘*salvo ordine suo*’.<sup>8</sup> It seems likely that fitzNigel’s oath in 1191 had something to do with contemporary debates about how ecclesiastics ought to swear their loyalty to the king. For example, in his narrative of oaths sworn to the king in 1204, Gervase of Canterbury reports that under the order,

<sup>2</sup> Ralph of Diss, *Ymagines Historiarum*, II, 99.

<sup>3</sup> Howden, *GRHS*, II, 214.

<sup>4</sup> Howden, *Chronica*, III, 141.

<sup>5</sup> WN, *HR4*, I, 344.

<sup>6</sup> Anglo-Saxon assemblies may have seen pledges or oaths to support any formal legislation. See Matthias Ammon, “‘Ge mid wedde ge mid aþe’”: The Functions of Oath and Pledge in Anglo-Saxon Legal Culture’, *Historical Research*, 86 (2013), 515–35 (523).

<sup>7</sup> Richard fitzNigel, *Dialogus de Scaccario: The Dialogue of the Exchequer and Constitutio Domus Regis*, ed. and trans. by Emilie Amt and S. D. Church (Oxford, 2007), pp. 2–3.

<sup>8</sup> Ralph of Diss, *Ymagines Historiarum*, I, 369.

bishops were not to swear but were to ‘faithfully promise to observe it in word of truth, saving their order and apostolic commands and the liberties of their churches’ (*‘episcopi vero in verbis veritatis promittant eam fideliter observandam, salvo ordine suo et mandatis apostolicis, et libertatibus ecclesiarum suarum’*).<sup>9</sup> Another illuminating example comes from 1190, when Roger of Howden reported that, as part of an agreement between kings Richard I of England and Philip Augustus of France,

the archbishops and bishops of each kingdom said in word of truth, and the earls and barons of the kingdoms swore with an oath having been provided, that they themselves would faithfully hold that peace, and they would keep the whole [peace]. ... Moreover, the earls and barons of each kingdom swore that they would not withdraw from the fealty of the kings, nor would they stir any war in their lands, until they themselves were on their pilgrimage/crusade. And the archbishops and bishops firmly promised in word of truth, that they would give a sentence of anathema<sup>10</sup> against transgressors of this peace and convention.

et archiepiscopi et episcopi utriusque regni in verbo veritatis dixerunt, et comites et barones regnorum praestito sacramento juraverunt, quod ipsi pacem illam fideliter tenerent, et servarent illibatam. ... Comites autem et barones utriusque regni juraverunt, quod a fidelitate regum non discedent, nec guerram movebunt ullam in terris illorum, quamdiu ipsi fuerunt in peregrinatione sua. Et archiepiscopi et episcopi firmiter primiserunt in verbo veritatis, quod in transgressores huius pacis et conventionis, sententiam anathematis dabunt.<sup>11</sup>

That leading ecclesiastics did not swear but ‘said/promised in word of truth’ makes an interesting parallel with what happened in 1204. In the *Gesta*, Howden had not used the word *‘dixerunt’* in the first instance, and thus the archbishops and bishops ‘swore in word of truth’. There seems to have been a contemporary debate occurring just out of our sight about how bishops ought to make solemn commitments.<sup>12</sup>

Assemblies for military campaigns would also have routinely seen oaths sworn to the king. Roger of Howden reports various elites swearing to hold with the king against the Welsh at Gloucester before a campaign in 1175.<sup>13</sup> According to John of Worcester, before the battle of the Standard, Archbishop Thurstan of York, leading in the absence

<sup>9</sup> GC, *Gesta Regum*, pp. 96–97. See below for a discussion of the 1204 oaths, pp. 135–37.

<sup>10</sup> In the *Gesta*, ‘*excommunicationis*’ rather than ‘*anathematis*’ is given.

<sup>11</sup> Howden, *Chronica*, III, 30–31; Howden, *GRHS*, II, 105.

<sup>12</sup> This might explain why in the 1153 agreements Henry, bishop of Winchester, did not swear but affirmed. See above, p. 86 n. 195.

<sup>13</sup> Howden, *GRHS*, I, 92: ‘*omnes unanimiter et constanti animo cum eo contra Ualenses tenerent. Et hoc observandum fecit dominus rex comitem Gloucestriae et Willelmum de Brausa, et alio barones suos illius patriae jurare, tactis sacrosanctis Evangeliiis.*’

of the king, had those in the army swear fealty to the king to resist David, king of Scots.<sup>14</sup> Those in the army might also make other commitments on oath; for example, Richard I's crusading force swore to uphold certain rules.<sup>15</sup> Many of the swearers we have examined so far were required to swear because of their status. Those who swore in armies were swearing because of their function.

In the same way, royal officers routinely swore to the king. Walter Map, musing on various royal officials such as justices and sheriffs, states that 'when they take office they make oath before the Supreme Judge that they will faithfully and without damage serve God and him' (*cum in potestatis inicio coram summo iudice iurent quod fideliter et indempniter Deo ministrabunt et sibi*).<sup>16</sup> As with armies, such oaths would have been sworn alongside more specific oaths relevant to the office. For example, the Assize of Woodstock of 1184 states that all foresters were to swear to maintain the assize and not to molest knights or other worthy men regarding what the king had granted them.<sup>17</sup> This Assize also commanded that 'all men attaining the age of twelve years within the peace of the hunt shall swear the king's peace, and likewise the clerks who hold lands in lay fee there' (*omnis homo habens aetatem xii annorum manens infra pacem venationis juret ejus pacem et clerici laicum feodum tenentes*).<sup>18</sup> Those swearing in this instance were not strictly speaking 'office-holders' but their social status and place in society, as those living in the royal forest, dictated the terms of the oath that they were required to swear. Similarly, in 1194, Jews were required to swear an oath:

Moreover, every Jew will swear over his roll, that he will make to be enrolled all his debts, pledges, and rents, and other things, and his possessions, and that he will conceal/hide nothing, just as aforesaid; and if he will be able to know that anything will have been hid to some extent, he will reveal that to the justices sent to them in secret, and that they will reveal and show forgers of charters, and clippers of coins, where they know them, and similarly concerning false charters.

Item quilibet Judaeus jurabit super rotulum suum, quod omnia debita sua, et vadia, et redditus, et omnes res, et possessiones suas inbreviari faciet, et quod nihil celabit, ut praedictum est; et si scire poterit quod aliquis aliquid celaverit, illud justitiis ad eos

<sup>14</sup> JW, III, 252–53: *fecitque omnes communi consensu et consilio iuramentum in regis fidelitate facere, ut ei resisterent.*

<sup>15</sup> Howden, *Chronica*, III, 45.

<sup>16</sup> Walter Map, *De Nugis Curialium: Courtiers' Trifles*, ed. and trans. by M. R. James and rev. by C. N. L. Brooke and R. A. B. Mynors (Oxford, 1983), pp. 12–13.

<sup>17</sup> *Ass Wood*, 6. Also see *Ass For*, 4.

<sup>18</sup> *Ass Wood*, 13.

missis secreto revelabit, et quod falsonarios cartarum, et retonsores denariorum, ubi eos scient, detegent et monstrabunt, et de falsis cartis similiter.<sup>19</sup>

These oaths, sworn over the Jewish holy text, were sworn because some Jews in late-twelfth century England were moneylenders, i.e. they were sworn because of the function or office of the swearers. However, the oath was not only to be taken by moneylenders; all Jews were to swear. They were swearing because of their status as Jews. This blurring of status and office is important when considering the topic of the rest of this chapter.

## The form of an oath on entering frankpledge in the thirteenth century

In simple terms, frankpledge seems to have been the result of the marrying of the two Anglo-Saxon institutions of suretyship and tithing. The precise development of the institution is debated, but by the early twelfth century these two elements existed side by side and were known as ‘frankpledge’.<sup>20</sup> The individuals in a such a group acted as surety for each other should any of them commit a crime. They were also responsible for bringing the criminal to face justice. Members of frankpledge also swore an oath on entering the group. There were therefore three main elements to frankpledge: surety; tithing; and the oath. Each can be traced independently, and the existence of one of the three does not ipso facto mean that the others existed alongside. This chapter is, of course, concerned with the oath; the other aspects of frankpledge are of secondary concern.

Various sources reveal that in the thirteenth century this entailed swearing loyalty to the king alongside an oath not to be a thief or a thief’s accomplice. For example, the legal text known as *Britton*, written in French either in the latter half of the thirteenth century or the early years of the fourteenth, states this.<sup>21</sup> The less reliable *Mirror of Justices*, from

<sup>19</sup> Howden, *Chronica*, III, 267.

<sup>20</sup> See William Alfred Morris, *The Frankpledge System* (London, 1910), pp. 1–41 and Bruce O’Brien, *God’s Peace and King’s Peace: The Laws of Edward the Confessor* (Philadelphia, 1999), pp. 85–86. Both authors opt for conquests as the stimulant for the merge, Morris looking to William the Conqueror’s, O’Brien to Cnut’s. See both works for other contributions to this debate.

<sup>21</sup> *Britton: The French Text Carefully Revised with an English Translation, Introduction and Notes*, ed. and trans. by Francis Morgan Nichols, 2 vols (Oxford, 1865), I, 48–49. It states that everyone over the age of fourteen, with some exceptions, was to swear ‘serment, qe il nous serount feaus et leaus, et qe il ne serount felouns ne a felouns assentauntz’. The context makes it clear that this was when entering frankpledge. The age of fourteen may be an error, though it could represent a regional variation. It is, however, the only example we have of

about the same time, also implies as much.<sup>22</sup> A treatise on private (rather than royal) court holding, from *c.* 1270, gives the wording of an oath to be sworn when entering frankpledge:

Hear this lord steward N., etc, that I, N., will not be a robber (*latro*) nor an associate of a robber, nor commit theft (*furtum*) nor conceal a thief, but will report them to whom it should be reported; and I will bear faith (*fidem*) to the lord King Henry of England [and] especially to my lord, Lord N., and I will be obedient to the orders of his bailiffs/officials.

Hoc auditis domine senescalle N. etc quod ego N. non ero latro nec socius latronis, nec furtum nec furem celare debeo quin dicam eis quibus dicendum est, et portabo fidem domino Henrico Regi Angliae, maxime domino meo Domino N. et obediens ero balliuorum suorum preceptis.<sup>23</sup>

The additional swearing of loyalty to a lord, and the provision that faith would be borne ‘especially’ to him, is no doubt a symptom of this being a private court. It is unclear whether obedience was due to royal or private *balliui*, but it is likely that both were meant. Although more detailed than *Britton* and the *Mirror for Justices*, the oath again contains two basic commitments: (1) not to be involved in certain crimes related to theft; and (2) loyalty to certain individuals. According to the same document the oath was to be sworn with bended knee facing the book (*‘flexio genu ad librum jurabi’*). The book, most likely the Gospels,<sup>24</sup> was then kissed, before the speaker placed a penny and was told to obey his chief pledge (*‘et deosculato libro ponat j. d. et dicatur ei quod sit intendens capitali plegio suo’*).

Other sources only mention one of these two elements. The late-thirteenth-century *Fleta* only mentions the oath of loyalty.<sup>25</sup> *Bracton*, the earliest of our thirteenth-century sources, only mentions the aspect of the oath related to theft:

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fourteen being an age at which any oaths were sworn. Elsewhere the ages twelve and fifteen appear to be important.

<sup>22</sup> *The Mirror of Justices*, ed. by William Joseph Whittaker, with an introduction by Frederic William Maitland (London, 1895), p. 41: ‘*e si ascun se proffre de jurer feautie au Roi seit primes plevi de ascun franc plege e mis en disseisine e puis jurge feaute au Roi, e pus li soit pecchie defendue e comune ovege peccheours. E li soit enjoint qil soit obeissant a son chief plege.*’ Maitland believed it was written at some point between 1285 and 1290, possibly 1289 (*ibid.*, p. xlix).

<sup>23</sup> *De Placitis et Curis Tenendis*, in *The Court Baron*, ed. by Frederic William Maitland and William Paley Baildon (London, 1891), pp. 68–78 (76–77). Maitland and Baildon state that the tract was probably written by a monk at the priory of Luffield named John of Oxford, that it cannot be older than 1280, and that it seems to have been compiled shortly after 1274 (*ibid.*, pp. 11–13).

<sup>24</sup> See above, p. 12 n. 65.

<sup>25</sup> *Fleta*, ed. by H. G. Richardson and G. O. Sayles, 3 vols (London, 1955–83), II, 178 (book II, chapter 53).

All those who are of the age of twelve years ought to do an oath in the view of the free pledge that he does not wish to be a robber nor to be party to a robber.

Omnis qui est aetatis duodecim annorum facere debet sacramentum in visu franci plegii quod nec latro vult nec latroni consentire.<sup>26</sup>

The half-century gap between *Bracton* and our other sources does not indicate that the loyalty oath was introduced at some point in the middle of the thirteenth century. We would expect other evidence to indicate this. Rather, for whatever reason, *Bracton*, like *Fleta*, only gives half of the oath.

## Wessex and Anglo-Saxon England

There are various references to oaths and pledges in certain law codes issued by Anglo-Saxon kings. Some vaguely mention oaths and pledges, others a theft oath, and one an oath of loyalty to the king. In contrast to the thirteenth-century evidence, a theft oath is never explicitly linked with an oath of loyalty. However, there is a tendency among some historians to associate all these references together and to see the thirteenth-century two-fold oath as existing as early as the reign of Alfred. However, without the teleological knowledge of the thirteenth-century oath form, it is doubtful that historians would come to such a conclusion. The rest of this chapter will offer an alternative model. It will demonstrate that a theft oath definitely existed in pre-Conquest England, but that the evidence for the association of a loyalty oath is less clear.

### Alfred's code

The most ambiguous and perplexing reference to general oaths comes from Alfred's law code. Much has been written on what exactly it refers to. The first clause states:

First we instruct that it is most necessary that every man should cautiously keep his oath and his pledge.

Æt ærestan we lærað, þæt mæst ðearf is, þæt æghwælc mon his að 7 his wed wærllice healde.<sup>27</sup>

This might be a general command for all to keep their oaths.<sup>28</sup> We might expect a fairly general statement on oaths to begin the code. This would be a sensible starting point to a

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<sup>26</sup> *Bracton*, II, 351.

<sup>27</sup> *Af*, 1.

<sup>28</sup> Matthias Ammon strongly believes that this is the case: 'as they stand, the legal statements deal with oaths in general'. Also: 'The investigation of charters and wills has also shown the kind of agreement that would have been referred to by, among others, the programmatic first clause of Alfred's law code. It was those pledges, made by and between individuals, whether noble or not, that every man was supposed to

code laying out rules in a legal system that used oaths as a system of proof. The first two sub-clauses might support such an interpretation. The first states that if anyone is wrongfully constrained to promise to betray his lord or to render aid in an unlawful way, then it is better to break the promise than perform it.<sup>29</sup> The second lays out the punishments if he pledges himself to something, which it is lawful to carry out, and then breaks the pledge.<sup>30</sup> Can we read these sub-clauses as general guidelines on which oaths were and were not to be kept, qualifying the main clause instruction to generally keep one's oath? Perhaps not: the possessive pronoun accompanying *að 7 wed* and the words being singular rather than plural may suggest that it refers to something specific.<sup>31</sup>

### *An oath to lords?*

This first clause of Alfred's code is preceded by a lengthy prologue, which falls into five sections.<sup>32</sup> First is an Old English translation and adaptation of some passages from Exodus amounting to an expression of Mosaic law.<sup>33</sup> Then there is a statement from the Sermon of the Mount that Christ came to fulfil the law, with an observation that Christ taught mercy and gentleness.<sup>34</sup> Third comes a translation from Acts recording the early Church's decree freeing Gentile Christians from Mosaic law.<sup>35</sup> Fourth is a passage explaining that Christian synods decreed that Christian nations could exact monetary compensation instead of corporal or capital punishment, but that there were limits to such mercy.<sup>36</sup> Finally, there is an introduction to Alfred's code.<sup>37</sup> The structure therefore runs through a linear model of the development of West Saxon law: incomplete Mosaic law; the teachings of Christ; the role of the early Church; how Christian nations now interpreted this law via the teachings of the Church; and West Saxon law. The fourth

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keep (along with his oaths).’ See Ammon, “Ge mid wedde ge mid aðe”, pp. 519–20 and 528. Tom Lambert seems to be at least partially convinced: ‘it is possible (and rather more natural) to read this passage as a general injunction to be faithful to all oaths except those to perform wrongful acts’ (Tom Lambert, *Law and Order in Anglo-Saxon England* (Oxford, 2017), p. 212).

<sup>29</sup> *Af*, 1.1.

<sup>30</sup> *Af*, 1.2. The rest of the sub-clauses (1.3–1.8) are concerned with the specifics of the punishments for oath-breakers.

<sup>31</sup> Ammon argues that the ‘his’ only refers back to ‘*agwelic mon*’ and therefore ‘the reference is not distinguishing, that is, referring to specific oaths or pledges’. He does not seek to explain the use of the singular. Ammon, “Ge mid wedde ge mid aðe”, p. 534.

<sup>32</sup> For the text of the prologue, see *Gesetze*, pp. 26–46 (*Af El*). For an introduction and summary of the prologue, which contains some translations, see Michael Treschow, ‘The Prologue to Alfred’s Law Code: Instruction in the Spirit of Mercy’, *Florilegium*, 13 (1994), 79–110. Much of what follows is indebted to that article. Treschow sees four sections to the prologue. I include the introduction to the West Saxon legal tradition alongside these four.

<sup>33</sup> *Af El*, Pro–48.

<sup>34</sup> *Af El*, 49.

<sup>35</sup> *Af El*, 49.1–49.6.

<sup>36</sup> *Af El*, 49.7–49.8.

<sup>37</sup> *Af El*, 49.9.

section, in the words of Michael Treschow, ‘is the hinge between the biblical material and the preface to the new laws of the West Saxons’.<sup>38</sup> At this point, two exceptions are given to mercy in the law. The first is for repeat offenders. The second is *blafordsearu*, plotting against the life of one’s lord. This statement can be read as the crescendo of the prologue, and it is linked with the betrayal of Christ. Treason against one’s own lord is the only offence that when committed for the first time does not warrant mercy. That this is a message of the prologue might suggest that the first clause refers to oaths sworn to lords.

Paul Hyams has come to a similar conclusion based on the internal evidence of Alfred’s code, namely that the clause was concerned with promoting fidelity in a general sense before later being ‘sharpened by reforming clerics ... to single out loyalty to the king’.<sup>39</sup>

Levi Roach has also argued in this direction, though his approach is questionable:

[part of the sub-clause following that on the ‘oath and pledge’] states that if in need it is better to break one’s own oath than the law, which clearly implies that what is referred to is a personal oath of allegiance to one’s lord—were a general oath of loyalty to the king involved, then surely this dilemma would not arise (unless we envisage Alfred asking his men to break their own laws).<sup>40</sup>

However, the same logic can be applied to another part of the same sub-clause. It also states that it would be better to break an oath to betray a lord than to observe it.<sup>41</sup> Were an oath of loyalty to lords involved, this dilemma would not arise—it would be quite a strange oath to a lord that included a clause to betray him. The sub-clauses instead seem to be general guidance on the validity of oaths. They appear to be qualifying the main clause, though we cannot be entirely certain.

### *An oath to kings?*

Patrick Wormald makes forceful arguments that the clause refers to a very specific loyalty oath to the king. Indeed, this could also fit with what we saw in the prologue. His argument broadly runs as follows. In Alfred’s code forfeiture is given as a punishment

<sup>38</sup> Treschow, ‘The Prologue’, p. 82.

<sup>39</sup> Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca, NY, 2003), pp. 80, n. 32, and 100. Quotation from p. 100.

<sup>40</sup> Levi Roach, *Kingship and Consent in Anglo-Saxon England, 871–978: Assemblies and the State in the Early Middle Ages* (Cambridge, 2013), pp. 113–14.

<sup>41</sup> *Af*, 1.1.

for breaking a pledge and refusing to submit to the forty-day punishment.<sup>42</sup> This punishment of forfeiture is then repeated in Edward's laws.<sup>43</sup> Actual cases of forfeiture can therefore be used to demonstrate the breaking of a specific oath, so Wormald argues. Further to this, forfeiture only appears in charters from Alfred's reign onwards. The institution of the oath explains this. He turns to a charter which states that land in Wylfe had been forfeited by an ealdorman named Wulfhere, 'when he deserted without permission both his lord King Alfred and his country in spite of the oath which he had sworn to the king and all his leading men' (*quando ille utrumque et suum dominum regem Ælfredum et patriam ultra iusiurandum quam regi et suis omnibus optimatibus iurauerat sine licentia dereliquit*).<sup>44</sup> Wormald takes this, and a perceived increase in forfeiture in Alfred's reign, to indicate that an oath of loyalty, taken by all, had been introduced, and that this is what the first clause of his law code refers to.<sup>45</sup> He also throws into this argument a passage in William of Malmesbury's work that attributes the beginnings of tithings to Alfred, concluding that in the ninth century Alfred introduced an oath of loyalty to be taken by all over the age of twelve.<sup>46</sup>

There are numerous problems with this argument. The most easily dismissed is the evidence of William of Malmesbury, who wrote around two hundred years after Alfred's death. John Hudson—mirroring the pre-Wormald criticism of this material by William Stubbs and William Alfred Morris—points out that Malmesbury may have merely been attributing to a prominent law-giver a practice of unknown origin.<sup>47</sup> This overly sympathetic and relatively uncritical use of the evidence is symptomatic of Wormald's

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<sup>42</sup> *Af*, 1.4.

<sup>43</sup> II *Em*, 5.1.

<sup>44</sup> S362. This charter was supposedly issued by Æthelstan and reports a theft in the reign of Æthelheard of Wessex (726–40), but it is probably a forgery (see Lambert, *Law and Order*, p. 113). The charter is translated in *EHD*, I, 541–43; the quoted text is on p. 542.

<sup>45</sup> Patrick Wormald, 'A Handlist of Anglo-Saxon Lawsuits', in his *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (London, 1999), pp. 253–87 (284). He does make this suggestion in a tentative manner: 'the significance of all this cannot be pursued further here, but the concurrence seems unlikely to be fortuitous.' He did pursue this further in chapter 9 of the unpublished second volume of *The Making of English Law*, arguing that Alfred's law on oaths turned any criminal behaviour into a breach of fealty (Patrick Wormald, 'The Pursuit of Crime', in *Papers Preparatory to the Making of English Law: King Alfred to the Twelfth Century: Volume Two: From God's Law to Common Law*, ed. by Stephen Baxter and John Hudson (unpublished), ch. 9, pp. 1–73, especially pp. 12–24).

<sup>46</sup> Patrick Wormald, 'Engla Lond: The Making of an Allegiance', in his *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (London, 1999), pp. 359–82 (366). For William of Malmesbury's statement, see William of Malmesbury, *GRA*, I, 188–93. It is likely that by the time Malmesbury was writing, in the early twelfth century, tithing and oath were closely associated.

<sup>47</sup> John Hudson, *The Oxford History of the Laws of England: Volume II: 871–1216* (Oxford, 2012), p. 170; William Stubbs, 'Introduction', in *Willelmi Malmesbiriensis monachi: De gestis regum Anglorum: Libri quinque: Historiae novellae libri tres*, ed. by William Stubbs, 2 vols (London, 1887–89), II (1889), xv–cxlii (li); and Morris, *Frankpledge System*, pp. 6–7 and 34–35.

approach to the oath and to Alfred's reign more generally. Hudson has noted elsewhere the willingness of Wormald 'to attribute to Alfred a key development by interpreting broadly some rather limited evidence'.<sup>48</sup> Wormald's claim that Wulfhere's oath was one taken by all men is a similarly poor leap in logic. Numerous historians have noted that Wulfhere's oath could have simply been one sworn only by elites, specifically ealdormen.<sup>49</sup>

There are deeper problems with Wormald's methodology. Firstly, there are too few cases before or during Alfred's reign to say conclusively that forfeiture is a new punishment. Indeed, there is a possible example of forfeiture from the eighth century.<sup>50</sup> Secondly, the extent to which practice followed the legal codes and whether legal codes gave every instance in which forfeiture was to be the means of punishment is unclear. Thirdly, assuming practice did follow the codes, other reasons are given for forfeiture. Ine's laws, appended to Alfred's, allow forfeiture as punishment for fighting in the king's house, whilst Alfred's laws sanction forfeiture for plotting against the king's life, either alone or by harbouring outlaws.<sup>51</sup> Later evidence, which may reflect practice in the early tenth century rather than innovation, give a plethora of other reasons.<sup>52</sup> Charters too give other specific reasons for forfeiture. A case of Edward the Elder's reign has a '*miles*' forfeiting '*pro stupro*'.<sup>53</sup> A charter from Edgar's reign adds more detail to this case. Land at Arlesford had been leased by the bishop of Winchester to a man named Alfred, who had committed adultery and was therefore 'rightly deprived of all his personal wealth' ('*omni substantia peculiali recte privatus est*').<sup>54</sup> Adultery is the reason for forfeiture. It is possible that rather than fitting with any law code, this was part of the agreement for the lease of land from the bishop.

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<sup>48</sup> John Hudson, 'The Making of English Law and the Varieties of Legal History', in *Early Medieval Studies in Memory of Patrick Wormald*, ed. by Stephen Baxter and others (Farnham, 2009), pp. 421–32 (425).

<sup>49</sup> See Hudson, *Oxford History of the Laws of England*, p. 163; Roach, *Kingship and Consent*, p. 127; Ammon, "Ge mid wedde ge mid aþe", p. 520. David Pratt has also stated that the case should not be used as evidence (David Pratt, *The Political Thought of King Alfred the Great* (Cambridge, 2007), p. 235, n. 175). George Molyneaux believes Wormald makes a 'good case' for there being an oath of loyalty in Alfred's reign, but also suggests it may have only been sworn by elites (George Molyneaux, 'The Formation of the English Kingdom, c. 871–c. 1016' (unpublished doctoral thesis, University of Oxford, 2010), p. 173).

<sup>50</sup> See S443 (dated 938) and S254 (dated 737).

<sup>51</sup> *Ine*, 6; *Af*, 4.

<sup>52</sup> *II As*, 3.1; *II As*, 3.2; *II As*, 25.2; *I Em*, 1; *II Em*, 1.3; *II Em*, 6; *Hu*, 3.1; *II Eg*, 4.3; *I Cn*, 2.2; and *II Cn*, 13.1.

<sup>53</sup> S375 (dated 909).

<sup>54</sup> S814. For the Latin and an English translation, see *Property and Piety in Early Medieval Winchester: Documents Relating to the Topography of the Anglo-Saxon and Norman City and its Minsters*, ed. by Alexander R. Rumble (Oxford, 2002), pp. 116–18 (117–18).

### An oath related to theft?

After 950, when more evidence survives, charters give a wide variety of reasons for forfeiture, such as ignoring outlawry, killing a king's reeve, and witchcraft. Importantly, theft and adultery seem to be the only recurring reasons, although a good number of the references give no reason at all or are unspecific.<sup>55</sup> That theft is frequently given as a reason for forfeiture may fit with the argument that will unfold within this chapter that in the tenth century an oath related to theft was sworn by elites at councils and by the wider community.

One charter may allow us to project this idea onto Alfred's code. What has become known as the 'Fonthill letter' survives from early in Edward the Elder's reign. In the section under discussion here, it describes events from the first year or two after Alfred's death.<sup>56</sup> It is described how a reeve, Eanulf Penearding, took hold of all the property that Helmstan held, because Helmstan 'was a thief', having stolen oxen at Fonthill.<sup>57</sup> Simon Keynes has linked this case with the clause on forfeiture in Alfred's code, arguing that it was not the theft that was at issue, but the violation of an oath. Though he posits that this could be the '*að 7 wed*' of the first clause, he prefers to see the broken oath as a 'specifically personal oath' whereby Helmstan, a man of high status, recognized the king as his lord. He takes this position because Eanulf says that the property is to be forfeited to the king 'because he was the king's man'.<sup>58</sup> However, this clause explains *to whom* the forfeiture was to go, rather than the forfeiture itself.<sup>59</sup> If an oath were at issue, it could instead be one related to theft. The evidence would fit tightly with it being one sworn not to steal cattle. As we will now see, this fits closely with the evidence in a law code of Edward the Elder, which in turn may help us in interpreting Alfred's code.

### *Edward the Elder's reign (899–924)*

The earliest clear reference to a widely sworn oath related to theft comes from Edward the Elder's second law code, laying out provisions made at Exeter. This states that:

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<sup>55</sup> See Wormald, 'Handlist of Anglo-Saxon Lawsuits', pp. 265–70.

<sup>56</sup> The fact that the case concerned the early years of Edward's reign and not Alfred's does not matter a great deal: Edward's law codes seem to have been issued later in the reign and we can therefore assume the early years of his reign reflect the conditions existing in the last years of Alfred's (Attenborough, p. 112).

<sup>57</sup> S1445. Translated in *EHD*, I, 544–46.

<sup>58</sup> Simon Keynes, 'The Fonthill Letter', in *Words, Texts and Manuscripts: Studies in Anglo-Saxon Culture Presented to Helmut Gneuss on the Occasion of his Sixty-Fifth Birthday*, ed. by Michael Korhammer, with the assistance of Karl Reichl and Hans Sauer (Cambridge, 1992), pp. 53–97 (84).

<sup>59</sup> Tom Lambert posits that Tisbury may have been forfeited to the king because it was *bocland* granted by an earlier king to one of Helmstan's ancestors. The land at Fonthill was forfeited to Ealdorman Ordlaaf, because Ordlaaf had leased the land to Helmstan. See Lambert, *Law and Order*, pp. 317–18.

[4] Also, I wish that every man shall always have men ready on his land who will lead men who wish to find their own [livestock], and every man will not hinder them for a payment, nor shall they protect a crime nor willingly and deliberately shelter [a criminal].

[5] If anyone neglects this and breaks his oath and his pledge, which all people have given, he will make amends as the *domboc* decrees.

[4] Eac ic wylle, þæt ælc man hæbbe symle þa men gearowe on his lande, ðe læden ða men ðe heora agen secan willen, 7 hy for nanum medsceatum ne werian, ne ful nawar friðian ne feormian willes ne gewealdes.

[5] Gif hwa ðis oferhebbe 7 his að 7 his wæd brece, ðe eal ðeod geseald hæfð, bete swa *domboc* tæce.<sup>60</sup>

The statement that ‘*ðe eal ðeod*’ had given this oath and pledge demonstrates that this was referring to a specific commitment.<sup>61</sup> The ‘*ðis*’ of clause 5 seems to refer back to clause 4.<sup>62</sup> This implies that in Edward the Elder’s reign (899–924) ‘all men’ swore an oath encompassing all or some of the following things: to aid those seeking their livestock; not to take bribes to hinder them; not to conceal crimes; and not to shelter a criminal. It is possible that ‘*ðis*’ refers only to the last of these. Indeed, this clause on not sheltering a criminal is remarkably similar to the clause in the thirteenth-century oath about concealing robbers and thieves. However, there is no mention of either being a thief or being loyal in this early tenth-century document.

It does not seem that this oath was newly instituted in Edward the Elder’s reign, or at least not by this code. It is possible that it instituted a reformulation of an existing oath, the preamble of the code stating that the provisions were because earlier orders had not been carried out as well as they ought.<sup>63</sup> That amends were to be made for breaking this oath in the manner in which the ‘*domboc*’ decreed is a clear reference to Alfred’s code, suggesting that the oath had existed earlier. However, this does not mean that we can

<sup>60</sup> II *Ew*, 4–5.

<sup>61</sup> Ammon does not appear to consider this when arguing that the ‘oath and pledge’ of the clause was a general statement of legal intent or about all oaths and pledges (the same argument that he makes for Alfred’s code) (Ammon, “Ge mid wedde ge mid aðe”, p. 533).

<sup>62</sup> The internal evidence of II *Ew* suggests that ‘*ðis*’ refers to clause 4, as the earlier clauses cannot be ‘neglected’ in the same way. Furthermore, if we interpret the similar phrase ‘*ðæt is ðonne forþon*’ in Æthelstan’s legislation in a similar way, we also see oaths and pledges referring to a theft oath. See below.

Cf. Ammon, who has ‘*ðis*’ definitely referring to all the earlier clauses. However, the only alternative discussed is that it refers back to Alfred’s code, a possibility which he is correct in dismissing. See Ammon, “Ge mid wedde ge mid aðe”, p. 533. F. L. Attenborough is more cautious and considers the possibility that it only refers to the previous clause: ‘*ðis*’ *probably* refers to all the preceding sections’ (Attenborough, p. 205, emphasis added). He appears to base this on the use of ‘*ðis*’ in II *As*, 25, which refers to reeves not carrying out ‘*þis*’. This comparison is not particularly useful.

<sup>63</sup> II *Ew*, 1.

project the apparent reference to a theft oath in Edward's code onto the *að 7 wed* in the father's.

Who swore the oaths related to theft? We need to think about this in two ways: geographic and demographic. The first sub-section of clause 5 of Edward's code notes that anyone not willing to pay the compensation would forfeit their possessions and the friendship of all.<sup>64</sup> The second sub-clause notes that differing fines would be paid by anyone who subsequently harboured such a man. 'Herinne', the *domboc* would decree the fine; 'east inne' or 'norð inne' the fine would be in line with the *fridgewritu*, peace-agreements or treaties.<sup>65</sup> This recognizes the growth of the kingdom of Wessex during Edward the Elder's reign, 'east inne' and 'norð inne' perhaps specifically referring to the kingdoms of East Anglia and Northumbria respectively.<sup>66</sup> Importantly, these references suggest that this was a West Saxon institution being rolled out into either independent English kingdoms or in newly conquered parts of what was becoming (or was to become) England.<sup>67</sup>

Regarding which parts of the population were swearing, Alfred's code speaks of 'æghwelic mon' keeping their oaths, Edward the Elder's of 'ælc man' and 'eal ðeod'. Such references are rarely to be taken literally. Women would most likely have been excluded, as, for that matter, would children under a certain age. We would also not expect slaves to take such oaths. It certainly implies a wider demographic than the narrow group of elite landholders, though the Fonthill letter examined above may suggest that elites like Helmstan swore either the same oath as those below them on the social ladder or one that was very similar.<sup>68</sup>

### *Æthelstan's reign (r. 924–939)*

Evidence from the reign of Edward's son, Æthelstan, also suggests that a theft oath was sworn by elites. A law code, promulgating decisions also made at Exeter in midwinter of an unknown year, states at the end of the prologue:

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<sup>64</sup> II *Em*, 5.1.

<sup>65</sup> II *Em*, 5.2. Such treaties do not survive.

<sup>66</sup> Indeed, F. L. Attenborough has used this passage to date the code before the conquest of East Anglia by Edward, in opposition to Liebermann. The date of the conquest of East Anglia is uncertain. The A recension of the *Anglo-Saxon Chronicle* places it under 921, but this recension's dates 'are, in general, three or four years in advance of those of B and C'. See Attenborough, p. 205.

<sup>67</sup> It is of course possible that a similar oath related to theft existed in the different English kingdoms before the West Saxon conquests of the tenth century.

<sup>68</sup> This marks a contrast with twelfth- and thirteenth-century England, where those in frankpledge certainly excluded elites.

That is because the oaths, pledges, and sureties are all neglected and broken that were given there.

Dæt is ðonne forþon ðe ða aþas 7 þa wedd 7 þa borgas synt ealle oferhafene 7 abrocene, ðe þær gesealde wæron.<sup>69</sup>

F. L. Attenborough takes ‘*dæt is ðonne forþon*’ as referring to the entire decree.<sup>70</sup> It is also possible that it refers to the entirety of the preceding prologue, which includes provisions that all (wrongdoers) must be willing to leave the country if exiled and that if anyone meets an exile within the country, they too are liable to the punishment enacted for thieves.<sup>71</sup> However, it seems most likely that ‘*dæt*’ refers simply to the previous sentence,<sup>72</sup> which proclaims that those harbouring exiled wrongdoers or their men, or sending men to them, are to forfeit their life and possessions.<sup>73</sup> This would imply that ‘*ða aþas 7 þa wedd 7 þa borgas*’ given earlier were concerned with harbouring outlaws, an oath that would tie in with the evidence in Edward’s code above. That ‘sureties’ were given as well as oaths and pledges may mean that extra securities were given, such as hostages.<sup>74</sup>

A later code of Æthelstan also supports such an interpretation. This only survives in twelfth-century translations.<sup>75</sup> It laid out the ‘*iudicia*’ first made at Exeter, then Faversham, and then at the unknown location of Thundersfield, where they were confirmed.<sup>76</sup> We again have a similar clause with an ambiguous demonstrative pronoun:

Now this is because the oaths and pledges that were given to the king and his councillors were broken and heeded less than ought to be appropriate for God and for the secular world.

<sup>69</sup> V *As*, prolog, 3.

<sup>70</sup> Attenborough, p. 153: ‘The cause [which has led us to issue this decree] is...’. Liebermann is more faithful to the original—‘*nämlich deshalb, weil...*’—leaving open the question of what precisely it refers to (*Gesetze*, I, 167).

<sup>71</sup> V *As*, prolog.

<sup>72</sup> In *Gesetze*, I, 166–67, Liebermann has ‘*dæt*’ preceded by a semi-colon, thus making it the second half of the same sentence. However, the two surviving Old English texts have ‘Dæt’ as the start of a new sentence. These are the twelfth-century *Textus Roffensis* (fol. 37r), where the initial ‘D’ is rubricated, and a sixteenth-century transcript of MS Otho B.XI, made before it fell victim to the Cottonian fire of 1731 (BL, MS Additional 43703, fol. 265r). Of the Latin translations of the text, two have a separate sentence (John Rylands University Library, MS Lat. 155, fol. 28v (part of the early thirteenth-century *Leges Anglorum Londoniis*) and BL, MS Cotton Titus A.XXVII, fol. 128v) and two have a rubric more akin to a semi-colon (John Rylands University Library, MS Lat. 420, fol. 56v and BL MS Additional 49366, fol. 66r). The latter three citations are all within versions of *Quadripartitus*. For all these manuscripts, including images, see <http://www.earlyenglishlaws.ac.uk/laws/texts/V-As/>.

<sup>73</sup> V *As*, prolog, 3. That this fits closely with our interpretation of Edward’s code seems more than coincidental, suggesting that both interpretations are correct.

<sup>74</sup> See above, p. 11 n. 60.

<sup>75</sup> In *Quadripartitus* (four manuscripts) and the thirteenth-century *Leges Anglorum Londoniis*. The twelfth-century *Textus Roffensis* also contains an Old English fragment of the code, amounting to detail in clause 6 (IV *As*). See <http://www.earlyenglishlaws.ac.uk/laws/texts/iv-as-latin/>.

<sup>76</sup> IV *As Latin*, 1.

Hoc autem igitur est, quia iuramenta et vadia, quae regi et sapientibus suis data fuerunt, superinfracta sunt et minus observata quam pro Deo et seculo conveniat.<sup>77</sup>

It is clear that *hoc autem igitur est quia* is a translation of *ðæt is ðonne forþon*, or a very similar clause.<sup>78</sup> The previous sentence, again, refers to harbouring, or sending men to, a criminal, with the punishment here being confiscation of property.<sup>79</sup> This is preceded by a passage on exiling rich or powerful individuals, noble or common (*‘sic comitum sic villanorum’*), who cannot be prevented from crime or protecting criminals, and again laying out that those encountering such an exile would be treated as a thief caught in the act.<sup>80</sup> Taking the two references in Æthelstan’s codes with that in Edward the Elder’s code strongly suggests that these ‘oaths and pledges’ were concerned, at least in part, with the harbouring of criminals. They may have been concerned with more than this; the clauses could be only picking up on part of the oath.

These oaths were sworn at councils. Æthelstan’s Exeter code refers to earlier oaths *‘þar gesealde’*, seemingly a council at Grately (mentioned earlier in the passage). The Thundersfield promulgation also has specific oaths sworn to the king and his councillors, possibly also referring to a specific occasion at a council, probably also referring back to Grately. These swearings at councils may be seen to contrast with the *‘eal ðeod’* that are said to have sworn in Edward’s code. David Pratt has suggested that the general oaths in the earlier period might have only been sworn at assemblies. He points to the peace between Alfred and Guthrum stating that participants swore oaths both for themselves and on behalf of their subordinates, and that the peace concerned *‘eal seo ðeod’*.<sup>81</sup> But could not the theft oath referred to in these early codes have been taken by all freemen in the kingdom based upon a model of oaths sworn at councils? A further question to ask is who would have attended such assemblies? More prominent freemen may well have been present as well as elites. Nevertheless, that the oaths in this section seem to be concerned with *harbouring* and *protecting* criminals, rather than with theft itself, may reveal that this was an issue with elite behaviour, lords protecting their men from royal justice.

<sup>77</sup> IV *As Latin*, 3.2. Liebermann suggested that *superinfracta* is either a corruption of *superexcepta et infracta* (as in V *As* prol, 3) or that the Old English originally had *oferbrocen*. Attenborough suggests that it could be a scribal error for *semper infracta*. See Attenborough, p. 210. The meaning, however, is clear.

<sup>78</sup> Though we might expect *hoc* to be used as a translation for *ðis* rather than *ðæt*, this is how the clause is translated by the *Quadripartitus* author in V *As* prol, 3. Indeed, the entire translation is similar to the translations of V *As*, prol.

<sup>79</sup> IV *As Latin*, 3.1. In this instance Attenborough does not make explicit what he thinks the clause refers to.

<sup>80</sup> IV *As Latin*, 3.

<sup>81</sup> Pratt, *Political Thought of Alfred*, pp. 235–36.

### *Cnut's code (1020 or 1021)*

The best part of a century passes before our next piece of legislative evidence concerning such oaths. As noted in the Introduction, Wulfstan, archbishop of York, was the author of Cnut's Winchester code.<sup>82</sup> In the secular second half of the code is the following passage:

We wish that every man over twelve winters shall give an oath that he will not be a thief nor a thief's accomplice.

We wyllað þæt ælc man ofer twelfwintre syle þone að, þæt he nyle ðeof beon ne ðeofes gewita.<sup>83</sup>

It is clear that this matches half of the thirteenth-century oath examined above. The preceding clause declared that '*ælc freoman*', wishing to have his rights, should be 'brought within the hundred and tithing' ('*on hundrede 7 on teoðunge gebroht*').<sup>84</sup> As with the oath, the freemen to be within such groups were to be over the age of twelve. The obvious inference from this is that the *freoman* of clause 20 refers to the same demographic as the *man* of clause 21, and that the oath was related to the tithing group at this point.<sup>85</sup>

There is a question as to whether these clauses derived from an earlier code that no longer survives, put into writing previous unwritten law, or were innovations. The entire code makes heavy use of earlier legislation, especially Æthelred's and, to a lesser extent, Edgar's. Of Liebermann's 305 edited clauses, about three-quarters derive directly or indirectly from earlier material.<sup>86</sup> This leaves a significant quarter without identifiable predecessors; in the secular half of the code it is over a third.<sup>87</sup> The passages just looked at fit into this category. Wormald saw them as filling a gap in Edgar's code. Where in Edgar's code there was a demand for surety, in Cnut's there was detail about hundred, tithing, and the oath.<sup>88</sup> It would seem that something similar to the oath later sworn as part of frankpledge existed in the early eleventh century, although possibly only entailing the half of the oath concerned with theft.

### **A loyalty oath? The Colyton code**

The only evidence for a general oath of loyalty comes from the reign of Edmund:

<sup>82</sup> See above, pp. 3–4.

<sup>83</sup> II *Cn*, 21.

<sup>84</sup> II *Cn*, 20. Later in the clause this is referred to as being '*on hundrede 7 on borht*'.

<sup>85</sup> Though it must be noted that it is not clear whether surety is associated with tithing at this point.

<sup>86</sup> Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century: Volume One: Legislation and its Limits* (Oxford, 1999), p. 355.

<sup>87</sup> *Ibid.*, p. 361.

<sup>88</sup> See *ibid.*, p. 363.

Firstly, that all swear in the name of the Lord, before whom that holy thing is holy,<sup>89</sup> loyalty to King Edmund, just as a man owes it to be faithful to his lord, without any dispute and betrayal, in plain sight and in secret, and in loving that which he will love, and not wanting that which he will not want; and from the day on which this oath will be given, that no one conceals this in a brother or his relation more than in a stranger.

Imprimis, ut omnes jurent in nomine Domini, pro quo sanctum illud sanctum est, fidelitatem Eadmundo regi, sicut homo debet esse fidelis domino suo, sine omni controversia et seductione, in manifesto, in occulto, et in amando quod amabit, nolendo quod nolet; et a die qua juramentum hoc dabitur, ut nemo concelet hoc in fratre vel proximo suo plus quam in extraneo.<sup>90</sup>

This comes from a law code, promulgated at Colyton in Devon,<sup>91</sup> which only survives in Latin translation in three of the *Quadripartitus* manuscripts.<sup>92</sup> Unfortunately, the date of the code is not known. That it was issued at Colyton seems odd. It is about twenty miles, as the crow flies, directly east of Exeter and about three miles inland from Seaton directly to the south. It does not seem to have been a centre of royal power and was a considerable distance from the more obvious places of political importance in tenth-century Wessex, such as Glastonbury to the north or Winchester, far to the east. The only obvious reason that a West Saxon king would ever have been here is when returning inland from a port, possibly Seaton, three miles to the south. It should be noted that Liebermann identified ‘*Culintona*’ as ‘Collumpton’, presumably Cullompton, also in Devon. If this were the place of the royal council, the same logic would apply. We could only envisage a king visiting when returning from (or going to)—perhaps when also returning from (or going to) sea—the royal centre at Exeter, where other codes we have examined were issued.<sup>93</sup> That Edmund spent a large part of his reign involved in military campaigns on the fluctuating northern border of his kingdom also makes it striking that he ventured so far south, let alone issued laws there. Unfortunately, so little is known

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<sup>89</sup> In translating the similar ‘*pro quo sanctum hoc santificatum est*’ (‘*þe ðes haligdom is fore halig*’) in *Sverian*, Hudson gives: ‘before whom these relics are holy’ (Hudson, *Oxford History of the Laws of England*, pp. 221). The passage probably refers to relics here, but it could refer to the altar. The latter instance might even make more sense if we are to envisage a large body swearing at once.

<sup>90</sup> III *Em*, 1.

<sup>91</sup> ‘*Culintona*’. Liebermann identified this with a Collumpton (presumably Cullompton) in Devon, whilst Robertson identifies it as Colyton, also in Devon: see Robertson, p. 298 (p. 13 n. 2). Ann Williams and Levi Roach also identify this as Colyton: Ann Williams, ‘Edmund I (920/21–946)’, *Oxford Dictionary of National Biography* (Oxford, 2004) [http://www.oxforddnb.com/view/article/8501]; Roach, *Kingship and Consent*, p. 54.

<sup>92</sup> For the MSS, see <http://www.earlyenglishlaws.ac.uk/laws/texts/III-Em/>. There are slight variants between these texts, though for our purposes they are insignificant.

<sup>93</sup> This location may be less likely. The form ‘*Columtune*’ is recorded as early as c. 880, and ‘*Colump*’ is given in Domesday Book. Colyton, by contrast, appears as ‘*Coliton*’ in Domesday. See *A Dictionary of British Place Names*, ed. by A. D. Mills (Oxford, 2011), s.v. ‘Cullopton’ and ‘Colyton’.

about tenth-century royal itineraries that we cannot judge the significance of this location. It is perhaps most likely that he would have been here either between 940 and 941 or between 945 and his death in 946, both periods when he was not campaigning in the north. However, this is little more than a guess.<sup>94</sup>

*Omnēs*, all, were to swear the loyalty oath. This was not literally all people. The final clause instructs ‘*omnis homo*’ to make ‘*homines suos et omnes qui in pace et terra sua sunt*’ trustworthy. Here *omnis homo* are clearly not literally all men, but those of high enough status to have men under them.<sup>95</sup> Indeed, we cannot entirely discount the possibility that the oath was only sworn by those present at the Colyton council.<sup>96</sup> The beginning of Edward the Elder’s Exeter code noted that the king asked his councillors who would cooperate with his efforts, ‘loving what he loved, and hating what he hated’ (*þæt lufian ðæt he lufode, 7 ðæt ascunian ðæt he ascunode*).<sup>97</sup> This echoing of both the Colyton code and *Swerian* strongly suggests that these elites had sworn a similar oath of loyalty, perhaps at the council. Other groups are mentioned in Edmund’s code, including the *twelfhindi et twihindi*,<sup>98</sup> the former those whose wergild was 1200 shillings, with the rank of a *þegn*, the latter with a wergild of 200 shillings, with the rank of a *ceorl*.<sup>99</sup> These groups encompassed the freemen of the kingdom. It is possible that the oath was to be sworn by these freemen. If so, was this a regularly sworn oath? And was it linked to an oath related to theft?

Immediately following the oath passage is a clause concerned with seizing and pursuing thieves, not obstructing those in pursuit of them, and refusals to assist the pursuers.<sup>100</sup> The third clause prohibits all from receiving anyone who has been in another’s service until they are quit from any accusations. It goes on to state that anyone who supports or harbours someone who perpetrates such a crime should make compensation.<sup>101</sup> The fourth clause deals with the punishments for slaves convicted of theft; the fifth forbids the purchasing or receiving of strange cattle; and the sixth with tracking and pursuing

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<sup>94</sup> Ann Williams also suggests that the code was ‘perhaps’ issued in 945, although does not give a reason: Williams, ‘Edmund I’.

<sup>95</sup> III *Em*, 7–7.2.

<sup>96</sup> This is how J. E. A. Jolliffe took it (J. E. A. Jolliffe, *The Constitutional History of Medieval England: From the English Settlement to 1485* (London, 1937), p. 107).

<sup>97</sup> II *EW*, prolog, 1. Tom Lambert highlights this in Edward’s code, though uses it for different purposes (Lambert, *Law and Order*, p. 211).

<sup>98</sup> III *Em*, 2.

<sup>99</sup> Bosworth-Toller, s.v. ‘twelfhynde’, ‘twihynde’.

<sup>100</sup> III *Em*, 2.

<sup>101</sup> III *Em*, 3.

stolen cattle.<sup>102</sup> That the loyalty clause is followed by various clauses on theft and cattle theft could be taken to imply that this loyalty oath was associated with the theft oath, though this is not made explicit. The seventh clause states that:

Every man should make trustworthy his men and all who are in his peace and land. And all those of disrepute and those weighed down with accusations should be rendered under pledge.

Et omnis homo credibiles faciat homines suos et omnes qui in pace et terra sua sunt. Et omnes infamati et accusationibus ingravati sub plegio redigantur.<sup>103</sup>

Could this be an early reference to the surety or tithing system seen in Cnut's code? If so, does the appearance of these three things in one code imply that the system we see in the thirteenth century was already in existence in the mid-tenth? Not necessarily. First, clause 7 has also been taken to refer to lords acting as surety for their men.<sup>104</sup> It is also worth reiterating two points already made. First, nowhere in the corpus of Anglo-Saxon law codes is a loyalty oath linked in any way with a theft oath. Second, the first clause of the Colyton code is the only reference to 'all' swearing an oath of loyalty to the king before the Norman Conquest. Indeed, we could simply read the code as dealing with issues that we would expect a 25-year-old king in control of new territories to be concerned with: the loyalty of his subjects, both new and old, and dealing with theft, especially theft of cattle.

Other parts of the text may imply that this was a newly instituted oath, perhaps one that was only sworn as a one-off, like those that will be examined in Chapter 4. First, it is noteworthy that the words of the oath are actually given. If it were a routinely sworn oath, would this have been necessary? A brief comparison with oaths sworn to Charlemagne helps shed light on this. In 789, Charlemagne ordered all to swear fidelity to him and the exact wording of the oath was given in the order.<sup>105</sup> In 793, Charlemagne sent further messages about why this oath was introduced. The practical reason was that it was in response to a certain rebellion against the king. The first reason given, however, was that it derived from an ancient custom that had fallen out of use.<sup>106</sup> Essentially,

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<sup>102</sup> III *Em*, 4–6.

<sup>103</sup> III *Em*, 7–7.1.

<sup>104</sup> This is how Robertson takes it (p. 15).

<sup>105</sup> *Duplex legationis edictum*, in *MGH: Capit.*, 1, ed. by Alfred Boretius (1883, repr. 1984), no. 23, pp. 62–64 (cap. 18, p. 63), translated in *Charlemagne: Translated Sources*, trans. by P. D. King (Kendal, 1987), pp. 220–22 (221).

<sup>106</sup> *Capitulare missorum*, in *MGH: Capit.*, 1, no. 25, pp. 66–67 (cap. 1, p. 66), translated in *Charlemagne: Translated Sources*, trans. King, p. 223. Also see Charles E. Odegaard, 'Carolingian Oaths of Fidelity',

therefore, this was the (re)introduction of a new oath. As a result, the precise wording had to be given. This is made even clearer when, in 802, Charlemagne ordered more oaths to be sworn. As he had been made Emperor, an oath was needed to be loyal to the imperial crown, rather than the royal one. There was a special concern in the order that the oath was ‘expounded ... in such a way that every person can understand’.<sup>107</sup> Also, for the first time, it is explicit that individuals were to swear to be loyal ‘as a man ought rightfully to be towards his lord’ (*sicut per dicitum debet esse homo domino suo*).<sup>108</sup> The comparison appears to be part of an effort to explain what sort of oath was being sworn. It is noteworthy that, by the reign of Charles the Bald, when a loyalty oath to the ruler seems to have become more routine, this comparison was absent.<sup>109</sup> One of the few textual similarities between the oaths in these Carolingian capitularies and that in Edmund’s code is this comparison to the oaths sworn to lords. Perhaps this suggests that the Colyton oath was not routinely sworn before. This may also be suggested by the reference to the ‘day on which this oath will be given’, possibly implying that the oath was being newly organized, to be sworn on a certain day in the future.

### Vaguer references in Wulfstan’s legislation

Though we cannot be entirely certain about how to interpret the evidence in the Colyton code, it is more specific than some other instances of general appeals to keeping ‘oath and pledge’ in the laws. It was mentioned above that Cnut’s code was composed by Wulfstan and was, in part, derived heavily from Æthelred’s legislation. Wulfstan was also the author of some of that king’s law codes. Among these are a series of documents associated with a council at Enham in 1008.<sup>110</sup> In this legislation and in Cnut’s code is the following clause:

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*Speculum*, 16 (1941), 284–96 (284); Matthew Innes, ‘Charlemagne’s Government’, in *Charlemagne: Empire and Society*, ed. by Joanna Story (Manchester, 2005), pp. 71–89 (80); and François Louis Ganshof, *Frankish Institutions under Charlemagne*, trans. by Bryce Lyon and Mary Lyon (Providence, RI, 1968), p. 13.

<sup>107</sup> *Capitulare missorum generale*, in *MGH: Capit.*, I, no. 33, pp. 91–99 (92), translated in *Charlemagne: Translated Sources*, trans. King, pp. 233–43 (234).

<sup>108</sup> For the wording of the oath see *Capitulare missorum specialia*, in *MGH: Capit.*, I, no. 34, pp. 99–102 (101), translated in *Charlemagne: Translated Sources*, trans. King, pp. 243–44 (244). For the related order for this oath see *Capitulare missorum generale*.

<sup>109</sup> For the text of this oath see *Sacramenta carisiaci praestita*, in *MGH: Capit.*, II, ed. by Alfred Boretius and Viktor Krause (1890–97; repr. 2001), no. 269, pp. 295–96 (296), located above an oath of the king.

<sup>110</sup> V *Atr*, VI *Atr*, and VI *Atr Lat* (referred to as ‘V’, ‘VI’, and ‘L’ respectively through this footnote). They do have slight differences. Kenneth Sisam argued that V represented the laws approved by the English in 1008 at Enham; that L was a learned version made by Wulfstan for individuals such as the king, or the bishops and clergy of his own province; and that VI was for parish priests and pertained to the province of York (Kenneth Sisam, ‘The Relationship of Æthelred’s Codes V and VI’, in his *Studies in the History of Old English Literature* (Oxford, 1953), pp. 278–87). Though this was once widely accepted, Patrick Wormald rejected it, positing that all three represent draft forms (Wormald, *The Making of English Law*, pp. 334–35 and n. 338).

And he should order word and deed aright and should cautiously keep oath and pledge.

7 word 7 weorc fadige mid rihte 7 að 7 wedd wærlice healde.<sup>111</sup>

The question is whether this refers to a specific oath, or whether it is a general encouragement of oath-keeping. Perhaps the first thing to note is that in Cnut's code it is not associated in any way with the clauses looked at above concerning thieves and tithing. The 1008 legislation was issued in the context of a threatened Danish invasion and was aimed at addressing the nation's moral sins and crimes. In all three pieces of legislation, the oath clause is surrounded by other clauses concerned with moral Christian duties. In the Cnut legislation, a clause encouraging the keeping of loyalty to lords follows soon after.<sup>112</sup> However, it is clear that the clause refers to general oath-keeping. The contemporary Latin paraphrase of VI Æthelred gives *'iuramenta et vota fideliter compleat'*.<sup>113</sup> That the plural is used for the Latin of *'að 7 wedd'*, the latter interestingly translated as 'vows' rather than 'pledges', strongly suggests an appeal generally to keeping oaths, rather than something more specific. Matthias Ammon has also argued that Wulfstan's use of the word pair is general, even wide enough to mean 'all legal agreements'.<sup>114</sup>

### Some concluding remarks and continental comparisons

As briefly mentioned at the start of this section, numerous historians have grouped some or all of the above references together, suggesting in the process that there existed a two-fold oath similar to that in the thirteenth century. Wormald associates the Colyton code reference not only with Edward's second code, but also with the references in Alfred's code and the legislation of Æthelstan.<sup>115</sup> This association has trickled into the historiography more widely. Thus Richard Abels projects the Colyton code reference to an oath of loyalty backwards, linking the earlier references to oaths and pledges with an oath of loyalty, without giving a reason for doing so.<sup>116</sup> We have shown that this approach is flawed. More broadly, there is an acceptance of the argument that there was

<sup>111</sup> The text here is from V *Atr*, 22.2. VI *Atr*, 28 adds a subject—*freonda gewhilec* (everyone of our friends)—and this formula is also used in I *Cn*, 19.1.

<sup>112</sup> I *Cn*, 20. There are two sub-clauses between 19.1 and 20.

<sup>113</sup> VI *Atr Lat*, 28.

<sup>114</sup> He argues that this is the case with other uses of the word pair too. We have discussed this argument when it applies to the source material used in this thesis above (p. 97 n. 28). His argument is most convincing when applied to Wulfstan's use of the word pair. See Ammon, "'Ge mid wedde ge mid aðe'", pp. 529–34.

<sup>115</sup> Wormald, 'Engla Lond: The Making of an Allegiance', p. 366 n. 23. James Campbell also projects the Colyton code backwards, though he does not refer to Alfred's code (James Campbell, 'Observations on English Government from the Tenth to the Twelfth Century', *Transactions of the Royal Historical Society*, 5th series, 25 (1975), 39–54 (46)).

<sup>116</sup> Richard P. Abels, *Lordship and Military Obligation in Anglo-Saxon England* (London, 1988), pp. 83–90.

a widely sworn oath of loyalty that may have included an oath concerning theft. Thus, even one of the stronger voices of criticism against Wormald, John Hudson, has stated that ‘the oath of loyalty to the king probably included a promise not to participate in theft’.<sup>117</sup> The argument that we have presented above suggests that we should instead be talking of the oath regarding theft including, or not, the oath of loyalty. Put differently, we ought to be asking whether the theft oath included a loyalty oath, not whether the loyalty oath included a theft oath. Framing the question in this way would also fit tightly with Tom Lambert’s convincing argument that theft was a primary concern of Anglo-Saxon kings from the seventh to the eleventh centuries.<sup>118</sup>

Finally, in order to try to shed more light on these issues, we turn to a few continental comparisons. James Campbell lays out the oath references in Edward the Elder’s, Æthelstan’s, and Edmund’s codes alongside that of Cnut, and then notes that Carolingian loyalty oaths included an element of not participating in crime. He argues that what we see is a Carolingian institution imported into England—by implication an oath of loyalty with a theft clause—because of two comparisons: firstly ‘an important textual resemblance between the core of Charlemagne’s oath and the core of Edmund’s’; and secondly, ‘the age limit mentioned by Charlemagne and Cnut is the same [twelve]’.<sup>119</sup>

There are problems with Campbell’s argument. The age limit coincidence is probably part of a broader cultural fabric regarding when it was appropriate for people to swear oaths, rather than being emblematic of direct or indirect inspiration. Furthermore, the textual resemblance is overstated. The oath of Edmund has no textual similarity with the oath of 789 and very little with that of 802.<sup>120</sup> The oath to Charlemagne in 802 was to be sworn ‘with a pure heart and without fraud and evil design’; this has no parallel in Edmund’s. Similarly the clause in the Anglo-Saxon code referring to ‘loving what he loves and discountenancing what he discountenances’ has no Carolingian parallel. The actual duties that taking the 802 oath was to entail were made explicit in Charlemagne’s capitulary; this finds no parallel in Anglo-Saxon England at all. Whilst there are some

<sup>117</sup> Hudson, *Oxford History of the Laws of England*, p. 247.

<sup>118</sup> Alongside religious misconduct and procedural offences. See Lambert, *Law and Order*, *passim*. This builds on the argument earlier made in Tom Lambert, ‘Theft, Homicide and Crime in Late Anglo-Saxon Law’, *Past and Present*, 214 (2012), 3–43.

<sup>119</sup> Campbell, ‘Observations on English Government’, pp. 46–47. Patrick Wormald also saw a resemblance between Charlemagne’s and Edmund’s oath, even referring to ‘the Charlemagne/Edmund formula’ (Wormald, ‘The Pursuit of Crime’, pp. 21–22). Lambert has argued that Wormald’s approach ‘requires us to make significant interpretative leaps’ (Lambert, ‘Theft, Homicide and Crime’, p. 14).

<sup>120</sup> *Duplex legationis edictum*, cap. 18; *Capitulare missorum specialia*.

slight textual similarities—Edmund’s code has all swearing *fidelitas* to him as ‘*homo debet esse fidelis domino suo*’, whilst Charlemagne’s men were to promise Charlemagne as ‘*per dRICTUM debet esse homo domino suo*’—these are hardly surprising: both are oaths of loyalty being sworn in a context where most people would be familiar with oaths sworn to lords. There is not enough evidence to formulate a positive argument for direct inspiration. As Lambert notes of the evidence, ‘though the parallels with Carolingian evidence are suggestive, the situations are not identical’.<sup>121</sup>

A different continental comparison may, however, support the argument we have presented. In Hungary, the legislation of László (Ladislav) I (1077–95) stated that the king’s messenger was to go from village to village, telling the villagers that all the magnates of Hungary had taken an oath not to conceal thieves and instructing the villagers to swear the same.<sup>122</sup> George Molyneux notes the numerous similarities between tenth- and eleventh-century English legislation and the law codes of László. He offers a few explanations for this, which may all have had a role to play: responses to similar problems; copying of Frankish exemplars or post-Carolingian practice; and through direct Hungarian borrowing from England, via pilgrims travelling to the Holy Land or Edward *atheiling*, who was exiled to Hungary by Cnut.<sup>123</sup> Whatever the root of the Hungarian legislation, that elites swore an oath related to the harbouring of thieves and that those lower down the social scale subsequently swore the same thing makes for an interesting parallel with Anglo-Saxon England. At the very least, it suggests that we are right to reformulate the debate by placing oaths related to theft at the centre, rather than loyalty oaths.

## Post-Conquest evidence

As noted above, between the code of Cnut and *Bracton* there is very little evidence to help us trace the development of the oaths sworn by those entering frankpledge groups. Although there is a reasonable amount of evidence regarding the existence of frankpledge, oaths are not mentioned in this source material.<sup>124</sup> However, just because

<sup>121</sup> Lambert, ‘Theft, Homicide and Crime’, p. 13.

<sup>122</sup> *Decreta S. Ladislai Regis*, III.1, in *The Laws of the Medieval Kingdom of Hungary*, ed. and trans. by János M. Bak and others, 5 vols (Bakersfield, 1989–), I: 1000–1300 (1989), pp. 18–19. *Decreta S. Ladislai Regis*, II.1, noted that the nobles had taken an oath not to conceal or defend any relatives involved in theft (*ibid.*, pp. 10–13). It is possible that English legislation was also concerned with powerful elites protecting their relatives.

<sup>123</sup> Molyneux, ‘The Formation of the English Kingdom’, pp. 255–56.

<sup>124</sup> See *Hn*, 8.2; *Wl art*, 8, 8a; *ECf*, 20; and *Leis Wl*, 20(3a), 25.

the theft oath is absent from these sources does not mean that it had ceased to exist; that it was sworn in the thirteenth century strongly implies continuity. Appendix II presents some evidence that might suggest tithing and oath were closely associated in the twelfth century.

### A loyalty oath? The Articles of William I

Again, there is no clear evidence that an oath of loyalty was sworn alongside the theft oath on entering frankpledge. The only piece of evidence between the Conquest and the thirteenth century that may refer to a loyalty oath routinely sworn by all free men comes from a source that raises as many questions as it answers: the Articles of William I, conventionally divided into ten clauses and sometimes known as the Ten Articles. The second clause states:

Further, we establish that all free men should affirm with agreement and with oath that they wish to be faithful to King William within and outside England, to protect, with him, his lands and honour with all loyalty, and to defend before him against enemies.

Statuimus etiam, ut omnis liber homo foedere et sacramento affirmet, quod infra et extra Angliam Willelmo regi fideles esse volunt, terras et honorem illius omni fidelitate cum eo servare et ante eum contra inimicos defendere.<sup>125</sup>

It is likely that this is itself a translation from Old English. It is possible that this explains the odd use of the verb *affirmare* where we would expect to find *iurare* or *facere*. Perhaps it was translating *gesellan*, a verb meaning ‘to give’ that is often found with *að*.<sup>126</sup> The phrase *foedus et sacramentum* might be a translation of *að 7 wed*, or rather *wed 7 að*.<sup>127</sup> As noted in the Introduction, some of the Ten Articles may represent actual edicts of William I.<sup>128</sup> It is possible that here we have an order that was sent out in Old English for all free men to swear. The question is, was this a reference to an oath sworn as part of something akin to frankpledge?

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<sup>125</sup> *W1 art*, 2.

<sup>126</sup> For example, see II Ew, 5, above, p. 103.

<sup>127</sup> As noted in the Introduction, such a translation appears to have been used by John of Worcester (see above, p. 16). Any significance in the change in order from *að 7 wed* to *wed 7 að* is not clear. For a discussion of the order in which these words appear, see Ammon, “Ge mid wedde ge mid aðe”, p. 531. In the corpus of Old English laws, the order is always *að 7 wed*; in the Anglo-Saxon Chronicle, it is *wed 7 að*.

An early thirteenth-century manuscript, probably Roger of Howden’s working copy of the *Chronica*, seemingly emends ‘foedere’ to ‘fide’, resembling the more generic *fides et sacramentum*, faith and oath, formula. This highlights how odd *foedus et sacramentum* may have seemed to later writers. It is presumably Howden’s alterations that led J. C. Holt to translate the phrase as ‘fealty and oath’ (J. C. Holt, ‘1086’, in *Domesday Studies: Papers Read at the Novocentenary Conference of the Royal Historical Society and the Institute of British Geographers, Winchester, 1986*, ed. by J. C. Holt (Woodbridge, 1987), pp. 41–64 (63)). For the manuscript (British Library MS Royal 14 C.II, fol. 214v), see <http://www.earlyenglishlaws.ac.uk/laws/manuscripts/hv/>.

<sup>128</sup> See above, p. 5.

It is possible that it refers to the oath of Salisbury, which will be examined further in the next chapter. Liebermann, for example, thought that this is what it referred to.<sup>129</sup> If it does, then it provides more detail than the chronicle accounts and also differs from them. Whereas the chronicle accounts have the oath-takers swearing loyalty, the Articles have them swearing to be faithful within England and abroad and to protect William's lands and honour. Where the chronicles have the oath of loyalty sworn against all men, the Articles have the oath sworn to defend against enemies. Furthermore, only William of Malmesbury—the least detailed of the chronicle accounts—matches the Articles' statement that the oath was sworn by all free men. It is a possibility that he was working from the Articles themselves—they seem to have circulated widely, surviving in over thirty manuscripts. Nevertheless, it is certainly possible that the oath sworn at Salisbury was subsequently taken by free men over the country. The phrase *contra inimicos defendere* would certainly fit the context of the Salisbury oath being sworn due to the threat of invasion. However, it is equally plausible that it refers to a general oath sworn locally, representing the root of half of the frankpledge oath we see in the thirteenth century. Jumping off the fence into one of these positions entails little more than guesswork. It is worth noting that it is unlikely that a routinely sworn general oath of loyalty alongside the theft oath was introduced much later than *c.* 1100. We would expect evidence for this.

## Conclusion: who routinely swore oaths in post-Conquest England?

The question as to who swore these oaths after the Conquest is a complex one that we have left for the end of this chapter. It is clear that before the Conquest, and probably in its immediate aftermath, being in tithing was a mark of a free man, of those who were not slaves.<sup>130</sup> By *c.* 1200, being in frankpledge was generally the mark of a villein, an unfree peasant rather than a free one.<sup>131</sup> Although this was probably not a universal

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<sup>129</sup> *Gesetze*, III, 278.

<sup>130</sup> Morris, *Frankpledge System*, p. 77; O'Brien, *God's Peace and King's Peace*, pp. 85–86; Hudson, *Oxford History of the Laws of England*, p. 392.

<sup>131</sup> O'Brien, *God's Peace and King's Peace*, pp. 85–86; J. R. Maddicott, 'The Oath of Marlborough, 1209: Fear, Government and Popular Allegiance in the Reign of King John', *English Historical Review*, 126 (2011), 281–318 (296).

rule—some free men were in frankpledge in the thirteenth century<sup>132</sup>—there was a change from it being *generally* a signifier of free status to *generally* a mark of villeinage. This appears to have been a result of changes in the classification of the peasantry. The mass of the peasantry, *c.* 1060, were free and in tithing. They were termed the *villani* by various early post-Conquest sources, probably best translated here as ‘men of the vill’.<sup>133</sup> By the end of the twelfth century, probably as a result of intensified lordship followed by the legal and administrative reforms that produced more precise social classification, this social group had become *unfree* villeins.<sup>134</sup> In pre-Conquest England, those beneath the free peasantry, the slaves, were not required to be part of tithing. Slavery seemingly disappeared in England by about 1135.<sup>135</sup> Those who were slaves in *c.* 1060 would have been classed as villeins (unfree) in *c.* 1200, and thus went from not swearing to swearing. As Hudson succinctly puts it:

Those excluded from Anglo-Saxon tithings as unfree may have been slaves; the great mass of the peasantry would have been in tithing, and categorised legally as free men. Equivalent peasants in the thirteenth-century were still members of frankpledge, but most were now categorised legally as unfree.<sup>136</sup>

However, what of those groups of peasants who had retained their free status over this period? Some were still in frankpledge. Others seem to have been exempt, probably as their status and/or property were considered sufficient surety. It is here that we see a real change between late Anglo-Saxon England and the thirteenth century in who swore when entering tithing groups. Much of the higher status peasantry no longer swore. As we shall see in the next chapter, this may have had important consequences.

There were other groups who did not swear such oaths. There is no evidence of elites swearing oaths related to theft or harbouring criminals at centralized councils after the mid-tenth century. Never in tithing groups, lords and clergy were also never part of frankpledge. The same was true of knights. Inhabitants of some boroughs were also excluded from membership.<sup>137</sup> Significantly, frankpledge was not present in the counties north of the Humber and was seemingly absent also in the counties bordering Wales

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<sup>132</sup> Morris, *Frankpledge System*, pp. 76–78; Hudson, *Oxford History of the Laws of England*, p. 717. Also note, O’Brien, *God’s Peace and King’s Peace*, p. 234, n. 133, which reports Paul Hyams’ letter to Bruce O’Brien: ‘the correspondence is never exact enough to serve as a test of status’.

<sup>133</sup> Hudson, *Oxford History of the Laws of England*, pp. 208–09, 392.

<sup>134</sup> *Ibid.*, pp. 426–28; Morris, *Frankpledge System*, p. 77; O’Brien, *God’s Peace and King’s Peace*, p. 86.

<sup>135</sup> Hudson, *Oxford History of the Laws of England*, p. 424.

<sup>136</sup> *Ibid.*, p. 717.

<sup>137</sup> Morris, *Frankpledge System*, pp. 72–76; Hudson, *Oxford History of the Laws of England*, p. 392.

(except Gloucestershire).<sup>138</sup> Did the inhabitants in such places swear oaths of loyalty or oaths related to theft within reigns? In 1190, Richard I gave to his nephew Otto, later Emperor Otto IV, the county of York. According to Howden,

although many received him, and did homages and fealties to him, many still resisted him, saying that they would not withdraw from fealty to the king, until they might speak with him face to face. Whence it was done that the lord king gave to the same Otto the county of Poitou in lieu of the county of York.

et quamvis multi recepissent eum, et fecissent ei homagia et fidelitates, multi tamen ei resistebant, dicentes quod a fidelitate regis non recederent, priusquam cum eo ore ad os loquerentur. Unde factum est, quod dominus rex dedit eidem Othoni comitatum Pictavis in commutationem comitatus Eboraci.<sup>139</sup>

It is clear from this account that a body of people in Yorkshire had sworn fealty to the king. But who were the many who resisted Otto? It is possible that the account only refers to tenants-in-chief: homages are given to him as well as fealties. We cannot discount, however, that it was a wider social group. Perhaps it included the citizens of York. There is also a possibility that it refers to free men and even villeins, who may have sworn around the time of the accession, or in some forum similar to the frankpledge south of the Humber.

What seems to be clear from the evidence presented towards the end of this chapter is that a large group of politically important people did not routinely swear loyalty to the king within a reign in the late twelfth century. It was those who did not regularly attend the royal court, who did not hold royal office, and who were either above the status of those in frankpledge or exempt from entering it for other reasons. Within this group would have been knights, some freemen, some citizens of towns and cities—men of important standing in the localities and, crucially, men who carried arms.

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<sup>138</sup> See Morris, *Frankpledge System*, pp. 42–68. There were also, by the thirteenth century, various other exemptions.

<sup>139</sup> Howden, *Chronica*, III, 86.

## Extraordinary oaths

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Thereafter he [the king] journeyed around the country so that he came to Salisbury by Lammas [1 August], and there came to him his council and all those who occupied land who were of any importance throughout England, whosoever men they were. And all submitted to him and became his men and swore oaths of loyalty to him that they would be loyal to him against all other men.

Syddan he ferde abutan swa þæt he com to Lammæssan to Searebyrig, 7 þær him comon to his witan and ealle þa landsittende men þe ahtes wæron ofer eall Engleland, wæron þæs mannes men þe hi wæron, 7 ealle hi bugon to him 7 weron his menn 7 him holdaðas sworon þæt hi woldon ongean ealle oðre men him holde beon.<sup>1</sup>

This is the Peterborough Chronicle's famous description of the oath of Salisbury. In the words of J. C. Holt, the passage is a 'historiographical curiosity'.<sup>2</sup> For Frank Stenton, what exactly happened on 1 August 1086 was 'perhaps the obscurest question in Anglo-Norman history'.<sup>3</sup> Approached, for the moment, as nothing more than an oath of loyalty sworn by certain subjects to the king, we can see that it is different from everything that we have seen in the preceding chapters. Many of the oaths we have examined were prompted by changes in someone's status—a son becoming an heir; an heir made into a king; a person inheriting certain lands or being appointed to an office; a child reaching a certain age and attaining their majority; etc. Nothing of this sort prompted the Salisbury oath. It was an extraordinary oath, sworn in non-normal circumstances. H. W. C. Davis, writing over 100 years ago, argued that it 'was a temporary expedient to meet a temporary danger'.<sup>4</sup> It is to oaths sworn in such circumstances that this chapter turns.

As we will see, such oaths could still be routine and regular. For example, they could be, and were, routinely sworn in response to French invasion threats. If these threats were frequent, we could say that such oaths were regularly sworn. However, they were not ordinary in the way that the oaths examined up to this point were. They were reactions to unpredictable events. Sometimes these oaths were part of a direct response to a crisis, at

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<sup>1</sup> ASC(E) 1086 (pp. 216–17).

<sup>2</sup> J. C. Holt, '1086', in *Domesday Studies: Papers Read at the Novocentenary Conference of the Royal Historical Society and the Institute of British Geographers, Winchester, 1986*, ed. by J. C. Holt (Woodbridge, 1987), pp. 41–64 (41).

<sup>3</sup> Frank Merry Stenton, *The First Century of English Feudalism, 1066–1166, Being the Ford Lectures Delivered in the University of Oxford in Hilary Term 1929*, 2nd edn (Oxford, 1961), p. 112.

<sup>4</sup> H. W. C. Davis, *England Under the Normans and Angevins, 1066–1272* (London, 1905), p. 37.

other times they appear to have been pre-emptive. This distinction is the way in which this chapter approaches the evidence. As part of this analysis and for their own sake, episodic events will be analysed. This also reveals some of the mechanisms and practicalities involved in carrying out oath-swearing ceremonies throughout the kingdom. Some of the broader themes of the thesis will also be explored. The evidence examined in this chapter also has implications for some of the institutions discussed, and questions raised, in previous chapters.

The focus will fall on post-Conquest England. There is no evidence that oaths were widely sworn at times of crisis in pre-Conquest England, unless the Colyton code records such an event.<sup>5</sup> We might expect oaths to have been sworn in early eleventh-century England when Swein and Cnut threatened invasion, or in 1066 when Harold Godwinson faced the prospect of foreign armies landing in the north and south of his kingdom. At the very least, elites probably reaffirmed loyalty when such threats arose. However, the sources are silent. Our evidence begins after the Conquest, with the oath of Salisbury.

## External threats

### 1086: the oath of Salisbury

The oath at Salisbury has garnered much historiographical attention. A great deal of the ink spilled on the topic has been by constitutional historians concerned with its significance as an event. It was from such a perspective that Stenton expressed different views over the course of his career. In his 1908 book, *William the Conqueror and the Rule of the Normans*, Stenton wrote that the oath was important as a statement of the principle that fealty to the king overrode a lord's claim to service, but 'it should not be taken to imply any revolutionary change in the current doctrines of feudal law'. It was 'a striking incident and nothing more'.<sup>6</sup> By the time he came to write *Anglo-Saxon England* a few decades later he had changed his tone. The oath was 'an important date in feudal history' and

the precedent which it set was momentous in the development of the English feudal state. For it gave public and solemn expression to the principle that the fealty which the

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<sup>5</sup> See above, pp. 107–11.

<sup>6</sup> Frank Merry Stenton, *William the Conqueror and the Rule of the Normans* (London, 1908), pp. 365–66.

tenant owed to his immediate lord must not be allowed to conflict with the fealty which, like all subjects, he owed to his sovereign.<sup>7</sup>

Also illustrative is R. Allen Brown's objection to this grandiose view, complaining in a footnote in 1969 that 'in spite of all the necessary qualifications that are nowadays made ... it is possible that the importance of the "Salisbury Oath" still tends to be exaggerated.' Despite this, he still noted that the oath illustrated that 'the sovereign rights of princes to the allegiance of their subjects, over and above the personal and tenurial ties of feudalism, were *maintained* in England after the Norman Conquest, as indeed we should expect'.<sup>8</sup> Contemporaries are unlikely to have viewed the oath in such terms. More recently, historians have asked different questions of the source material. Who participated at Salisbury? What did those present exactly commit to? What prompted the event? The best way to approach these questions is by analysing each of our sources separately.

### *The Peterborough Chronicle (Anglo-Saxon Chronicle (E))*

The most valuable account is that within the Peterborough Chronicle, quoted above. It is the most contemporaneous of our sources. The annals within the Peterborough manuscript were written in a uniform hand up to 1121. They seem to have been copied from an English chronicle also used by the thirteenth-century Waverley annalist.<sup>9</sup> It is probable that the original account of 1086 was written in south-east England at the end of 1086 or beginning of 1087. This dating is revealed by the last remarks for the year, which complain about the weather, stating 'may God Almighty remedy it when it shall be His will' (*gebete hit God elmihtiga þonne his willa sy*).<sup>10</sup>

It is clear that in using the phrase '*waron þas mannes men þe hi waron*', the Chronicler was describing a group wider than tenants-in-chief. '*Ealle þa landsittende men þe abtes waron ofer eall Engleland*' is not precise enough to identify exactly who these people were. Suffice to say that it was a gathering of significant landowners irrespective of whether they held their lands directly from the king. A more difficult question is what the writer meant by

<sup>7</sup> Frank Merry Stenton, *Anglo-Saxon England*, 3rd edn (Oxford, 1971), pp. 618–19. Incidentally, Doris Stenton agreed with this later position (Doris Stenton, *English Society in the Early Middle Ages, 1066–1307*, 2nd edn (Harmondsworth, 1952), p. 61).

<sup>8</sup> See R. Allen Brown, *The Normans and the Norman Conquest* (London, 1969), p. 240, n. 178 (emphasis added).

<sup>9</sup> *The Peterborough Chronicle*, ed. by Cecily Clarke, 2nd edn (Oxford, 1970), pp. xix–xxiii. The compiler of the annals before 1121 is unknown.

<sup>10</sup> *ASC(E)* 1086 (p. 217). This example is also used by Clark, who states that 'most of the annals may have been composed soon after the events they describe': *Peterborough Chronicle*, ed. Clarke, p. xxi.

‘ealle hi bugon to him 7 weron his menn’? J. O. Prestwich, who, as we shall see, preferred to use the evidence in John of Worcester’s account of 1086, says of the Peterborough Chronicle that ‘historians are agreed that this describes both an act of homage and an oath of fealty and that more than the tenants-in-chief were involved, although they are agreed on little else’.<sup>11</sup> For J. C. Holt, ‘the obvious and generally accepted interpretation of the phrase is that this was an act of homage’.<sup>12</sup> He saw this homage as probably tenurial, though, as seen in the Introduction, his confidence may be misplaced.<sup>13</sup> Other historians have interpreted the phrasing to mean homage too, some agreeing with Holt about its tenurial nature.<sup>14</sup> Others have trodden more carefully, only mentioning fealty or loyalty being sworn, not using the word ‘homage’ in their brief accounts.<sup>15</sup> Again, Stenton appears to have changed his mind. In *William the Conqueror* he states that it was an oath ‘without explicit reference to the tie of homage which bound individual tenants to their immediate lords’.<sup>16</sup> In *The First Century of English Feudalism and Anglo-Saxon England*, however, Stenton says homage was done.<sup>17</sup>

No one has discussed how such language was used elsewhere. In doing this, we must first try to identify which entries the writer of the 1086 account was also responsible for. The annals within the Peterborough manuscript were written in a uniform hand up to 1121 and seem to have been copied from a different English chronicle. Cecily Clark draws our attention to the 1087 entry, where the writer speaks of himself as one who had

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<sup>11</sup> J. O. Prestwich, ‘Mistranslations and Misinterpretations in Medieval English History’, *Peritia*, 10 (1996), 322–40 (334).

Only one historian, J. E. A. Jolliffe, has explicitly stated that this did not mean homage, suggesting that the term *manraden* would have been used. This is a weak argument: *manraden* is not used at any point by any of the Anglo-Saxon chroniclers in the twelfth century and only appears in the Peterborough Chronicle in 1114/15, 1137, and 1153. He also states that it was impossible in law to do homage to multiple lords, implying that those who were not tenants-in-chief could not do homage to the king as a second lord. This directly contradicts *Glanvill* (*Glanvill*, IX.1). Even though this is much later, it is likely that homage could be done to multiple lords earlier, especially if we only see it as having loose tenurial connotations. Furthermore, were there such a principle for lords generally, the king is likely to have been an exception. See J. E. A. Jolliffe, *The Constitutional History of Medieval England: From the English Settlement to 1485* (London, 1937), p. 162, n. 2.

<sup>12</sup> Holt, ‘1086’, p. 41.

<sup>13</sup> See above, p. 27.

<sup>14</sup> See, for example, Stenton, *English Society*, p. 61; H. R. Loyn, *The Norman Conquest* (London, 1965), pp. 127–28; Robert Barlett, *England Under the Norman and Angevin Kings, 1075–1225* (Oxford, 2000), p. 194; John Hudson, *The Oxford History of the Laws of England: Volume II: 871–1216* (Oxford, 2012), p. 434; George Garnett, *Conquered England: Kingship, Succession, and Tenure, 1066–1166* (Oxford, 2007), p. 83.

<sup>15</sup> See, for example, F. W. Maitland, *The Constitutional History of England* (Cambridge, 1911), p. 161; Davis, *England Under the Normans and Angevins*, p. 37; Frank Barlow, *William I and the Norman Conquest* (London, 1965), pp. 110–11, 124, and 166; Allen Brown, *The Normans and the Norman Conquest*, p. 240; and W. L. Warren, *The Governance of England, 1086–1272* (London, 1987), pp. 20, 56, and 100.

<sup>16</sup> Stenton, *William the Conqueror*, pp. 365–66.

<sup>17</sup> Stenton, *First Century of English Feudalism*, p. 113; Stenton, *Anglo-Saxon England*, pp. 618–19.

lived at William I's court, and points out that the annals from 1083 to 1088 have a specific style. She does not take this any further, surmising that the author is unknown. She also points to a slight Westminster (or London) bias in the entries between 1062 and 1121.<sup>18</sup> Others have suggested that it was compiled at Christ Church, Canterbury, based on an archetype of this proto-E being there at the end of the eleventh century.<sup>19</sup> The further we are from 1086, the more likely we are dealing with a different writer, perhaps working in a different place. However, it will have been a writer moving in the same world and using similar language.

A number of passages using this sort of language describe relationships between kings of England and their other British neighbours. In an account of 1063, the Chronicler states that certain Welsh people gave hostages and submitted—*‘folc beom gislodon 7 to bugon’*—to earl Harold and his brother Tostig in 1063.<sup>20</sup> It does not seem likely that this refers to the start of a strict tenurial relationship, where these Welsh people held their lands from the two noble brothers. Similarly, an entry in 1072, which has Malcolm of Scotland making peace with William I, giving hostages, and becoming his man (*‘gislas sealde 7 his man wæs’*), makes no reference to anything tenurial.<sup>21</sup> However, in 1091, the Peterborough Chronicler gives the following account:

King Malcolm came to our king and became his man, to all such subjection as he did to his father before, and confirmed it with an oath and King William promised in land and in all things all that he held before under his father.

se cyng Melcolm to uran cyng com 7 his man wearð to eall swilcre gehyrsumnisse swa he ær his fæder dyde 7 þet mid aðe gefestnode, 7 se cyng Willelm him behet on lande 7 on eallon þinge þæs þe he under his fæder ær hæfde.<sup>22</sup>

Here the lands are ‘promised’ to Malcolm. The word ‘*under*’ can mark subjection.<sup>23</sup> This passage could refer to a tenurial relationship where William II granted the lands to Malcolm that Malcolm had previously held from William I. If so, the 1072 entry, although not explicit, may also refer to a tenurial relationship.

<sup>18</sup> *Peterborough Chronicle*, ed. Clarke, pp. xix–xxiii.

<sup>19</sup> *The Anglo-Saxon Chronicle: A Collaborative Edition: Volume 7: MS E*, ed. by Susan Irvine (Cambridge, 2004), p. lxxxv. Irvine states that they are southern in their interest. Malasree Home believes that the pre-1121 section of the Peterborough Chronicle ‘is most likely to have reached Peterborough via Canterbury, even though the unlocalised annals 1062–1121 do not allow us to draw a definite direct line of transmission’ (Malasree Home, *The Peterborough Version of the Anglo-Saxon Chronicle: Rewriting Post-Conquest History* (Woodbridge, 2015), p. 111 for quote, and more generally pp. 111–20 for the argument that it is ‘likely’).

<sup>20</sup> *ASC(E)* 1063 (p. 190).

<sup>21</sup> *ASC(E)* 1072 (p. 208). The D account gives ‘*wæs his mann 7 him gyslas salde*’ (*ASC(D)* 1073 (pp. 208–09)).

<sup>22</sup> *ASC(E)* 1091 (p. 227).

<sup>23</sup> Bosworth-Toller, s.v. ‘under’.

However, recent scholarship has not taken the 1091 (or 1072) passage in this way. Rees Davies has cogently argued that before the late twelfth century, the submissions of ‘Celtic’ rulers to kings of England were ‘personal not institutional’ and ‘no formal tenurial relationship was established, as far as we know, in the wake of the act of subjection’.<sup>24</sup> This would be the model through which he would interpret another passage that uses similar language to our 1086 entry: a different recension of the Chronicle (H) describes a Welsh submission to Henry I in the following manner: ‘*ða Wyliscean kingas coman to him 7 becoman his menn 7 him held aðas sworan*’.<sup>25</sup> Dauvit Broun has built upon Davies’s work, arguing that these agreements in Scotland did not refer to a tenurial relationship.<sup>26</sup> However, that William II promised land to Malcolm suggests that there was something tenurial about the relationship. Perhaps we should be thinking of loose tenurial structures, rather than the dichotomy of strict legal categories of either landholding or lordship alone.

Our best points of comparison for the present discussion come from the Peterborough Chronicler’s accounts of oaths sworn after the coronations of William Rufus and Henry I. Almost certainly written by the man who wrote the 1086 account is the 1087 passage concerned with William Rufus’s consecration at Westminster. He states that ‘*ealle þa men on Englalande him to abugon 7 him aðas sworon*’ (‘all the men in England submitted to him and swore him oaths’).<sup>27</sup> Even more similar to the 1086 wording, however, is the description of oaths sworn around Henry I’s consecration in 1100 where ‘*him ealle on þeosan lande to abugan 7 aðas sworon 7 his men wurdon*’ (‘all the people in this land submitted to him and swore oaths and became his men’).<sup>28</sup> As noted in Chapter 1, these passages seem to be describing the submission, around the time of a coronation, of a group wider than tenants-in-chief.<sup>29</sup> They do not appear to describe submissions creating a strict tenurial structure with all those submitting holding their land from the king. The language reminiscent of the 1086 Peterborough account does not describe strict tenurial

<sup>24</sup> Rees Davies, “‘Keeping the Natives in Order’: The English King and the “Celtic” Rules 1066–1216’, *Peritia*, 10 (1996), 212–24 (see the article generally for this argument and p. 217 for the passages quoted).

<sup>25</sup> *ASC(H)* 1114.

<sup>26</sup> Dauvit Broun, *Scottish Independence and the Idea of Britain: From the Picts to Alexander III* (Edinburgh, 2013), pp. 101–07. See also, Richard D. Oram, *Domination and Lordship: Scotland, 1070–1230* (Edinburgh, 2011), p. 17. Cf. A. D. M. Barrell, *Medieval Scotland* (Cambridge, 2000), pp. 70 and 16.

<sup>27</sup> *ASC(E)* 1087 (p. 222).

<sup>28</sup> *ASC(E)* 1100 (p. 236).

<sup>29</sup> See above, pp. 41–41.

relationships, but instead denotes submissions as part of more loosely defined structures of overlordship.

### *John of Worcester*

John of Worcester's Latin account has often been considered a translation of the passage from the Peterborough Chronicle:

And in the week of Pentecost [24–31 May], he honoured his son Henry with the arms of a knight at Westminster, where he was holding his court. And shortly afterwards, he ordered the archbishops, bishops, abbots, earls, barons, sheriffs, with their knights, to meet him at Salisbury on 1 August. When they came there, he compelled their knights to swear loyalty to him against all men.

Et in ebdomada Pentecostes, suum filium Heinricum, apud Westmonasterium, ubi curiam suam tenuit, armis militaribus honoravit. Nec multo post mandavit ut archiepiscopi, episcopi, abbates, comites, barones, vicecomites, cum suis militibus, die kalendarum Augustarum sibi occurrerent Searesbyrie, quo cum venissent, milites illorum sibi fidelitatem contra omnes homines iurare coegit.<sup>30</sup>

J. O. Prestwich pointed out that, if a translation, this is 'surprisingly incompetent'.<sup>31</sup> He shows that it has three fundamental differences to the Peterborough account, before pointing to other passages within the Worcester account where other (known) sources were used. First, there is a specific list of who was summoned, rather than 'his council and all those who occupied land who were of any importance'. Second, the Worcester account only specifies that the knights swore, rather than all those present. Third, whereas the Chronicler has them swearing an oath, submitting, and becoming his men, John only has them swear.

Prestwich believed that John had a better (now lost) Latin source that he was working from, and that his account is therefore more valuable than that of the Peterborough Chronicle.<sup>32</sup> He even suggested a possible source for the Worcester account: 'it is tempting to think that he was working from a royal writ of summons to the gathering, for his account is curiously precise and professional, in terms which would have satisfied

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<sup>30</sup> JW, III, 44–45. The use of the verb *cogere* does not seem to have any negative implications here. See below, p. 157.

<sup>31</sup> Prestwich, 'Mistranslations and Misinterpretations', pp. 334–35, with the quote on p. 334. W. L. Warren also preferred John of Salisbury as a source to the Peterborough Chronicle, although does not give a reason for doing so (Warren, *Governance of England*, p. 20). There are two accounts that are clearly translations of the Peterborough Chronicle. They add nothing of importance to the picture of what happened at Salisbury. See Appendix III.

<sup>32</sup> Prestwich, 'Mistranslations and Misinterpretations', pp. 334–35.

a chancery clerk'.<sup>33</sup> Earlier, in his Ford Lectures of 1983, he stated more forcefully, although without argument, that it 'is probably based on the Latin writ of summons sent to Wulfstan of Worcester'.<sup>34</sup> The exact list of those present is reminiscent of such a writ. There may also be something in John recording the 'sheriffs' being summoned.<sup>35</sup> However, that the Worcester account used a writ of summons is nothing more than a speculative possibility. Furthermore, if true, it might reflect what the summons said rather than what actually happened. Nevertheless, Prestwich's arguments make clear that we should treat the Worcester account as an independent and important source.<sup>36</sup>

### *William of Malmesbury*

William of Malmesbury's *Gesta Regum Anglorum*, the first draft of which was probably written around 1126 before being revised, states:

He had made those in the provinces so subservient to his command that the first census of every head was conducted without any objection, the revenue of all very divine things in the whole of England added to his records in writing, and he bound all free men, no matter whose man they were, with an oath of loyalty to himself.

Provinciales adeo nutui suo substraverat ut sine ulla contradictione primus census omnium capitum ageret, omnium perdiorum redditus in tota Anglia notitiae suae per scriptum adiceret, omnes liberos homines, cuiuscumque essent, suae fidelitati sacramento adigeret.<sup>37</sup>

The linking of the oath with the Domesday survey may suggest that he is referring to the events at Salisbury. In the Peterborough and Worcester versions, the account of the survey immediately precedes the detail concerning the oath, and it would be natural for William to associate the two.<sup>38</sup>

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<sup>33</sup> *Ibid.*, pp. 334–35, with the quote on p. 335.

<sup>34</sup> J. O. Prestwich, *The Place of War in English History, 1066–1214*, ed. by Michael Prestwich (Woodbridge, 2004), p. 81.

<sup>35</sup> It is interesting that in the various chronicle accounts of the oaths sworn to Matilda, only the revised John of Worcester account of the 1140s mentions sheriffs. Incidentally, no one has suggested that any of the chroniclers who wrote about this event were working from an official writ.

<sup>36</sup> Prestwich takes his arguments too far and discounts the Peterborough Chronicle. George Garnett has pointed out this weakness. He also points out that whilst Prestwich points to a number of other eleventh- and twelfth-century occasions on which general oaths of loyalty were sworn to the king, he does not identify an instance where only *milites* swore (Garnett, *Conquered England*, p. 83, n. 279).

<sup>37</sup> William of Malmesbury, *GRA*, I, 476–79. For the date of writing, see *ibid.*, II, xvii–xxxv.

<sup>38</sup> The immediate preceding passage in Henry of Huntingdon's account concerns the building of St Paul's in London, and the account of the Domesday survey precedes this (HH, pp. 400–01). As discussed in Appendix III, Henry's account of the Salisbury oath is probably derived from the account recorded in the Peterborough Chronicle.

William is the only chronicler to state that all free men swore oaths of loyalty. Should we expect the Peterborough Chronicler and John of Worcester to have remarked upon this if it happened? As noted in Chapter 3, it is possible that the Articles of William I also refer to the Salisbury oath, and they too have all free men swearing loyalty to the king.<sup>39</sup> There are problems with both pieces of evidence, including the speculative point that William may have been working from the Articles. William's statement that all free men swore can also be paralleled with another of his accounts of a general oath. As noted in Chapter 2, of the various chroniclers to give accounts of the oaths of loyalty sworn to William Adelin in 1115 and 1116, only William of Malmesbury states that free men swore.<sup>40</sup> Was he simply wrong on both occasions? Or was he uniquely interested in this phenomenon? It is certainly possible that in 1086 those in the localities subsequently swore a similar oath. The sheriffs, present in the Worcester account, may have administered it.

#### *What happened, and why?*

It is clear that a group of important landowners, including but not limited to the tenants-in-chief, were summoned to Salisbury, where they expressed loyalty on oath to William. The wider argument of Holt's article on 1086 is that homages were done at Salisbury for the holdings listed during the Domesday survey.<sup>41</sup> It is a well-formulated argument, and it is certainly possible that the tenants-in-chief at Salisbury did tenurial homage for the lands recorded in Domesday. This may have been part of what happened. That the sources make clear that a wider group of non-tenants-in-chief submitted too may mean that we should be thinking of a loose tenurial connection.

In considering why William took these measures, we need to first sketch out the political situation of the summer of 1086 in more detail. In the latter half of 1085 and the first half of 1086, William I faced an imminent Danish invasion led by King Cnut, who was allied with Count Robert of Flanders. William responded to the threat with various measures. He returned to England from the continent in the autumn of 1085 with a huge mercenary army, which was billeted out to his tenants-in-chief. He also wasted some coastal areas in the east of England, sent men to guard them, and strengthened castles and town walls. As Maddicott states, 'to judge by William's responses, this was

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<sup>39</sup> See above, pp. 115–16.

<sup>40</sup> See above, pp. 63–64.

<sup>41</sup> Holt, '1086', *passim*.

potentially the greatest crisis which Norman rule had faced in England since its inception'.<sup>42</sup> However, the invasion threat ended with the murder of King Cnut at Odense on 10 July 1086, about three weeks before the oaths were sworn at Salisbury. Did William know that the threat was over? It would probably take between seven and ten days at least to sail from Odense to London.<sup>43</sup> It is therefore possible that the news reached William before the gathering at Salisbury. It seems unlikely that the king would have been aware that the threat was over when sending out the summonses to the council.

But if the oaths were in response to the invasion threat from Cnut, why were they not sworn earlier? Why not at the Gloucester Christmas council of 1085? Why have the ceremony on 1 August at a special gathering, not one of the regular royal assemblies of Easter, Whitsun, and Christmas?<sup>44</sup> Some have argued that the Salisbury ceremony was instead aimed at the king of France.<sup>45</sup> After Salisbury, William did go to the Isle of Wight

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<sup>42</sup> J. R. Maddicott, 'Responses to the Threat of Invasion, 1085', *English Historical Review*, 122 (2007), 986–97 (986). See the entirety of Maddicott's article for a more detailed account of the crisis facing William, and his responses to it, in 1085.

<sup>43</sup> This is of course a rough estimate. There are many unknowns: the weather, most importantly the wind direction; how quickly anyone departed to take the news to England; the route taken; the types of vessel available; etc. On working out an estimate of about 8 days, I have used a generous 100 miles per day to sail the approximate 800 miles from Odense to London. This is based on the following information. Norbert Ohler notes that an 1893 copy of a Viking longboat could cover 95 miles per day, and estimates that medieval sailing ships could travel between 75 and 125 miles per day (Norbert Ohler, *The Medieval Traveller*, trans. by Caroline Hillier (Woodbridge, 1995), p. 101). An early fourteenth-century copy of the Icelandic *Landnámabók* records that it took seven days to sail from Stad in Norway to Horn in eastern Iceland. According to Judith Jesch, Haukr Erlendsson, the author, frequently made this passage. This evidence would suggest a travel time of about 90 miles per day. See *Landnámabók*, ed. by Jakob Benediktsson (Reykjavík, 1968), pp. 32–35 (I would like to thank Dr Paul Bibire for this reference) and Judith Jesch, 'Who was Wulfstan?', in *Wulfstan's Voyage: The Baltic Sea Region in the Early Viking Age as Seen from Shipboard*, ed. by Anton Englert and Athena Trakadas (Roskilde, 2009), pp. 29–36 (34; also see pp. 33–34 for a translation of this passage). The Viking Ship Museum's reconstruction of the eleventh-century cargo ship Skuldelev I, *Ottar*, sailed from Hedeby to Gdańsk with a steady westerly wind at an average of 86.4 nautical miles per day (99.42734 miles per day) (Anton Englert and Waldemar Ossowski, 'Sailing in Wulfstan's Wake: The 2004 Trial Voyage Hedeby-Gdańsk with the Skuldelev I Reconstruction, *Ottar*', in *Wulfstan's Voyage*, ed. Englert and Trakadas, pp. 257–70 (266–67)). This was emulating a report from the ninth, tenth, or eleventh century that Wulfstan sailed from Hedeby to *Truso* in seven days (Janet Bately, 'Wulfstan's Voyage and his description of *Estland*: The Text and the Language of the Text', in *Wulfstan's Voyage*, ed. Englert and Trakadas, pp. 14–28 (p. 15 for the relevant part of Wulfstan's account)). This voyage was done at about 60 miles per day. I would like to thank Dr Alex Woolf for directing me to the *Wulfstan's Voyage* volume.

<sup>44</sup> See ASC(E) 1087 (p. 219) for these crown-wearing dates and places.

<sup>45</sup> e.g. Stenton, *First Century of English Feudalism*, pp. 113–14. John Prestwich argued that the importance of Salisbury lies in a different precedent, with William II receiving a general oath after his coronation; the Anglo-Flemish treaty of 1101 reserving Henry I's right to take fealties of Flemish knights; Henry I, in the summer of 1101, attaching importance to obtaining a general oath on the eve of Robert Curthose's invasion; the 1176 extension of fealty to include villeins; and the 1205 general oath linked to the invasion threat (Prestwich, 'Mistranslations and Misinterpretations', pp. 335–36). This is bundling a host of different types of oath of loyalty into one; the general oaths that he lists were all sworn in different circumstances by different groups of people.

and then to Normandy.<sup>46</sup> Holt takes this position, assuming that William was planning to attack France as early as Christmas 1085.<sup>47</sup> However, it seems unlikely that William would have departed, or planned to depart, for France while Cnut's invasion was still a threat. And therefore it seems unlikely that this would have been the sole purpose of the council when it was summoned. It might be significant that the ceremony was held at Lammas, the traditional English date for the start of the harvest.<sup>48</sup> There may also be something significant in the location. In 1070, after William's brutal harrying of the north, it was at Salisbury that he rewarded and discharged the soldiers who had participated in the campaign.<sup>49</sup> Perhaps summoning a large number to Salisbury to swear an oath was in part a brutal reminder to those in the north of England, or to the native English in general, of what happened when they were disloyal to their new Norman king.

So, aimed at Cnut, Philip, or the English? A comparison with the next oath we are to examine, that of 1101, may help us here. That oath was sworn '*contra omnes homines et nominatim contra Robertum comitem Normannie*'. By contrast the oath at Salisbury was sworn '*ongean ealle oðre men*' or '*contra omnes homines*', with no mention of a specific name. As discussed in the Introduction, it is unclear when this *contra omnes* formula became the normal form for loyalty oaths in England. It may simply be an import with the Conquest. In that case, perhaps this also hints at the Salisbury oath being a show of power directed towards the English. However, perhaps the use of this clause was a conscious decision to have a deliberately flexible commitment, against internal rebels, against Cnut, against the French at a moment of potential political instability. Considering this, it is worth recalling that the Articles of William I have the oath sworn 'to *defend* against enemies' ('*contra inimicos defendere*') and that the swearers were to be faithful 'within and outside England' ('*infra et extra Angliam*'). Unfortunately, the precise reason that the oaths were sworn seems destined to remain obscure, without other evidence becoming available.

## 1101

It is much easier to interpret the motive and the process of what precisely happened in the 1101 oath that William I's youngest son, Henry I, had his subjects swear. The reason

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<sup>46</sup> ASC(E) 1086.

<sup>47</sup> Holt, '1086', pp. 62–63.

<sup>48</sup> The word comes from the Old English *blafmæsse*, literally 'loaf-mass'.

<sup>49</sup> OV, II, 236–37. George Garnett uses the same evidence to suggest that homage may have been done in 1070 (in return for lands as a reward) and that 1086 was supposed to look back to or repeat this. However, he does note that Orderic does not mention homage or whether the rewards included land. He also points out that Salisbury was a major administrative centre (Garnett, *Conquered England*, p. 84).

for this clarity is that a document, ordering the swearing of the oath in Lincolnshire, survives.<sup>50</sup> The oath was ‘to guarantee my land of England to me with an oath, to hold and defend against all people and, by name, against Robert, duke of Normandy, my brother, continuously until Christmas’ (*‘ut assecureris michi sacramento terram mea[m] Anglie, ad tenendum et ad defendendum contra omnes homines et nominatim contra Rotbertum comitem Normannie fratrem meum usque ad natale domini?’*). The charter was addressed to four named individuals and ‘all the French and English *homines* of Lincolnshire’. Other counties undoubtedly received similar orders. Probably all did, though perhaps the oaths were limited to counties at risk of a landing by sea.

The document also details how the practicalities of carrying out the oath were to work. The four named individuals were to receive the oath, termed *hac securitas*, from the king’s tenants-in-chief (*‘de meis dominicis hominibus francigenis et anglis’*). The king’s barons (*‘barones mei’*) were to make their own men do the same (*‘hanc eandem securitatem’*) to the four. It is interesting that tenurial structures were used alongside government institutions (the county and sheriffs) in implementing the swearing. The four men were individuals of local importance. One was the bishop of the diocese, Robert bishop of Lincoln. Another was the sheriff, Osbert. The other two were Ranulph Meschin, and Picot son of Colswain. In addition to being earl of Chester, Ranulph was a major landowner in Lincolnshire through his marriage to the heiress (Lucy) to the honour of Bolingbroke.<sup>51</sup> Picot was another major landowner in the county. Significantly, he was of English descent.<sup>52</sup>

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<sup>50</sup> Printed in W. H. Stevenson, ‘An Inedited Charter of King Henry I, June–July 1101’, *English Historical Review*, 21 (1906), 505–09 (506). A tear in the manuscript has meant that the location where the charter was issued has been lost. This lost passage may also have contained a dating clause. The absence of a date is, however, easily solved. Stevenson shows from the text that it must have been produced between Anselm’s return to England on 29 September 1100 and Robert fitzHamo’s capture in the spring of 1105. Thus it must have been issued when Robert Curthose went to England in either 1101 or 1103. His 1103 visit was not warlike and so, Stevenson convincingly argues, we must date the charter to 1101 and to before the peace agreement between Robert and Henry on 20 July. This can then be narrowed to a date between 9 June and 20 July from an account of an assembly on the former date in Eadmer’s *Historia Novorum*. For this argument, see *ibid.*, pp. 507–09.

<sup>51</sup> The marriage came in c. 1098 and Ranulf was her third husband. See Edmund King, ‘Ranulf (I)’, *Oxford Dictionary of National Biography* (Oxford, 2004) [<http://www.oxforddnb.com/view/article/23127/?back=,23128>].

<sup>52</sup> His father’s lands had mostly been granted to him by William I. He may have been an official of the king, perhaps town-reeve of Lincoln. Picot succeeded in 1101, presumably before this order was promulgated. See K. S. B. Keats-Rohan, *Domesday People: A Prosopography of Persons Occurring in English Documents, 1066–1166* (Woodbridge, 1999), under the entry ‘Colswain Lincolniensis’.

That ‘all the barons’ men’ (*de omnibus suis hominibus*) were to be made to swear is a reference to those who held land from the tenants-in-chief. This seems to indicate a wider swathe of the population than the *milites* or *pa landsittende men þe abtes wæron ofer eall Engleland* who were said to have sworn at Salisbury a quarter of a century earlier. As noted above, it is possible that in 1086 oaths were sworn in the localities after the centralized council. This is what seems to have happened in 1101. Eadmer gives a detailed account of a council convened in response to the threat of Robert Curthose’s invasion. He tells us of a rumour circulating around the 9 June (Whitsuntide festival), that anticipated the elder brother landing in England. Reacting to this, some nobles turned to support Curthose. Henry became suspicious of more disloyalty, whilst the nobles feared that he would make harsh laws, and ‘so it was arranged that such assurance should be given by each side to the other that would remove from both sides that which was feared’ (*actum ex consulto est, ut certitudo talis hinc inde fieret, quae utrinque quod verebatur excluderet*). Loyalty was to be confirmed by the nobles and in response Henry would confirm just laws. However, ‘when it came to the pledge of the king’s faith’ (*sed ubi ad sponsionem fidei regis ventum est*),<sup>53</sup> the ‘whole nobility of the realm together with the mass of the people’ (*tota regni nobilitas cum populi numerositate*) appointed Anselm as mediator between themselves and the King. Henry, with his hand in Anselm’s, then promised to govern with just and righteous laws. Eadmer tells us that ‘after this was done, each congratulated himself concerning the arrangement’ (*hoc facto, sibi quisque quasi de securitate applaudebat*).<sup>54</sup> This implies that those present had confirmed their loyalty to Henry, although it does not explicitly say that they did so. As noted above, Stevenson argues that this provides a *terminus post quem* for the charter. It could be argued that it provides a more exact date. It seems likely that if loyalty was pledged at this assembly on 9 June, the extension for all in the realm to swear would have been ordered around the same time.

## 1169

Between 1101 and 1169, there is no evidence of any ruler of England having their subjects perform any oath-taking acts in response to threats from overseas. This is for two primary reasons. One is that for much of the period there were no threats from across the North Sea or the Channel. A second is that during the reign of Stephen, the breakdown of royal political authority in parts of the country and the civil war

<sup>53</sup> The *sponsio fidei regis* seems to be the faith or loyalty which those present were to give to the king.

<sup>54</sup> Eadmer, p. 132 | 126.

throughout the Anglo-Norman dominions probably made it impossible for such oaths to be organized.

In the autumn of 1169, Henry II was worried about an interdict being placed on his lands by the exiled archbishop of Canterbury, Thomas Becket. Some of his preparations against this threat are recorded in the ‘Supplements to the Constitutions of Clarendon’, so termed by M. D. Knowles, Anne Duggan, and C. N. L. Brooke. They have made a convincing argument that there are three different versions of these ‘Supplements’ sent, respectively, to the justices, to the bishops (that sent to Gilbert Foliot as bishop of London), and to the sheriffs (that sent to the sheriff of Kent).<sup>55</sup> It is in Gervase of Canterbury’s works that we find the last of these.<sup>56</sup> It is only in this sheriff’s letter that an oath is recorded. It was to be sworn throughout England ‘to keep this mandate’, ‘this mandate’ being various restrictions on people coming from overseas or going overseas, with harsh punishments for those found with letters imposing an interdict.

Again, we see the mechanism through which the oaths were administered. In this instance, government apparatus was used. Sheriffs were to make ‘all knights, free holders, and all those over the age of fifteen ... swear in full county court’ (*faciant omnes milites et libere tenentes et omnes illos qui quindecim annos habent ... iurare in pleno comitatu*). Unlike in 1101, not all were to swear. The highest status swearers were knights. That ‘*omnes illos*’ are separate from ‘free holders’ may mean that the unfree were to take this oath, though it could refer to free men who did not hold freely. The oaths were seemingly to be done at the county court. Those not at the county court were to be made to swear after the sheriff’s messengers had been through every village (*et missis servientibus suis per omnes villatas Anglie, faciant iurare omnes illos qui ad comitatus non fuerunt quod hec mandata cum ceteris tenebunt*); the detail here is less precise. The oath was also to be sworn in the cities and towns, though there is again little detail about how this was to work. It is probable that letters with differing instructions were sent to the appropriate officials in such places.

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<sup>55</sup> M. D. Knowles, Anne J. Duggan, and C. N. L. Brooke, ‘Henry II’s Supplement to the Constitutions of Clarendon’, *English Historical Review*, 87 (1972), 757–71. This article also convincingly argues for the measures being dated to the autumn of 1169 and that they were measures against the interdict being prepared by Becket.

<sup>56</sup> For the three different versions, see the appendix of *ibid.*, pp. 763–71. I have taken the text of Gervase’s version from this. It can also be found in GC, *Chronica*, pp. 214–16.

The chronicle accounts of these events record the oath differently. They record what it amounted to in their eyes rather than the precise details of what was sworn: they saw an oath to repudiate the pope. William of Canterbury, for example, writing between June 1172 and December 1174, states that the *populus, milites, proceres*, and *homines* over the age of 12, ‘renounced’ (*abiurare*) the pope.<sup>57</sup> Gervase of Canterbury, summing up after copying the document, states that ‘they renounced the obedience of Archbishop Thomas and Pope Alexander’ (*Thome archiepiscopi et pape Alexandri obedientiam abiurare*).<sup>58</sup> That a chronicler could record the oath in such a way when we know he had the precise detail of what was sworn in front of him is another important reminder of the imperfections of chronicles noted throughout this thesis. However, another biographer of Becket, William FitzStephen, picks up more detail of the oath, though he states that it was sworn ‘*contra dominum papam et archiepiscopum*’.<sup>59</sup> He places the oath towards the end of 1168 and notes that they swore not to receive letters from the pope or archbishop and that if they found someone carrying such letters they would be arrested. Interestingly, FitzStephen also states that the oath was sworn by the ‘laity over the age of twelve or fifteen’ (*a laico duodenni vel quindecim annorum supra*).<sup>60</sup> This might explain the disparity between the ‘Supplements’ and William of Canterbury’s account. The age may have varied, perhaps with status or region, though if the latter it is odd that both are Kentish sources.

### Threats at the turn of the century

The last decade of the twelfth century, and the first decade of the thirteenth, saw an increase in invasion threats from France.

#### 1190s and Richard

In early 1192, oaths were sworn to an absent, crusading Richard at a council in London. Roger of Howden reports in the *Gesta* that after Queen Eleanor, the archbishop of Rouen, and ‘*caeteri iustitiarum Angliae*’ prohibited John from going to France, Eleanor ‘and almost all the leading men and magnates of England came to London, and they swore fealties to the king and his heir, against all men’ (*deinde Alienor mater regis, et fere omnes principes et magnates Angliae, venerunt Lundonias, et juraverunt regi Angliae et haeredi suo fidelitates*

<sup>57</sup> William of Canterbury, *Vita et Passio S. Thomae*, in *Materials for the History of Thomas Becket, Archbishop of Canterbury*, ed. by James Craigie Robertson, 7 vols (London, 1875–85), I (1875), 55.

<sup>58</sup> Knowles, Duggan, and Brooke, ‘Henry II’s Supplement to the Constitutions of Clarendon’, p. 770.

<sup>59</sup> William FitzStephen, *Vita Sancti Thomae*, in *Materials for the History of Thomas Becket*, ed. Robertson, II (1877), 1–154 (102).

<sup>60</sup> *Ibid.*, p. 102.

*contra omnes homines*).<sup>61</sup> These were sworn as a reaction to the return from crusade of Philip, king of France. Indeed, in both of Howden's accounts, the oaths in London are preceded by an account of Philip planning to invade Normandy. A group of Richard I's men, including Roger of Howden, had returned to Europe in Philip's company; as John Gillingham states, 'there can be little doubt that they were going back to give warning of the expected attack and ensure that preparations were made to counter it.'<sup>62</sup> The 'expected attack' was to be on the continental dominions of Richard, and this may explain why there do not appear to have been any oaths sworn by the wider population, but only by elites. That Howden reports the oaths being sworn *contra omnes homines* is interesting. This does not seem to merely be an appearance of his usual formula for describing homage.<sup>63</sup> Indeed, when reworking the account in his *Chronica*, Howden altered his language: the magnates swore 'fealty and faithful service' to Richard (*fidelitatem et fidele servitium*).<sup>64</sup> Perhaps it was a way of renewing the homage commitment to someone who was not present. Or perhaps it was a militaristic, aggressive commitment of loyalty, aimed at potential invaders, as in 1101 and perhaps in 1086.

Whilst these oaths seem to only have been sworn by elites at councils, in 1193, when the more calamitous news of Richard's capture reached England, oaths of fealty were sworn throughout the kingdom. According to Gervase of Canterbury:

the oaths concerning fealty to be kept to the king were renewed immediately everywhere throughout England, the cities and towns were fortified with walls and ramparts.

Innovantur illico circumquaque per Angliam de fidelitate regi servanda sacramenta, civitates et oppida muris et propugnaculis muniuntur.<sup>65</sup>

The oaths sworn were not, however, solely a reaffirmation of fealty because the king had been captured. As the second half of Gervase's statement makes clear, this was a preparation for an invasion. John and the king of France had formed, in Gervase's peculiar use of the term, a *coniuratio* threatening to invade England. He also states that on

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<sup>61</sup> Howden, *GRHS*, II, 237.

<sup>62</sup> John Gillingham, *Richard I* (New Haven, CT, 1999), p. 165.

<sup>63</sup> See above, pp. 31–32.

<sup>64</sup> The bishop of London is also said to have been involved in the ceremony. Eleanor, the archbishop of Rouen, the bishop of London, and 'all the magnates of the kingdom convened in one, and they swore fealty and faithful service to Richard, king of England, and his heir, against all men' (*et omnes magnates regni convenerunt in unum, et iuraverunt fidelitatem et fidele servitium Ricardo regi Angliae, et haeredi suo, contra omnes homines*) (Howden, *Chronica*, III, 187). For a discussion of what or whom the 'heir' refers to here, see above, p. 81 n. 175.

<sup>65</sup> GC, *Chronica*, p. 514.

Eleanor's order, 'the nobles and non-nobles, knights and peasants, assembled quickly, and they watched the shore of the sea that faced Flanders' (*'nobiles et ignobiles, milites et rustici, ad arma convolabant, littusque maris quod Flandriam spectat observabant'*).<sup>66</sup> This was a general reaffirmation of loyalty in the face of an invasion threat. That Gervase speaks of a *renewal* (*innovare*) of the oath of fealty could be a reference to all having sworn an oath of loyalty on the king's accession, but is perhaps a reference to the oaths under the Assize of Arms or some subsequent renewal of those 1181 measures.<sup>67</sup>

### *1200s and John*

It is again Gervase of Canterbury who informs us of measures taken in the face of an invasion threat in 1204. On 24 June 1204, Rouen, the capital of Normandy, fell to the French king, Philip Augustus. Immediately after his account of this capitulation, Gervase of Canterbury copied into his *Gesta Regum* a remarkable document, issued because John feared 'that his enemies would also steal England along with the overseas lands' (*'timens autem rex Angliae, ne hostes sui cum terris transmarinis et Angliam surriperent'*).<sup>68</sup> It orders various constables to be set up throughout the kingdom, with chief constables over each county. When the chief constables summoned the other constables,

they should come immediately with their armed communities, and with all those ordered for the defence of the kingdom and conservation of the peace against foreigners or against any other disturbers of the peace.

statim veniant cum communis suis armatis, et omnia quae praeceperint ad defensionem regni et pacis conservationem contra alienigenas, vel contra quoscunque alios pacis perturbatores.

These constables were therefore to have armed groups under them. Interestingly, these groups were formed to defend 'against foreigners' or anyone else who disturbed the peace. This is more specific than the *contra omnes* of 1086 and 1192, but more general than the *contra omnes et nominatim contra Rotbertum* of 1101. The groups formed were termed 'communes' (*communae*), a word often used to describe organizations formed by townsmen. These urban communes were often formed with horizontal oaths, binding those in the group together. The kingdom's *communae* were also to be formed with oaths, as revealed by the following order at the end of the document:

All should faithfully swear to observe this for the honour of God and the fealty of the lord king and the safe state of the kingdom, just as it is ordered, from the great all the

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<sup>66</sup> *Ibid.*, p. 515.

<sup>67</sup> See below, pp. 141–43.

<sup>68</sup> GC, *Gesta Regum*, pp. 96–97.

way down to the minor, who are twelve and older, except those who swore in the presence of the lord king.

Haec omnia ad honorem Dei, et fidelitatem domini regis, et salvum statum regni, jurent fideliter observanda, ut praedictum est, a majori usque ad minorem qui xii. annos habent, exceptis illis qui coram domino rege juraverunt.

Vertical oaths of loyalty were thus used to bind the swearers not only to the king, but to each other. Strong words were used to describe the punishment for those who did not acquiesce: they, and their heirs, were to be held as *capitales inimici domini regis et regni*—capital enemies of the lord king and the kingdom.

Gervase also gives a narrative account of events before copying this document, revealing that some had sworn ‘in the presence of the king’. According to Gervase, John assembled the bishops, earls, and barons at London and had them swear *debitam fidelitatem* to the king.<sup>69</sup> The chronicler says that it was this oath that was then sworn throughout England. Again, we therefore see a narrative writer seeming to simplify the terms of what was actually sworn. The whole account also provides an interesting comparison with earlier oaths in our study. It is another example where oaths sworn at councils were subsequently sworn by the wider community.

There has been some confusion over the dating of these oaths sworn early in John’s reign and the events surrounding it. The starting point should, of course, be where Gervase places the events, that is, after the fall of Rouen on 24 June 1204. After the document, the chronicler has an account of an assembly of the king and his magnates at Oxford where the king was ‘compelled’ (*compulsus est*) to swear to preserve the laws of England; in return the *barones et comites* swore to uphold the *obsequium* (service) owed to him. After this comes an account of a gathering of ships at Portsmouth in June 1205. Historians have often placed the oaths described by Gervase in 1205, following Stubbs’s paralleling of the order with a datable (3 April 1205) writ on the Patent Rolls ordering groups of nine knights to find a tenth and arm them.<sup>70</sup> Stephen Church has recently, and correctly, pointed out that this is wrong, that we should trust Gervase—who seems well informed during this period—and that we should therefore place these events just after,

<sup>69</sup> For the commitments made by ecclesiastics, see above, pp. 92–93.

<sup>70</sup> *Stubbs’ Select Charters*, pp. 275–77. For an example of this dating being used, see Michael Powicke, *Military Obligation in Medieval England: A Study in Liberty and Duty* (Westport, CT, 1975), pp. 58–59 and J. R. Maddicott, ‘The Oath of Marlborough, 1209: Fear, Government and Popular Allegiance in the Reign of King John’, *English Historical Review*, 126 (2011), 281–318 (295).

and as a result of, the fall of Rouen.<sup>71</sup> Church further notes that as John was at Oxford in the first week of August 1204, this is the date of that council. However, he then states that it must be then that the decree was promulgated. Oddly, this ignores Gervase, who clearly states that the oaths were sworn and the document promulgated at the London council. It thus seems that at some point between the last week in June and the first week in August, John heard the news of Rouen's fall and quickly held a council at London, where he had oaths sworn to him and promulgated the order recorded in Gervase.

That Philip Augustus turned to attack John's other continental lands in the rest of 1204 and 1205 further suggests that an oath sworn because of fears of an invasion of England could only have come about as a panicked reaction to the loss of Normandy.<sup>72</sup> The council at Oxford in August seems to have been a response to John's measures at London. That they 'compelled' him, a strong word often used to describe oaths extracted by force,<sup>73</sup> to swear to observe good laws before agreeing to uphold the measures that he had already initiated reveals that this was a protest against measures already undertaken. Indeed, it seems likely that the earlier council in London was one that was primarily made up of John's closest supporters and advisers. It was a habit of that king to hold such assemblies.<sup>74</sup> The objections expressed at the Oxford council make an interesting parallel with the protests to swearing oaths to an absent John before his consecration, examined above.<sup>75</sup> In 1204, the appointing of constables and forming of communes or communities with oath throughout the kingdom was an extension of royal power that the elites of the kingdom were not willing to accept without guarantees of their own rights.

John had oaths of loyalty sworn to him a second time in the first decade of the thirteenth century. John Maddicott has drawn attention to, and painted a detailed picture of, the oaths of loyalty sworn to the king at Marlborough and throughout the country in 1209.<sup>76</sup> This was a response to the threat of a papal interdict and excommunication, similar to the events of 1169. Fealty was also sworn to John's eldest son, Henry. This was the first

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<sup>71</sup> Stephen Church, *King John: England, Magna Carta and the Making of a Tyrant* (London, 2015), pp. 125–26 and p. 298, n. 18.

<sup>72</sup> For Philip Augustus' actions after capturing Normandy, see *ibid.*, p. 126.

<sup>73</sup> See below, p. 157.

<sup>74</sup> See, e.g., Church, *King John*, p. 145 for the February 1207 council.

<sup>75</sup> See above, pp. 35–36.

<sup>76</sup> Maddicott, 'The Oath of Marlborough?'

time loyalty had been sworn to a designated heir since the early 1170s.<sup>77</sup> In a sense it was a return, though almost certainly not a conscious one, to the pre-Conquest Norman practice of oaths being sworn to successors at moments of potential crisis.<sup>78</sup> That such an oath was adopted in 1209 is probably, in part, due to John's character, the paranoid king who lacked an ability to trust. Similarly, that the 1204 document speaks of *communa* being created may also be attributed specifically to John. In the early years of his reign he had granted the right to form a commune to various towns in Normandy, Poitou, and Gascony, in part 'to woo his town-dwellers', in part to aid in military organization.<sup>79</sup> He also seems to have played an important role in the formation of the London commune in the 1190s. It is necessary when considering institutional developments like the ones examined in this thesis to recognise the potential importance of individuals and their personalities.

## Pre-emptive oaths

We now turn to oaths sworn in different circumstances. Although pre-emptive, these oaths were still reactive, either as part of a process of restructuring after or during a crisis or as an attempt to ward off a future problem. We only see this type of oath from the reign of Henry II onwards. Again it seems that personality, in this case that of Henry, played an important role in how oaths were used.

## Inquests

The early years of Henry II's reign witnessed a kingly concern with re-establishing royal authority in the aftermath of the unrest of Stephen's reign. As we saw in Chapter 2, Henry was also anxious about his own succession, having oaths sworn to his infant heirs less than six months after his consecration.<sup>80</sup> Similar worries are revealed by evidence within the *Cartae Baronum*, a series of returns sent by the king's tenants in response to an inquest of 1166 asking how many knights each tenant had on his land and their names. The return of Archbishop Robert of York notes that this was asked

because you wish that if there are any in this place who have not yet done *ligantia* to you, and whose names are not written in your rolls, that before the first Sunday of Lent, they should do *ligantia* to you.

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<sup>77</sup> See Chapter 2.

<sup>78</sup> See above, pp. 49–57.

<sup>79</sup> Church, *King John*, pp. 79–80.

<sup>80</sup> See above, pp. 75–76.

quia vultis, quod si aliqui ibi sunt, qui vobis nondum fecerunt ligantiam, et quorum nomina non sunt scripta in rotulo vestro, quod infra dominicam primam xl<sup>ae</sup> ligantiam vobis faciant.<sup>81</sup>

This reveals that knights who were not tenants-in-chief made some sort of commitment to kings in the twelfth century termed *ligantia*, perhaps best translated as allegiance. When they did this, their names were recorded on a centrally kept roll. Perhaps the commitment that this group of *milites* made was similar to that made at Salisbury in 1086. But when had they sworn to Henry II? It is possible that it refers to oaths around the time of the coronation, perhaps those sworn by all free men.

The document also reveals a concern over a decade into the reign to ensure that all the knights in the realm had made such a commitment. We see something similar in 1170. As part of an inquest that was attempting to correct the abuses of sheriffs and others, it was to be inquired as to ‘who owes homage to the lord king and has not done it, either to him or his son, and let their names be written down’ (*inquiratur qui sint qui debent domino regi homagium et non fecerunt, neque illi neque filio suo, et inbrevientur*).<sup>82</sup> This was part of the measures leading up to the planned consecration of Henry II’s eldest son.<sup>83</sup> Though inquiring about tenants-in-chief, it again reveals a desire on the part of the central administration to ensure that loyalty had been sworn to the king by those who owed it. That they should have given it either around the time of the king’s accession or when they came of age or inherited may suggest that this is when the above *ligantia* ought to have been done by tenants’ knights.

We cannot be sure that such inquests, about whether certain groups had professed the loyalty that they owed, had not happened before. The lists of landowners at the start of each county in Domesday Book, for example, could have perhaps served a similar purpose. Indeed, as we have seen, Holt argued that the oaths sworn at Salisbury were linked to the recordings of the survey.<sup>84</sup> As noted in Chapter 3, the agreement in 1190 between Richard I and Philip Augustus had shown a concern with elites maintaining their loyalty in the kings’ absence. However, it is plausible that we first see explicit

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<sup>81</sup> For the *Cartae Baronum*, see *The Red Book of the Exchequer*, ed. by Hubert Hall, 3 vols (London, 1896), I, 186–445 (for the Archbishop’s charter, see pp. 412–15).

<sup>82</sup> *Inq Sher1*, 15.

<sup>83</sup> The inquest came at Easter 1170. See Chapter 2 for the oaths sworn to Henry the Younger, and Chapter 1 for his consecration.

<sup>84</sup> See above, p. 127.

inquests about who had sworn loyalty in Henry II's reign as part of that king's reaction to the loss of royal power that had occurred under King Stephen.

### 1176: The Assize of Northampton

In 1176, we again see similar inquiries being made. A clause of the Assize of Northampton stated that

the justices also have to order that all those who have not yet done homage and *ligantia* to the lord king, who should come at the time which will be named for them, and they should do homage and *ligantia* to the king just as to a liege lord.

habent etiam justitiæ præcipere, quod omnes illi qui nondum fecerunt homagium et ligantiam domino regi, quod ad terminum quem eis nominabunt veniant, et faciant regi homagium et ligantiam sicut ligio domino.<sup>85</sup>

Again, Henry II was concerned with his tenants paying the correct submissions to him if they had not already done so. That the justices were also to order those who had not done *ligantia* to do so may be another reference to the knights of tenants-in-chief. That Henry was still concerned with such things at this point in his reign is not necessarily surprising. This demand was in the wake of the rebellion of his eldest son in 1173 and was part of the general measures that the king took to secure the kingdom in its aftermath.<sup>86</sup>

Indeed, the Assize went further than a demand of the tenants-in-chief. It ordered '*fidelitates*' to be taken throughout the kingdom.<sup>87</sup> 'All who wish to remain in the kingdom' ('*ab omnibus ... qui in regno manere voluerint*') were to swear. The responsibility for administering these oaths lay on the shoulders of the justices, who were to take the fealties between the close of Easter and the close of Pentecost. Those who refused to swear were to be arrested ('*et qui facere noluerit fidelitatem, tanquam inimicus domini regis capiatur*'). This was a show of royal power. Perhaps for the first time since the 940s (except around coronations), all in the realm were required to swear an oath of loyalty to the king in a time of peace. The clause elaborates on who *omnes* were: earls, barons,

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<sup>85</sup> *Ass Nor*, 6. The Assize is translated in *EHD*, II, 444–46. The use of *habent præcipere* at the start of the sentence is the use of an auxiliary verb reflecting the vernacular. The subjunctive *præcipiant* would be better Latin.

<sup>86</sup> See, for another example of this within the text, *Ass Nor*, 8, which orders the justices to ensure that certain castles have been destroyed and to destroy certain others. See also W. L. Warren, *Henry II* (London, 1973), p. 298–99; Maddicott, 'The Oath of Marlborough', p. 295.

<sup>87</sup> The construction is unusual. Plural *fidelitates* were to be extracted, and they were fealties 'of the lord king', rather than 'to him'. Though odd, there does not appear to be anything significant about this use of language.

knights, free holders, ‘and even villeins’. This final addition, ‘*et etiam rusticis*’, implies that they did not usually swear such general oaths, matching the evidence seen earlier in the chapter where, at their widest, such oaths were also taken by free men. Perhaps their inclusion at this juncture was because of the slipping of many free men into villeinage, discussed in Chapter 3.<sup>88</sup>

### 1181 Assize of Arms

The Assize of Arms is concerned with the rights and obligations of bearing arms. It states the precise military equipment that individuals of different status should have. After detailing what was required of holders of knight’s fees, freemen with chattels, burgesses, and freemen, it states:

Moreover, each one of those [above] should swear, that before the feast of St Hilarius [13 January] they will have these arms, and will bear faith to the lord King Henry, namely the son of the Empress Matilda, and will keep/possess these arms in his service, according to his instruction, and for the faith of the lord king and his kingdom.

Unusquisque autem illorum juret, quod infra festum Sancti Hilarii, hæc arma habebit, et domino regi Henrico, scilicet filio Matildis imperatricis, fidem portabit, et hæc arma in suo servitio tenebit secundum præceptum suum, et ad fidem domini regis et regni sui.<sup>89</sup>

Another clause reveals the mechanism by which this was to be enacted. It states that after the justices had enquired on oath about how much property individuals owned, they were to read the Assize aloud and administer the oath.<sup>90</sup> The main point of enquiry was to discover who had 16 marks in chattels and rents, and who had 10 marks, the different values entailing different levels of military equipment. The names of those who swore in the enquiry and of those who met the property qualifications were to be enrolled alongside a specification of what arms they ought to possess. These lists were presumably additions to those seen above of the tenants-in-chief who had done homage and of the knights who had done *ligantia*. In part this seems to be a logical extension of that system to all those who were expected to bear arms.

The groups that were to swear this oath were those between the great lords of the kingdom and the unfree peasantry. They represented a politically important group. In Anglo-Saxon England, many who held a similar political and social status would have sworn oaths to the king when entering tithing groups as free men. Others may have

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<sup>88</sup> See above, pp. 116–17.

<sup>89</sup> *Ass Arms*, 4. The Assize is translated in *EHD*, II, 449–51.

<sup>90</sup> *Ass Arms*, 9.

attended councils and sworn there. As noted in Chapter 3, over the course of the twelfth century, generally free men ceased to be members of tithing groups, and thus did not swear an oath of loyalty to the king when turning twelve. This seems to have been especially true of more significant free men. The oaths in 1181 may have been prompted by this development, aiming to ensure that this armed group still professed their loyalty to the king.

By contrast, Michael Powicke believed that ‘the function of the Assize was undoubtedly to consolidate the realm while Henry embarked on the final struggle with Philip Augustus and his own sons’.<sup>91</sup> Though it certainly aimed to stabilize or consolidate the realm, it is doubtful that it was in preparation for campaigns against Philip or Henry the Young King. First, the Assize was issued when the king *returned* to England from the continent.<sup>92</sup> If it were issued in preparation for the warpath, we might expect this to have occurred just before a departure from England to France. Second, when Henry did go to the continent in March 1182, it was not a warlike return; he attended a conference at Senlis that made peace between the king of France and count of Flanders.<sup>93</sup> Third, there were certainly no preparations for wars against his own sons in 1181; it was not until later in 1182 that the Young King again rebelled. Instead, this just appears to have been a general reform, with no immediate political prompts. That the Assize of Arms was earlier issued, according to Howden, ‘*per totam terram suam transmarinam*’ at Le Mans and was copied by the Philips of France and Flanders respectively might further support the conclusion that this was a general reform, rather than one prompted by certain short-term political events.<sup>94</sup>

Indeed, the oaths of the 1181 Assize seem to have become what might be termed an institution. Enrolled on the close rolls in October 1223, Henry III and his minority government ordered the sheriffs to have the men in their country sworn to arms ‘who were sworn to arms in the time my father, the lord King John’ (*qui jurati fuerant ad arma*

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<sup>91</sup> Powicke, *Military Obligation*, p. 56.

<sup>92</sup> Howden has Henry land at Portsmouth on 26 July, and he places the Assize straight after this. See Howden, *GRHS*, I, 277–80 and R. W. Eyton, *Court, Household, and Itinerary of King Henry II* (London, 1878), pp. 240–41.

<sup>93</sup> See Howden, *GRHS*, I, 285 and Eyton, *Court, Household, and Itinerary*, p. 247.

<sup>94</sup> Howden, *GRHS*, I, 269–70. There is no mention of oaths being sworn in any of these three instances, though Howden does not preserve any documents of these phenomena.

*tempore domini Jobanni regis patris nostr?*).<sup>95</sup> Similarly, in 1230, writs ordered all to be sworn to arms as in the time of John.<sup>96</sup> There is no record of John swearing men to arms or issuing a version of the assize. Powicke stated that these were the oaths sworn in 1204.<sup>97</sup> However, as we have seen, these were not a detailed administrative reform but part of short-term measures in response to an invasion threat. Better evidence comes from 1213. John made preparations in the face of another French invasion threat (it does not seem that oaths were sworn on this occasion). A writ summoned an army of earls, barons, knights, and ‘all free men and sergeants, or whoever they are and from whomever they hold, who ought to have arms or are able to have arms, and who did homage or *ligantia* to us’ (*‘et omnes liberos homines et servientes, vel quicumque sint, et de quocunque teneant, qui arma habere debent vel arma habere possint, et qui homagium nobis vel ligantiam fecerunt’*).<sup>98</sup> This implies that those who carried arms and were not tenants-in-chief had already sworn or done *ligantia* to the king. It would seem that at some point before 1213 people in the kingdom were sworn to arms in what was presumably a similar way to 1181. Indeed, in the early years of his successor’s reign, before the explicit document of 1223, we have references to those who were *jurati ad arma*. For example, in 1221, earls, barons, knights, free tenants, all who owed service and ‘all those who have been sworn to arms’ (*‘qui jurati sunt ad arma’*) were to be summoned by the sheriff of Westmorland.<sup>99</sup> It would seem that the 1181 oath became in some way routinely sworn. It may be that it was incorporated into the process of submission around the time of the coronation.

### 1195 Edictum regium

In 1195, we see a similar reforming oath that may have developed into something like an institution. Archbishop Hubert Walter, the justiciar and effective regent whilst Richard was on the continent, ordered an oath to be sworn throughout England. Knights were appointed to make ‘all over the age of fifteen from their bailiwick’ (*‘omnes de ballia ... a quindecim annis et ultra’*) to come before them. The assembled were then to be made to:

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<sup>95</sup> *Rot. Litt. Claus.*, I, 628b. According to Powicke this was ‘undoubtedly prompted by the outbreak of revolt’ (Powicke, *Military Obligation*, p. 83).

<sup>96</sup> First a writ was sent on 30 April (*Calendar of the Close Rolls Preserved in the Public Record Office*, prepared under the superintendence of the Deputy Keeper of the Records (London, 1892–), [I]: *Henry III: 1227–1231* (1902), p. 395). A more detailed writ was issued on 13 June (*ibid.*, pp. 398–402). For later so-called renewals of the Assize of Arms, see Powicke, *Military Obligation*, pp. 87, 90, 119.

<sup>97</sup> Powicke, *Military Obligation*, p. 83. He dates the 1204 oaths to 1205.

<sup>98</sup> Matthew Paris, *Chronica Majora*, ed. by Henry Richards Luard, 7 vols (London, 1872–1883), II: *1067–1216* (1874), pp. 538–39.

<sup>99</sup> *Rot. Litt. Claus.*, I, 474b. For more examples, and later examples, see Powicke, *Military Obligation*, pp. 72, 83–84, 92.

swear that they will keep the lord king's peace, as aforesaid; and that they will be neither outlaws, nor robbers, nor thieves, nor harbourers of them, nor will they be a party with them in anything; and that they will make the full pursuit, as aforesaid; and that ...

et jurare facient quod pacem domini regis, ut supradictum est, servabunt; et quod nec utlagi, nec robatores, nec latrones, nec eorum receptatores erunt, nec in aliquo eis consentient; et quod sectam, ut praedictum est, plenam facient; et quod ...

The oath continues to give details about the commitments of what should be done with the criminal.<sup>100</sup> This seems to be an oath supplementing that sworn on entering frankpledge, examined in the previous chapter. In fact, it appears to be effectively the same oath. Again, it is possible that this was sworn because many free men were not swearing such an oath as they were not within the frankpledge system. It appears to have also been part of a number of measures that were a reaction to a period of disorder.<sup>101</sup> Perhaps it was ordered solely for this reason, and it was thought necessary that those who had entered frankpledge over three years ago should swear the oath again. This might explain the age limit of fifteen set by the order.<sup>102</sup>

It is possible that this evolved into something that was routinely sworn. *Bracton* mentions an oath sworn in the localities in his description of justices proceeding in an eyre. After some opening remarks, the justices were to summon four or six of the greater men of the country, called *buzones*, to a private place (*locum secretum*) and explain to them that the king and his council had decided that:

all, whether knights or others, who are fifteen years of age and older, should swear that they will not harbour outlaws, robbers, or burglars, nor join/conspire (*consentient*) with them nor those who harbour them (*receptoribus*).

<sup>100</sup> *Stubbs' Select Charters*, p. 258. This appears to be the documentary inspiration for a similar oath sworn in Scotland by the *potentes* in 1197. Alice Taylor has highlighted the differences between the two oaths. See Alice Taylor, "Leges Scocie" and the Lawcodes of David I, William the Lion, and Alexander III, *Scottish Historical Review*, 88 (2009), 207–88 (212–13) and Alice Taylor, *The Shape of the State in Medieval Scotland, 1124–1290* (Oxford, 2016), pp. 169–72. For the legislation, see pp. 271–73 (Latin) and 285 (English translation). Roger of Howden also describes the legislation, noting that King William was following the example of a good thing (*de bono sumens exemplum*), although his account of who swore what appears to be incorrect (Howden, *Chronica*, IV, 33).

<sup>101</sup> See C. R. Cheney, *Hubert Walter* (London, 1967), p. 93, whose view is accepted by Maddicott, "The Oath of Marlborough", p. 295. Richard I's captivity, the disturbances created by his brother John, and potential invasion threats had contributed to this. According to Howden, the *Edictum Regium* was successful, leading to the capture of numerous individuals, a conclusion supported by the large number of criminals recorded on the Pipe Rolls in 1195 (Howden, *Chronica*, III, 300).

<sup>102</sup> It is also worth recalling that the age limit for swearers in 1169 was, in at least some places, 15. However, elsewhere the age of twelve seems to have been more important in dictating who should swear. For example, the frankpledge oath was sworn at the age of twelve when entering the group. We have also seen that twelve was the age-limit set for the oaths as part of the Assize of Woodstock in 1184 and the defence of the realm in 1204. The age of twelve may also have been important for when oaths were sworn to William Adelin.

omnes tam milites quam alii qui sunt quindecim annorum et amplius iurare debent quod utlagatos, robbatores, et burgatores non receptabunt, nec eis consentient nec eorum receptatoribus.<sup>103</sup>

They were also to swear a further three things: to arrest those suspected of buying victuals for *malefactores*; not to receive unknown guests at night; and not to allow guests who are strangers to depart until daylight and then only with witnesses. This was presumably to be organized by the *buḡones*.

That both documents speak of *utlagi*, *robatores*, and *latrones*, give the age of fifteen years and older, and have the oaths administered by knights point towards them being related institutions. A minor difference is that knights are explicitly included in the later document. This may be merely a matter of a change in emphasis. ‘All over the age of fifteen from their bailiwick’ may have included knights in 1195. A more important discrepancy is that whilst *Bracton* records an oath principally concerned with *harbouring* criminals, the *Edictum Regium*, though also mentioning this, has the first aspect of the oath about *being* a criminal. However, this may again be nothing more than the institution developing. In this respect, *Bracton* may represent an unconscious return to the type of oaths that were sworn in the early tenth century, highlighting the similar concerns of these chronologically separate societies, a concern with those of a reasonably high status harbouring criminals.

## Concluding remarks

In 1176, 1181, and 1195, we see very different types of reaffirmation to those earlier in the chapter that were clearly in response to external threats. These three supplementary oaths may have been ordered in part because a significant proportion of the population—mainly more significant free men—had ceased to be members of frankpledge and therefore did not swear the two-fold oath on entering. John Maddicott has made a similar suggestion, positing that various oaths of the 1190s and 1200s were ‘not only a response to particular circumstances ... [but] may have been intended to bring once again within the net of fealty those whose free status was coming to exempt them from the obligations of tithing and frankpledge’.<sup>104</sup> The current argument differs

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<sup>103</sup> *Bracton*, II, 327–28.

<sup>104</sup> Maddicott, ‘The Oath of Marlborough’, p. 296.

slightly from his, taking the position that the other oaths in these years were mainly sworn because of the increased frequency of invasion threats around the year 1200.

This chapter has been more heavily weighted towards the latter half of the twelfth century than the rest of the thesis. Throughout, we have gone where the evidence has taken us. It must be asked whether some of the apparent changes we have seen in the twelfth century, especially the increase in general oaths around the year 1200, are because of the types of evidence that survive. This thesis has shown that there were similar concerns throughout our period of study and that oaths were used in similar ways. As we have noted elsewhere, there may be very close parallels between the early tenth and early thirteenth centuries regarding the types of oath sworn by relatively high status individuals concerned with harbouring criminals. In an earlier chapter, we noted how the use of oaths in early thirteenth-century succession practice represented, in some ways, a return to a pre-1066 Norman model. With both of these examples, however, it does not seem that there was a straight-line development. Nor were these conscious returns to earlier practice. Instead, these were similar societies reacting to similar problems. The silence of the sources before Henry II's reign does not mean that there were no earlier 'pre-emptive oaths' that were widely sworn. Nor does the absence of evidence for oaths sworn in the face of invasion threats before 1086 mean that oaths were not sworn in such ways in Anglo-Saxon England.

However, though eyebrows should be raised when we note that three of our six examples of oaths sworn in the face of external threats occurred between 1190 and 1210, and that for two of these we are reliant on only one chronicler, it is also important to remember that there were more invasion threats in the 1190s and 1200s than there had been earlier. Indeed, as the thirteenth century progressed, general oaths were not sworn with the frequency with which they had been in that twenty-year period.<sup>105</sup> We should be more suspicious of the evidence suggesting that what we have termed 'pre-emptive oaths' only appeared in the second half of the twelfth century. But whilst it is vital to highlight that these types of oath that we see from *c.* 1150 onwards are not necessarily 'firsts', we must also offer potential reasons as to why these oaths were sworn. We have seen that the personalities and interests of Henry II and his favourite son John might

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<sup>105</sup> Though oaths were also sworn on a national scale with reasonable frequency, as a result of crises, in the 1210s.

have been important. The changes in the status of peasants noted in Chapter 3 may also have played a role.

More generally, for the entire period, we can reflect on some of the reasons as to why oaths were used in the instances seen throughout this chapter. A broad argument of this thesis, that oaths were an integral part of the political and social fabric, is a partial answer. That oaths were flexible might have made them a favoured tool as well. The Salisbury oath of 1086 may have been sworn with various situations in mind. In 1204, elites seem to have reacted against the measures taken against the threat of invasion, perhaps because they thought the oaths could be used in ways not initially intended. When writing about the oaths sworn at a council in 1101, Eadmer highlighted how useful oaths of loyalty could be to a king. According to his account, when news of Robert Curthose actually landing in England reached the ears of some nobles, they prepared to desert the king, only for Anselm to intervene:

After the leading men had been assembled together, Anselm informed them and at the same time the whole body of the army gathered round, without making any accusations, how they would be accursed to God and to all good men, who violated the faith which they owed to their prince. This he did to such an effect that they all, seeing that Anselm himself walked the path of virtue, immediately scorning to save their own lives, chose to meet death rather than play false to the king by violating their faith. It may be said without fear of contradiction that, subject to God's grace, if the loyalty and devotion of Anselm had not intervened, King Henry would have lost the right of the English realm due to this storm.

Anselmus, adunatis principibus cunctis, omnem circumfusi exercitus multitudinem simul et eos, silita omni calumnia, quam execrabiles Deo et omni bono homini forent qui fidem quam principi suo debebant quoquo modo violarent ita indissolubili verborum ratione edocuit, ut cuncti, perspecto ipsum via virtutis incedere, illico spreta vita non segnius eligerent morti procumbere, quam violata fide sua regem seducere. Quapropter indubia licet assertione fateri, quoniam si, post gratiam Dei, fidelitas et industria non intercessisset Anselmi, Henricus rex ea tempestate perdidisset ius Anglici regni.<sup>106</sup>

The veracity of this passage is not especially important.<sup>107</sup> It shows how oaths of loyalty sworn at such times could be perceived. They appealed to the conscience and morals of Henry's men. They also put kings in a strong political position, allowing them to punish those who broke their oaths. We can see this in another

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<sup>106</sup> Eadmer, p. 133|127.

<sup>107</sup> Eadmer, being close to Anselm, could be an eyewitness, yet is also likely to exaggerate Anselm's role.

example from Henry I's reign. Orderic Vitalis reports that the king was challenged by the Count of Flanders for mutilating certain knights captured when fighting for their lord. Henry responded to the Count that 'Geoffrey and Odard with their lords' consent became my lawful men, and, voluntarily committing the sin of perjury, they broke their faith with me' (*Goisfredus enim et Odardus concessu dominorum suorum legitimi homines mei fuerunt, periuriique nefas ultro committentes michi fidem suam mentiti sunt*). The Count had no response.<sup>108</sup>

Nevertheless, in 1101, numerous chroniclers comment upon the spread of disloyalty to the king.<sup>109</sup> The Anglo-Saxon Chronicler remarked that soon after Easter 'the chief men in the country became hostile towards the king, both on account of their own great disloyalty and because Duke Robert of Normandy was planning a hostile invasion' (*þa hefod men her on lande wiðer raden togeanes þam cynge ægðer ge for beoran agenan mycelan ungetrywðan 7 eac þurb þone eorl Rodbert of Normandig þe mid un fride to lande fundode*). As a reaction to this, Henry sent ships (some of which defected to Robert) to sea to delay his brother and 'at midsummer' took his army to Pevensey and waited for him there.<sup>110</sup> Orderic Vitalis says that when Robert landed he was 'received as king by the distinguished and wealthy men who, as allies, were expecting him' (*et ab illustribus et opulentis qui confederati eum prestolabantur susceptus in regem*).<sup>111</sup> Similarly, William of Malmesbury tells us that 'nearly all the leading men of this land were deserters of the faith which had been sworn to the king' (*omnes pene huius terrae optimates fidei regi iuratae transfugae fuerunt*).<sup>112</sup> The faith incited when swearing oaths of loyalty could be easily broken. Oaths had their limits.

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<sup>108</sup> OV, VI, 353–53. For this episode, see also Matthew Strickland, *War and Chivalry: The Conduct and Perception of War in England and Normandy, 1066–1217* (Cambridge, 1996), p. 202.

<sup>109</sup> The invasion did not develop into a war—see the agreement, examined above, pp. 82–83.

<sup>110</sup> ASC(E) 1101 (p. 237).

<sup>111</sup> OV, v, 314–15.

<sup>112</sup> William of Malmesbury, *GRA*, I, 716–17. William also says that 'only Robert fitz Hamon, Richard de Redvers, and Roger Bigod, and also Robert count of Meulan with his brother Henry, supported the true cause'. Interestingly, two of these were witnesses to the charter.

# Conclusion

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A certain noble lady, daughter of Baldwin de Redvers, acting manfully and having the zeal of God's obedience, did not swear the oath of apostasy nor did she allow any of her men to swear.

Tamen hoc sacramentum apostasiae nobilis quaedam domina, filia Baldewini de Reivers, viriliter agens et zelum habens obedientiae Dei, neque juravit neque aliquem hominum suorum jurare permisit.<sup>1</sup>

This short passage appears in William fitzStephen's *Life of Becket* when describing the oath of 1169, which was effectively aimed against the archbishop and the pope. It raises a number of interesting questions both in and of itself, and in comparison with some of the themes explored in this thesis.

First and foremost, it is an important reminder that half of the population is absent from the discussions above. Bar the occasional mention of a queen swearing, our sources say very little on women taking oaths to the king. Though terms such as *man* and *homo* can be gender neutral, and the even less specific *omnes* is frequently used to describe groups that swore oaths, we often assume that they referred only to men. Generally, this is justified. Participation in great councils seems to have been limited to men and queens, though women other than queens might be present. Only males seem to have been members of frankpledge and the groupings that preceded it.<sup>2</sup> But the excerpt from fitzStephen, the veracity of which we have no reason to doubt,<sup>3</sup> implies that some women were required to swear the oath in 1169. We know of only two possible candidates for the *nobilis domina*: Hawise de Redvers and her sister-in-law, Dionisia.<sup>4</sup> Though the former is our most likely candidate, and though there were possibly other daughters, a case study of both is worthwhile when considering which women might be required to swear general oaths.

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<sup>1</sup> William fitzStephen, *Vita Sancti Thomae*, in *Materials for the History of Thomas Becket, Archbishop of Canterbury*, ed. by James Craigie Robertson, 7 vols (London, 1875–85), II (1877), 1–154 (102).

<sup>2</sup> See Bruce O'Brien, *God's Peace and King's Peace: The Laws of Edward the Confessor* (Philadelphia, 1999), pp. 87–88. O'Brien notes that they could be members of *friborgs* as lords and therefore head of a household *friborg*.

<sup>3</sup> E. Foss suggested the remote possibility that the chronicler is the same William fitzStephen who appeared as sheriff of Gloucester between 1171 and 1190. If so, he would have been especially well informed of events in the West Country. Anne Duggan correctly states that this identification is 'unlikely' as there is no supporting evidence and the chronicler asserts London origins. See Anne J. Duggan, 'William fitz Stephen', *Oxford Dictionary of National Biography* (Oxford, 2004) [<http://www.oxforddnb.com/view/article/9643?docPos=1>].

<sup>4</sup> See Appendix IV. Baldwin de Redvers had died in 1155. Hawise was his daughter, Dionisia his daughter-in-law.

FitzStephen's passage not only states that the lady refused to swear, but that she forbade her *homines* from swearing. This means 'men' under her lordship, rather than male and female servants, in turn implying that the *nobilis domina* held land. Our less likely candidate, Dionisia, was widowed when her husband Richard died in 1162.<sup>5</sup> She was therefore in control of her dower lands in 1169.<sup>6</sup> The picture for Hawise is more complex. Her husband was Robert, an illegitimate son of Robert, earl of Gloucester.<sup>7</sup> An entry under 1170 in Robert of Torigni's chronicle notes:

After the death of Robert, son of Robert, earl of Gloucester, Amaury, first-born son of Simon, count of Évreux, married the first-born daughter of Robert, earl of Gloucester, at the command and will of Henry, king of the English.

Mortuo Roberto filio Roberti comitis Gloecestriae, Amauricus, primogenitus filius Symonis comitis Ebroicensis, jussu et voluntate Henrici regis Anglorum, duxit primogenitam filiam Roberti comitis Gloecestriae.<sup>8</sup>

Though a seemingly simple statement, this needs unpacking. First, that Amaury married the first-born daughter of *Robert*, earl of Gloucester, seems to be a mistake by the scribe. Other evidence shows that Amaury married the first-born daughter of Robert's son and heir, *William*, earl of Gloucester. This was a woman named Mabel.<sup>9</sup> Within Robert of Torigni's chronology, the marriage of Amaury and Mabel is placed in the autumn of 1170. The death of Hawise's husband, Robert, is said to have been before this. This does not literally preclude a death before the order for the oaths a year earlier in the autumn of 1169. However, it strongly implies that Robert died just before the 1170 wedding, and therefore that in 1169 Hawise was not required to swear in the capacity of a widow in possession of her dower lands. Especially as she is the more likely candidate for our

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<sup>5</sup> *Charters of the Redvers Family and the Earldom of Devon, 1090–1217*, ed. by Robert Bearman (Exeter, 1994), p. 12.

<sup>6</sup> Neither Hawise nor Dionisia took control of the Redvers estate during the minority that began on Richard's death. The revenue of the Redvers' family lands passed to Dionisia's father, Reginald (until his death in 1175). Richard and Dionisia's eldest son, Baldwin, was not invested in his lands until 1179. See *ibid.*, pp. 12 and 39. Incidentally, Baldwin died young and was succeeded by his younger brother Richard in 1188. He had died by 1194 and was succeeded by his uncle, our first Baldwin's son.

<sup>7</sup> Hawise was betrothed to Robert as early as 1147 (*ibid.*, p. 10).

<sup>8</sup> Robert of Torigni, *Chronica*, p. 247.

<sup>9</sup> When reporting William, earl of Gloucester's death in 1183, Robert of Torigni writes that he left three daughters. The first listed, presumably the eldest, is 'the countess of Evreux' (*ibid.*, p. 308). The Annals of Tewkesbury record the death of a Mabel, countess of Evreux, in 1198 (*Annales de Theokesberia*, in *Annales Monastici*, ed. by Henry Richards Luard, 5 vols (London, 1864–69), I (1864), 43–180 (56)). The statement at the start of our passage on the death of Robert son of Robert, earl of Gloucester, does not seem to be a similar mistake: Robert son of William, earl of Gloucester, had died in 1166 according to the Margam Annals (*Annales de Margan*, in *Annales Monastici*, ed. by Henry Richards Luard, 5 vols (London, 1864–69), I (1864), 3–40 (16)).

*nobilis domina*, we must ask why she might have been required to swear? In 1169, the order was for ‘all knights, free holders, and all those over the age of fifteen’ to swear in the county court.<sup>10</sup> This clearly explains why the lady’s men would be required to swear. But did this list include married women? If yes, this would have significant implications for many of the oaths examined in this thesis.

However, there is another explanation as to why Hawise might have been required to swear. First we must return to Robert of Torigni’s statement on the 1170 marriage and Robert, son of Robert’s death. Why, in recording the marriage of a named Norman noble, Amaury, and an unnamed English lady, note the death of the unnamed woman’s illegitimate and relatively obscure uncle? The most obvious answer would be that Robert was involved in the run-up to the wedding, and that he was therefore in Normandy.<sup>11</sup> Bearing in mind the limitations Henry II had placed on travel into and out of England in the autumn of 1169, we might envision that Robert had been in Normandy, perhaps in the service of the king, perhaps involved in wedding negotiations, for the entire year. This might explain why Hawise was required to swear: she was in control of the family lands and men in England in her husband’s absence. Importantly, considering that the 1169 order was concerned with those entering and leaving the kingdom, these lands included, as part of Hawise’s dower lands, the coastal manor of Fleet, near Weymouth.<sup>12</sup> Though admittedly, and necessarily, a speculative argument regarding the *nobilis domina*, we can conclude with reasonable confidence that women in control of land and men—whether as widows, as guardians in a minority, or as effective lords in their husbands’ absence—swore some of the oaths that we have looked at in this thesis, especially those ordered to be sworn on a national scale. Such a conclusion would fit closely with what we know more broadly of female participation in politics in medieval England.

## Refusals to swear and negotiations when swearing

William FitzStephen’s statement is fascinating from another perspective. It is one of only a few examples from our period of study in which people refused to swear an oath ordered by the king. Unfortunately, we can do little more than speculate as to why a

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<sup>10</sup> See above, pp. 131–33.

<sup>11</sup> It is not explicit that the wedding was in Normandy, but that only a Norman chronicler records the wedding and that it is woven into a narrative where Henry II was on the continent makes this likely.

<sup>12</sup> *Charters of the Redvers Family*, nos. 108, 113, 114, 116, 117, 118, 119, and 120.

certain woman refused to swear the 1169 oath.<sup>13</sup> At the very least, it seems reasonable to suppose that the refusal was based upon disapproval of what was being sworn—in the words of the chroniclers, a repudiation of the pope; in the words of fitzStephen, *hoc sacramentum apostasiae*. But it leads to wider questions of the oaths examined in this thesis. We have focused on oaths that were ordered to be sworn. How often were there outright refusals to swear? What reasons were given for refusing?

There are a greater number of instances where ecclesiastics refused to swear. In 1169 various sources depict different prelates refusing to swear the oath. Others have examined this, and there seems little need to lay out the evidence again.<sup>14</sup> Less dramatic, and more technical, is a refusal of Theobald, archbishop of Canterbury, at a Winchester council in 1141, during Stephen's captivity. William of Malmesbury states that Theobald 'put off making fealty to [Matilda] as lady, thinking it unbefitting his reputation and position to change sides without consulting the king' (*distulit ... fidelitatem dominae facere, inconsulto rege alias divertere famae personaeque suae indignum arbitratus*). On account of this, the archbishop, most of the bishops, and some laymen were permitted to go and consult with the king, who allowed them to swear.<sup>15</sup> Here, avoiding perjuring their oaths of fealty to Stephen seems to have been the primary concern. A third example comes from John of Worcester's description of Stephen's confirmation of the election of Maurice as bishop of Bangor.<sup>16</sup> When the bishops urged Maurice to do fealty to the king, he initially refused, saying 'there is among us a man of great piety, whom I look upon as my spiritual father, and who was archdeacon to my predecessor David, who forbade me to take this oath' (*vir ... magne religionis apud nos est quem pro spirituali patre teneo, et predecessoris mei David archidiaconis extitit, hoc iuramentum mihi facere inhibuit*).<sup>17</sup> The bishops told him that 'reason demands that you do as we have done' (*quod nos egimus, causa rationis exigit ut agas*). Maurice then swore the oath, saying that 'if you who are men of high authority have done this, then I will not put off doing likewise' (*et si vos magne auctoritatis viri hoc egistis, nulla mora sit mihi id idem faciendū*). That someone had forbidden him from specifically taking an oath of fealty to Stephen could perhaps be linked to the oaths sworn to Matilda. Or perhaps it was linked to twelfth-century debates about ecclesiastics swearing

<sup>13</sup> For some reasonable speculations, see Appendix IV.

<sup>14</sup> This has been analysed in M. D. Knowles, Anne J. Duggan, and C. N. L. Brooke, 'Henry II's Supplement to the Constitutions of Clarendon', *English Historical Review*, 87 (1972), 757–71 (760–61).

<sup>15</sup> William of Malmesbury, *HN*, pp. 90–91.

<sup>16</sup> *JW*, III, 278–79.

<sup>17</sup> The archdeacon of Bangor was probably Simeon of Clynnog (*JW*, III, 279, n. 17).

fealty and/or doing homage, something seen in Chapters 2 and 3. Also worth noting in this regard is a report that when a certain prior of Canterbury was elected abbot of Battle Abbey in 1175, the king did not even bother demanding that he swear fealty, as he knew that if it were demanded of him, he would use it as an opportunity of renouncing the election (*rex ab eo sacramentum servande fidelitatis pro consuetudine non exegit, sciens eum nullatenus prestiturum, immo magis si ab eo exigeretur, renuntiandi electioni inde occasionem quesiturum*).<sup>18</sup> Some ecclesiastics in the twelfth century took issue with the content of various oaths, including simple oaths of loyalty.

These ecclesiastical examples also reveal that rather than outright refusal, there could be negotiation between king and subjects over what was sworn or undertaken. Another apparent refusal of some laymen to swear also highlights this. John of Worcester states that when King Stephen learnt that his enemies had attacked Hereford, he set out in that direction, camping at either Little Hereford or Leominster.<sup>19</sup> Whilst there, ‘certain people swore fealty to the king’ (*ubi quidam ... regi fidelitatem iuraverunt*). However, ‘certain others refused, saying to the king: “The king may trust, if he wishes, at least in our faithful words, if not in an oath”’ (*quidam renuentes, hoc regi intulerunt: “Si non iuramento, credat rex, si velit, saltim fidelibus verbis nostris”*). It seems that the *quidam* referred to in both instances were those who had taken Hereford, and that they had come to negotiate with the king. This is implied by the following sentence which states that a truce was arranged (*utrinque dextris datis ad tempus*). This also seems to explain what the *fidelia verba* were: the commitments as part of making a truce. So, in this case, there was negotiation about who would and would not swear, before a less solemn commitment was made to observe a truce.

There are other examples of similar negotiations in oath-takings that we have seen elsewhere in the thesis. William of Poitiers reported that in 1066, people came to the Conqueror ‘*obsequentes aut explicantes*’, the latter perhaps indicating a form of negotiation.<sup>20</sup> We saw how in 1199, elites prepared for war when asked to submit to an absent, yet-to-be-crowned John. After being given assurances at a council, they swore.<sup>21</sup> Similar things seem to have occurred at assemblies in 1101 and 1204.<sup>22</sup> Indeed, it is within reports of

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<sup>18</sup> *Battle*, pp. 296–97.

<sup>19</sup> For this entire episode, see JW, III, 276–79.

<sup>20</sup> See above, p. 46.

<sup>21</sup> See above, pp. 35–36.

<sup>22</sup> See above, pp. 129–31 and 135–38, respectively.

councils that we are most likely to glimpse this to-and-fro. In the oaths sworn to Matilda, there was debate regarding the order of the swearers. Individuals might vary the form of their oaths. Queen Adeliza added a provision to the oath that it was only to be kept if Henry I did not have another heir.<sup>23</sup> Similarly, Ralph of Diss reported that at a council in 1191 where many swore fealty to an absent Richard I, only Richard fitzNigel, bishop of London, added the provision ‘*salvo ordine suo et justitia ecclesiastica*’.<sup>24</sup> Again, ecclesiastics may have been the most frequent to alter the forms of their oaths, mindful of provisions such as those forbidding them from doing homage to laymen.<sup>25</sup> William of Malmesbury reported that bishops had sworn fealty to King Stephen only on the condition that he should maintain the freedom of the church and the strict observance of its discipline.<sup>26</sup> Negotiation on the specifics of oaths probably occurred more frequently than our sources reveal, especially at councils. It is more doubtful that people of the status of Hawise de Redvers often negotiated the terms of their oaths. Those swearing as part of doing frankpledge surely never did so.

## Punishment and oaths under compulsion

The *nobilis domina* of fitzStephen’s account does not seem to have been punished or forced to swear.<sup>27</sup> This marks a contrast with other events in our period. Ecclesiastics who refused to swear were often exiled. At Stephen’s accession, some laymen did not immediately submit to him as king. According to the *Gesta Stephani*, ‘before resorting to war’ (*quam armis*), the king sent councillors to the rebels, threatening them. They then went to Stephen under safe-conducts and submitted to him.<sup>28</sup> The threat of violence was present for those who might think about refusing to submit. Though outside our period of study, there is an interesting example from early in Henry III’s reign. On 6 May 1220, the king ordered the sheriff of Westmorland to take all the property that had belonged to Gilbert son of Reinfrid until his son, William of Lancaster, did homage.<sup>29</sup> William was not a major landowner nor was he an important political figure. By 17 May, he had got

<sup>23</sup> See above, p. 72.

<sup>24</sup> See above, pp. 92–93.

<sup>25</sup> See above, pp. 62–63.

<sup>26</sup> See above, p. 39 n. 64; William of Malmesbury, *HN*, pp. 32–33.

<sup>27</sup> Hawise’s name appears in the pipe rolls, from 1169 to 1175: ‘Philip Taisson owes 40 marks for the right of a fee of three knights (*pro recto feodi III Militum*) which Hawise de Redvers holds (*tenet*)’ (*PR*, xv (1892), 101; xvi (1893), 27; xviii (1894), 101; xix (1895), 147; xxi (1896), 92; xxii (1897), 61). This does not seem to have anything to do with the oath.

<sup>28</sup> *G.S.*, pp. 22–25.

<sup>29</sup> Fine Roll C 60/12, 4 Henry III (1219–1220), 141, at [http://www.finerollshenry3.org.uk/content/calendar/roll\\_012.html#d12858e26477](http://www.finerollshenry3.org.uk/content/calendar/roll_012.html#d12858e26477).

word to the king that he would do homage at York in three weeks.<sup>30</sup> Again, there was a very real threat from the king should the submission not be made.

That the *domina* went unpunished may in part be due to her relative political insignificance, and even her gender. That oaths under compulsion were often seen as invalid could have also been significant. The political capital to be gained by the king in each instance was not worth the negative implications of using what could be seen as illicit force. A clear example of this belief in the invalidity of forced oaths comes in the account of Stephen's accession in the *Gesta Stephani*. The author argued that the oaths were sworn 'unwillingly' (*invite*), that Henry I knew this, and that he repented on his deathbed for 'forcibly imposing the oath' (*de iureiurando violenter ... iniuncto*). Then came a more general rule:

because it is established that every oath extorted from anyone with force completely loses the effectiveness of perjury, it is sound and especially acceptable to receive him [Stephen] gladly as king.

quia constat omne iusiurandum a quolibet cum violentia extortum ipsam periurii efficaciam penitus amisisse, sanum est praecipueque acceptandum eum ad regnandum laete suscipere.<sup>31</sup>

In this author's view, breaking an oath sworn under compulsion did not amount to perjury. These forced oaths are contrasted with the voluntary oaths of loyalty sworn to the king.<sup>32</sup> This sets up a narrative where supporters of Matilda are criticized for breaking their oaths to Stephen.<sup>33</sup> Other writers also reveal such a concern to show that certain oaths were sworn freely. Roger of Howden records how in 1173 Henry the Young King ordered his followers to swear fealty explicitly against his father Henry II, but those who refused to swear were not forced to do so—they were to leave his company. Though this might be seen as a form of political coercion, and no doubt it was, this is not what the account stresses. Instead it notes that the Young King 'permitted' (*permisit*) those who would not swear to depart.<sup>34</sup> He was offering a choice that they were free to make.

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<sup>30</sup> Fine Roll C 60/12, 4 Henry III (1219–1220), 150, at [http://www.finerollshenry3.org.uk/content/calendar/roll\\_012.html#d12858e26477](http://www.finerollshenry3.org.uk/content/calendar/roll_012.html#d12858e26477). According to David Carpenter, William was 'destitute of horses and equipment and wholly incapable of coming south to see the king, so the bishop [of Durham], in a letter [dated 8 May] on his behalf, begged Hubert [de Burgh, the justiciar] to allow him to do homage and fine for his relief when the king came to York' (David Carpenter, *The Minority of Henry III* (London, 1990), p. 197.

<sup>31</sup> *GS*, pp. 10–13.

<sup>32</sup> See, eg, *ibid.*, pp. 12–13; 22–25; 112–15.

<sup>33</sup> *Ibid.*, pp. 70–71; 90–91; 100–03; 112–13; 116–17; 202–03.

<sup>34</sup> Howden, *GRHS*, I, 43.

Writing soon after the Conquest, William of Poitiers saw the need to note that Harold Godwinson's oath was freely sworn: 'at the crucial point in the oath, he willingly pronounced these words that ...' (*in serie summa sacramenti libens ipse haec distinxit ...*).<sup>35</sup> Free will was clearly important in judging whether oaths ought to be kept.

William of Newburgh gives a general condemnation of oaths sworn under compulsion similar to that in the *Gesta Stephani*:

Since oaths or vows extracted by force are not binding unless they happen to be ratified by later assent, he obtained, so it is said, an easy absolution from his oath. Indeed, when the obligation of swearing or vowing is imposed, it does not impose the obligation that the oath or vow should be kept. Only freedom of will creates this obligation of will.

Et quoniam extorta sacramenta vel vota non obligant nisi forte ex subsequenti consensu conualescant, facilem, ut dicitur, ab illo sacramento absolutionem impetravit. Ingesta enim necessitas iurandi sive vovendi necessitatem non ingerit quod iuratum votumue est adimplendi, sed sola voluntatis hanc necessitatem parit libertas.<sup>36</sup>

Oaths sworn under compulsion could therefore be validated if later agreed to. Only 'freedom of will' (*voluntatis libertas*) in swearing created *necessitas*—a duty or obligation. Forced oaths did not. William was describing the rumoured (*ut dicitur*) release of Henry II from an oath. According to the account, Henry's father, Count Geoffrey of Anjou, wished that Henry's younger brother, also named Geoffrey, would inherit the paternal holdings (Anjou) when Henry attained his mother's rights (England and Normandy). On his deathbed, Count Geoffrey had the bishops and nobles that were present swear not to allow his body to be buried until Henry, who was not present, took an oath to keep his father's will. Henry attended the funeral and reluctantly took the oath. When the will was unsealed Henry reportedly hid his dissatisfaction, but when he attained England, he informed the pope that the oath had been sworn under compulsion. Then follows the passage already quoted. Seemingly, this force of circumstance was deemed to be compulsion of sufficient strength to invalidate the oath. This might seem surprising. If this oath were invalidated because of these circumstances, was there not a case that the oaths examined throughout this thesis, ordered by the king, were invalid too?

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<sup>35</sup> *GG*, pp. 70–71.

<sup>36</sup> William of Newburgh, *The History of English Affairs*, ed. and trans. by P. G. Walsh and M. J. Kennedy, 2 vols to date (Warminster, 1988–), II, 30–33.

Indeed, a modern reader could see all the oaths under discussion in this thesis as, in some sense, forced. There was often an explicit or implicit threat of violence. We have just seen a couple of examples. Another comes from the 1176 Assize of Northampton, which stated that those who refused to swear were to be arrested (*‘et qui facere noluerit fidelitatem, tanquam inimicus domini regis capiatur’*).<sup>37</sup> An Old English chronicler reported that in 1066 certain men ‘submitted from force of circumstance, but only when the depredation was complete’ (*‘7 bugon þa for neode, þa mast was to hearne gedon’*).<sup>38</sup> However, contemporaries clearly felt that kings could legitimately order oaths to be sworn and that these oaths were not sworn under compulsion. Presumably there was an understanding that there was a duty to swear such oaths. Theirs was a different view from ours regarding what amounted to free choice. Verbs such as *facere*, *praecipere*, and *jubere* were used to describe orders of this sort. Verbs such as *compellere*, *extorquere*, and *cogere*; adverbs such as *invite* and *violenter*; and nouns such as *violentia* were used to describe the use of illicit force over the swearer. Whether such force was seen to have been used seems to have depended as much on an author’s political bias as upon anything else. The interpretations of the oaths sworn to Matilda illustrate these things well. The author of the *Gesta Stephani* is the only English author to claim that the oaths to Matilda could be broken without perjury being committed because they were sworn under compulsion. The Peterborough Chronicle has Henry *‘let sweren’* those present, that is, he caused them to swear.<sup>39</sup> Robert of Torigni uses the Latin equivalent, the verb *facere*.<sup>40</sup> John of Worcester has them swear at the king’s command (*‘ad iussum regis’*),<sup>41</sup> and Symeon of Durham has Henry ordering (*jubere*) the oath to be sworn.<sup>42</sup> This language does not, either here or elsewhere, imply compulsion of the sort that could invalidate an oath. Indeed, the *Gesta Stephani* author highlights the distinction in his condemnation of the oaths: the king ‘compelled, rather than ordered, the greatest of the whole kingdom to swear’ (*‘summos totius regni iurare compulit potius quam praecepit’*).<sup>43</sup>

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<sup>37</sup> *Ass Nor*, 6. See above, pp. 140–41.

<sup>38</sup> *ASC(D)* 1066 (p. 200).

<sup>39</sup> *ASC(E)* 1137 (p. 265). Charles Plummer glosses *latan* as ‘to cause a thing to be done, or cause one to do a thing’ (*Two of the Saxon Chronicles Parallel: with Supplementary Extracts from the Others: A Revised Text*, ed. by Charles Plummer, 2 vols (Oxford, 1892), I: *Text, Appendices, and Glossary*, 366). Michael Swanson’s recent translation gives ‘he had ... [them] swear’ (*The Anglo-Saxon Chronicle*, trans. by Michael Swanson (London, 2000), p. 265). Garmonsway gives the less literal ‘he obtained an oath’ (*The Anglo-Saxon Chronicle*, trans. by George Norman Garmonsway (London, 1953), p. 265).

<sup>40</sup> Robert of Torigni, *GND*, VIII.25 (II, 240–41).

<sup>41</sup> *JW*, III, 166–67.

<sup>42</sup> *SD*, II, 281.

<sup>43</sup> *GS*, pp. 10–11.

The *Leges Henrici Primi* condemned forced oaths in a slightly different way:

For instance, if anyone is forced by compulsion to swear that which he has quietly held for many years, it will not be perjury in the swearing but in the forcing.

Nam si quis per coactionem abiurare cogatur quod per multos annos quiete tenuerit non [in] iurante set in cogente periurium erit.<sup>44</sup>

This passage describes an assertive oath, as opposed to the promissory oaths examined in this thesis. Interestingly, *cogere* is the verb used to describe the illicit force. Did it always imply this, or did the *Leges Henrici Primi* author need to make it clear by adding ‘*per coactionem*’? It is not clear. Roger of Howden, in the *Gesta*, uses *cogere* in describing a certain oath forced upon a certain group. When reworking the passage in the *Chronica*, he instead uses *compellare*, perhaps suggesting that the two words were interchangeable.<sup>45</sup> However, elsewhere the use of *cogere* is less clear. As seen above, John of Worcester uses it in describing the oath of Salisbury, and William of Malmesbury does so when describing the oaths sworn to William Adelin.<sup>46</sup> It is not clear whether there are overtones of condemnation in these accounts.

The passage in the *Leges* seems to be partially derived from a statement in the late eleventh-century *Decretum* of the canonist Ivo of Chartres.<sup>47</sup> However, where Ivo has both the swearer and compeller committing perjury, in the *Leges*, the only perjurer is the individual who forces another to swear falsely. The swearer is not guilty of that transgression. This seems to represent a wider disjoint between the teachings of canon law on the one hand and the norms that regulated oaths sworn under compulsion on the other. Richard Helmholz states of forced oaths in canon law that:

Although there was some dissent, the accepted rule came to be that if they could be fulfilled without endangering the health of the soul of the party coerced, their observance would be compelled.<sup>48</sup>

So, oaths sworn under compulsion were not *ipso facto* invalid under canon law. Some chroniclers may have been aware of this line of thought. Ralph Niger condemned an

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<sup>44</sup> *Hn*, 5.28a.

<sup>45</sup> Though in both accounts, it is not clear that Howden intended to use the terms pejoratively (Howden, *GRHS*, I, 132; Howden, *Chronica*, II, 117).

<sup>46</sup> See above, p. 125 and p. 63, respectively.

<sup>47</sup> Ivo, *Decretum*, xii.61: ‘*qui compulsus a domino periurat se sciens, utrique sunt periur?*. Ibid, xii.63: ‘*si quis coactus pro vita redimenda vel pro qualibet causa vel necessitate se periurat ... tres quadagesimas poeniteat*’. Both taken from Downer’s commentary on this clause: *Leges Henrici Primi*, ed. and trans. by L. J. Downer (Oxford: Clarendon Press, 1972), p. 311.

<sup>48</sup> Richard H. Helmholz, *The Spirit of Classical Canon Law* (Athens, GA, 1996), p. 167.

individual for breaking an oath that had been sworn under compulsion.<sup>49</sup> William of Newburgh—who, as we have seen, stated that oaths sworn under compulsion were not binding—records elsewhere that the pope would not release a king of France from an oath sworn ‘*contra voluntatem*’ because it was to maintain peace, a principle kings ought to uphold without oaths needing to be sworn.<sup>50</sup>

However, the belief that oaths sworn under compulsion were not binding continued well into the next century. The mid- to late-thirteenth-century romance, *Fouke fitz Waryn*, depicted an oath taken by King John as invalid as ‘he had made this oath under duress’.<sup>51</sup> The chronicler Matthew Paris, at the start of 1259, questioned the utility of an oath of Richard of Cornwall: ‘for he would perhaps say afterwards that he had sworn this against his will and under compulsion’ (*diceret forte postea, quod invitus et coactus hoc jurasset*).<sup>52</sup> That the nuance of the canon law position does not seem to have percolated down into a wider consciousness is probably in part because oaths continued to be absolved by popes on the grounds that they were forced.<sup>53</sup> There may also be a link to a wider concern with compulsion. We have already seen how Ralph of Diss believed that Henry II refused to allow oaths to be sworn to Richard as heir because it might seem that he had been compelled to make the arrangements, rather than them being voluntary (*coactus quam spontaneus*).<sup>54</sup> There is another example of such anxiety at the end of a case recorded in

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<sup>49</sup> ‘*Ludovicus, filius Bosonis, provocatur ad imperium, quem interceptum Berengarius jurare compulit se nunquam amplius ingressurum Italiam. Veruntamen, iterato vocatus, immemor juramenti, Berengarium expulit, et Italiam invasit*’ (Ralph Niger, *Chronicon ab Initio Mundi ad A.D. 1199*, in *The Chronicles of Ralph Niger*, ed. by Robert Anstruther (London, 1851), pp. 1–104 (77).

<sup>50</sup> WN, HRA, I, 357–58.

<sup>51</sup> *The Romance of Fouke Fitz Waryn*, in G.S. Burgess, *Two Medieval Outlaws. Eustace the Monk and Fouke Fitz Waryn* (Cambridge, 1997), pp. 132–92, at p. 173.

<sup>52</sup> Matthew Paris, *Chronica Majora*, ed. by Henry Richards Luard, 7 vols (London, 1872–1883), v: 1248–1259 (1880), p. 732. By contrast, those attempting to get Richard to swear the oath may have been at pains to stress its voluntary nature. A letter patent to Richard reported that messages had been sent ‘to induce him’ to take the oath, the king ‘requests him to take such an oath’, and the king has ‘enjoined upon him’ that additions should be made to the oath (*Calendar of the Patent Rolls Preserved in the Public Record Office*, prepared under the superintendence of the Deputy Keeper of the Records (London, 1901–), [v]: *Henry III: 1258–1266* (1910), p. 10).

<sup>53</sup> The point is that forced oaths were not immediately invalid, but they were subject to the absolving power of the church. A passage from the thirteenth-century *Decretals*, recording a decree of Pope Celestine III (r. 1191–1198), states that individuals could be freed from the *vinculum sacramenti* if they had been unwilling to swear (*invit?*) (X 2.24.15). See also Helmholz, *Spirit of Classical Canon Law*, p. 167: ‘Coerced oaths were subject to the absolving power of the church, and it was the practice to allow persons to seek to be freed from their oaths if they could prove the requisite level of coercion’. There are many examples of such absolutions. For example, three kings over the thirteenth century used this reason to wriggle out of oaths, and Pope Gregory IX released Gilbert Marshal and his brothers from an oath given to Henry III as it was forced. See, respectively, W. H. Bryson, ‘Papal Releases from Royal Oaths’, *Journal of Ecclesiastical History*, 22 (1971), 19–33, and F. M. Powicke, ‘The Oath of Bromholm’, *English Historical Review*, 56 (1941), 529–48 (538–39).

<sup>54</sup> See above, p. 79 n. 166.

the chronicle of Battle Abbey. When the bishop of Chichester renounced his claims on the said abbey, Henry I showed a concern that this was done freely: ‘is it correct that you have done and pronounced this not under compulsion, but voluntarily?’ (*non coactus sed voluntarie hoc te fecisse et protulisse constans est?*).<sup>55</sup> Such concerns and norms may have underlain the reasons that the *nobilis domina* was not forced to swear.

## Political agency and the forming of communities

In refusing to swear the oaths demanded of her, the *nobilis domina* was engaging in a (perhaps subversive) political act. With a few important exceptions, women do not seem to have played a significant political role on a national scale. Nor did they often have the opportunity to do so. Our sources, at least, do not often mention them in such contexts. Much the same can be said about vast swathes of the male population too. In refusing to swear, the lady’s act attracted the interest of chroniclers who were primarily concerned with elite politics. Oaths give swearers political agency. If the oaths are ordered to be sworn, they can choose to agree and swear, to refuse, or to negotiate the terms of their oath.<sup>56</sup> Most in our period of study would have simply acquiesced. However, this acquiescence can itself be seen as a political act. In the case of the oaths sworn when entering frankpledge, a large number of people low down the social scale actively made a statement about loyalty to the king and about theft. When thinking about questions concerned with peasant political consciousness or national identity, such expressions are important.<sup>57</sup> A passage already examined highlights these points. Some men in Yorkshire refused to submit to Otto because they did not wish to withdraw from the king’s fealty. They felt so strongly that Richard I gave Poitou to Otto instead of the northern county.<sup>58</sup> In refusing to swear oaths, they had made a political point, which itself was linked to oaths that they had previously sworn to the king.

This thesis set out to answer a couple of simple questions. Who swore oaths to the king? When were such oaths sworn? The first chapter saw how oaths were sworn around the time of coronations. Elites made submissions both before and after kings were

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<sup>55</sup> *Battle*, pp. 206–07.

<sup>56</sup> A recently published work on oaths in the English Reformation makes this point: ‘oaths gave the people a voice’. See Jonathan Michael Gray, *Oaths and the English Reformation* (Cambridge, 2013), pp. 11–16 (quote on p. 15).

<sup>57</sup> David Carpenter has stressed the importance of the oaths sworn as part of the Assizes of Northampton and of Arms in the developing political awareness of peasants (David Carpenter, ‘English Peasants in Politics, 1258–67’, *Past and Present*, 136 (1992), 2–42 (especially pp. 13–14, 18, and 37)).

<sup>58</sup> See above, p. 118.

consecrated. Free men seem to have sometimes, if not always, sworn as well. Our second chapter turned to look at how oaths were sworn within succession planning. There, in simple terms, we saw a Norman institution where oaths were sworn to designated heirs being developed and experimented with by kings through the twelfth century. While the first two chapters' most firm conclusions concerned the elites of the kingdom, our third chapter concentrated primarily on those lower down the social scale and, because of the evidence that survives, was able to delve into the Anglo-Saxon world in greater depth. Though there were changes between the tenth and thirteenth centuries, rulers across the period were concerned with having some of the non-elite individuals in the kingdom swear oaths against theft and assisting thieves. Our final chapter saw how oaths were sworn outside of these routine and ordinary circumstances, sometimes by every male in the kingdom. Something that emerges as common across the period is how oaths were often sworn at centralized councils before subsequently being sworn by a wider group in the localities. Unfortunately, we can only glimpse the details of these events and how they worked through often-problematic chronicles. Precisely how *en masse* oath-taking ceremonies worked remains, in our period, a mystery. Having said this, other details are revealed, such as the mechanisms through which oaths sworn centrally might subsequently be sworn in the counties. We have also seen the importance that the place and dates of swearing might hold, such as in the oaths sworn to William Adelin and Matilda, for example, and perhaps in 1086. Apart from the final chapter where we saw oaths prompted by crisis, it is apparent that oaths were often sworn at a moment of change in an individual's life: an appointment to an office; the reaching of a certain age. At these moments of change and crisis, commitments invoking the divine linked king and subject. More broadly, swearing was an integral part of the weft and weave of the medieval political landscape between the tenth and thirteenth centuries. This thesis has sought to draw attention to this and in the process to fill some gaps in our understanding of medieval England.

As noted in the Introduction, John Spurr has pointed out that oaths are a part of human interaction. The oaths we have examined in this thesis might be described as being part of a vertical relationship: oaths of loyalty linking an inferior to a superior, a subject to a king. However, such oaths created more than this internal bond between two people. There was, of course, an external force, sometimes explicitly mentioned with the phrase that the commitment was *contra omnes*. There was also a communal bond created by more

than one person swearing the same thing. We have seen how a writer as early as John of Hexham referred to the *universitas regni* swearing oaths to Matilda, hinting at a link between a community of the kingdom and the swearing of oaths.<sup>59</sup> In 1204, Gervase of Canterbury made this connection more explicitly when writing about the oaths sworn in the face of a feared French invasion. ‘Through the whole kingdom there was to be a commune’ (*per totum regnum fieret communa*). It was ‘*univerisi*’ who were to swear the oath forming this.<sup>60</sup> In 1181, when laying out the weapons that should be carried by free men, the Assize of Arms referred to them as the ‘*tota communa liberorum hominum*’.<sup>61</sup> This came just before the detail about the oaths that were to be sworn. Outside the confines of this thesis, town communes (*communae*) were created with oaths that expressly linked together the swearers. Those becoming monks entered monastic confraternities (*confraternitates*) by making vows to God. The use of oaths by a large proportion of the population may have also been important in forming ideas about the community of the realm (*communitas regni*).

In early thirteenth-century London a legal text now known as the *Leges Anglorum Londoniis collectae* was compiled. Included within it was a version of the *Leges Edwardi Confessoris*, which contains passages not found elsewhere. One such passage runs as follows:

So, all the princes and earls owed it to make and likewise to swear, in the presence of the bishops of the kingdom in the folkmoot, fealty to the lord king, and similarly all the nobles of the kingdom, the knights, and the free men of the entirety of the whole kingdom of Britain owed to make it too, in full folkmoot, just as aforesaid, in the presence of the bishops of the kingdom.

ita debent facere omnes principes et comites, et simul iurare coram episcopis regni in folkesmoth; et similiter omnes proceres regni et milites et liberi homines universi totius regni Brittanie facere debent in pleno folkesmot fidelitatem domino regi, ut predictum est, coram episcopis regni.<sup>62</sup>

This ‘law’ was attributed to Arthur.<sup>63</sup> That an early thirteenth-century mind seems to have seen this type of community—with all above the unfree peasantry swearing loyalty to the king—as a mythical ideal for ordering society seems to be an appropriate point on

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<sup>59</sup> See above, p. 71.

<sup>60</sup> See above, pp. 135–37, where we analysed the document. Here we are quoting from Gervase’s narrative account. GC, *Gesta Regum*, p. 96.

<sup>61</sup> *Ass Arms*, 3.

<sup>62</sup> *Gesetze*, I, 655. See also, J. R. Maddicott, ‘The Oath of Marlborough, 1209: Fear, Government and Popular Allegiance in the Reign of King John’, *English Historical Review*, 126 (2011), 281–318 (296–97).

<sup>63</sup> After Arthur, it is said to have slept before being reintroduced by Edgar.

which to end this thesis. By *c.* 1200, oaths sworn by subjects to kings meant that they were bound together by something stronger than ropes of sand.<sup>64</sup>

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<sup>64</sup> This phrase is borrowed from David Carpenter's book on *Magna Carta*, which states that the various oaths of 1215 meant that the rebels were tied together by more than just 'ropes of sand'. I think, if I remember correctly from a conversation about PhD thesis topics before I had even applied to St Andrews, Carpenter in turn borrows the phrase from Sir Edward Seymour's comments when William of Orange arrived in England in 1688. See David Carpenter, *Magna Carta* (London, 2015), p. 289.



## Appendix I: John of Worcester's revised account

John of Worcester revised the years 1128 to 1131 of his chronicle, probably in the early 1140s. This revised version survives in one manuscript and was used by a later chronicler working in Gloucester.<sup>1</sup> It dates an oath-taking ceremony to the octaves of Easter (29 April 1128) at Westminster in London.<sup>2</sup> The passage implies it is describing the first oath to Matilda, rather than a renewal, as it has the council discussing who should succeed as ruler, something that must have seemed irrelevant in 1128, after the 1126/7 council.<sup>3</sup> Indeed it has been pointed out by McGurk that this 'could not have taken place in 1128, as Henry I, who was present [according to the account], was in Normandy throughout the year'.<sup>4</sup> It seems on the face of it that it is simply a strangely misdated account of the 1126/7 oaths to Matilda. If it is such an account, it is the most detailed of all our narrative sources for those oaths. Interestingly, it differs in some of its detail with the next most detailed report, that of William of Malmesbury. This appendix will argue that the revised account might be a jumbled account of the 1126/7 oaths and a subsequent renewal of the 1130s.

It can be argued that one detail from the revised account is false: the presence of Thurstan, archbishop of York. The account states that Henry held the council

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<sup>1</sup> JW, III, xxxii. The writer at Gloucester, known simply as the Gloucester interpolator, copied much of the revised chronicle, added some details, and wrote a continuation (*ibid.*, xl).

<sup>2</sup> There is an elaborate dating clause in the account, with the year given as the 28th regnal year of Henry I, the 7th indiction, concurrents 7, and epacts 25, and it is noted to be a bisextile year (a leap year). These measurements all point to 1128, except, strangely, the epacts. If the calendar year was taken to have begun before 29 April, the epacts are 17; if the year was taken to have begun later than this, the epacts are 6. The closest years in which the epacts are 25 are 1126 and 1145 (or 1125 and 1144 if the year was taken to begin after 29 April). This is presumably no more than a mistake in calculation. For how to calculate such things, see *A Handbook of Dates: For Students of British History*, ed. by C. R. Cheney and rev. by Michael Jones (Cambridge, 2000).

The Gloucester interpolator changed the regnal year to the 27th and the indiction to the 6th (JW, III, 176, n. e). In altering both of these, it is possible that the copier was correcting the date to 1127. However, that he left the rest of the measurements the same suggests that the writer simply twice missed copying an extra '1'.

<sup>3</sup> JW, III, 176–77.

<sup>4</sup> *Ibid.*, p. xxxv (quote). Also stated on pp. 182–83, n. 7, where it is stated that the Anglo-Saxon Chronicler says that Henry remained in Normandy throughout 1128. George Garnett agrees with McGurk, stating that it is not clear whether it was intended as an account of the original 1127 designation, erroneously dated, or an account of a later renewal (George Garnett, *Conquered England: Kingship, Succession, and Tenure, 1066–1166* (Oxford, 2007), p. 209, n. 609).

McGurk, correctly, notes that 'a renewed oath-taking in 1128 could conceivably have been advisable in view of Matilda's betrothal to Geoffrey of Anjou in May 1127', but does not think that it is likely (JW, III, 182–83, n. 7). However, the account does not seem to be describing a renewal.

at Westminster of London ... at which the two metropolitans, William of Canterbury and Thurstan of York presided over the bishops, abbots, earls, with the leading men of all England.

cui presidebant duo metropolitani, Willelmus Dorubernensis, Turstinus Eboracensis, episcopi, abbates, comites, barones, cum totius Anglie primoribus.<sup>5</sup>

Other accounts, however, make clear that Thurstan, though attending the council when it met at Christmas at Windsor, was not present when it moved to London.

We begin with the account of Hugh the Chanter. Hugh reports that Thurstan went to the king's court at Christmas, ready to set out for Rome for a plea between himself and John of Glasgow and the Scottish bishops.<sup>6</sup> William, archbishop of Canterbury, informed the king that he would not attend the council if Thurstan had the cross carried before him or played a role in the king's crowning. The king, annoyed, told Thurstan and requested that he stay at his lodgings, so as not to disturb the solemnity of his court. A shocked Thurstan went to the king to hear it from him. Henry repeated the request. Thurstan withdrew, asked William whether he had sent such a message to the king, and received the reply that he had, because he understood that Thurstan had no business taking part in such a ceremony.<sup>7</sup> Hugh then states that

after spending Christmas at Windsor, where the court was, [Thurstan] came next day to London, waiting four days there for the king and preparing for the journey.

facto Natali Domini Windesoris, ubi curia erat, crastina venit Londoniam, regem illuc quinta die venturum expectans, et ad iter agendum se preparans.<sup>8</sup>

Hugh also states that Henry I came to meet Thurstan and brought with him David, king of Scotland. The two of them, for reasons we need not go into here, convinced Thurstan to postpone his trip to Rome.<sup>9</sup> Importantly, Henry and David came (*'adveniens'*) to meet Thurstan; Thurstan did not join them at the council.

Thurstan was angry with the archbishop of Canterbury. Hugh states that

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<sup>5</sup> JW, III, 176–183.

<sup>6</sup> HC, pp. 216–17.

<sup>7</sup> *Ibid.*, pp. 216–17.

<sup>8</sup> *Ibid.*, pp. 218–19.

<sup>9</sup> *Ibid.*, pp. 218–19.

at London the archbishop of Canterbury wished to confer with ours, but the latter, because of his past opposition, refused to speak to him, and did not do so for a long time afterwards.

Londonie Cantuariensis archiepiscopus nostro colloqui voluit; noster vero, quia sic adversus eum egerat, loqui ei renuit, neque poste<a> usque in longum tempus locutus fuit.<sup>10</sup>

John of Worcester, in the non-revised 1127 passage, further illuminates these events and gives detail that is absent from Hugh's account. According to John, when the court was still at Windsor celebrating Christmas, Thurstan tried to claim equality with Canterbury and wished to place the crown on the king's head, but this was not allowed by the consensus of those present. Then

the bearer of the cross which Thurstan had caused to be carried before him in the king's chapel was thrown out of the chapel with the cross, for it was affirmed and confirmed by the judgement of the bishops and of those skilled in church law that a metropolitan should not, outside his own province, have his cross carried before him.

lator insuper crucis quam in regis capella se coram fecit deferri, extra capellam cum cruce euictus est: iudicio enim episcoporum et quorunque prudentium ecclesiasticas leges scientium probatum est ac roboratum, nulli metropolitae extra diocesim suam crucem facere ferre ante se.<sup>11</sup>

Thus rather than Thurstan withdrawing because he was asked to do so, he was humiliatingly stopped from taking his intended course of action. It is not overly surprising that Hugh omits this detail; Thurstan was the hero of his work. The two-fold rejection must have been humiliating for the archbishop. Indeed, in May 1127, a church council was held at Westminster, and Thurstan did not attend. According to his defender, Hugh the Chanter, Thurstan received news from Rome that prevented him from attending. However, Hugh's report of Henry I's response to the Archbishop of Canterbury's complaints at Thurstan's absence is revealing: 'It serves you right. You treated him disgracefully at my court, and me too' (*et merito. Magnum enim dedecus illi in curia mea fecistis, michi vero non minus*).<sup>12</sup> The archbishop of York was still sulking and smarting at the humiliation he had received at Christmas.

So, it seems likely that Thurstan absented himself from the two councils at London in the first half of 1127 because he had been humiliated at Windsor. Missing the first of

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<sup>10</sup> *Ibid*, pp. 218–19.

<sup>11</sup> JW, III, 164–67.

<sup>12</sup> HC, pp. 218–19.

these meant he did not swear the oath to Matilda in 1127. It must be noted that many sources do give a generic list of those present at the Christmas council of 1126/7 headed with ‘archbishops’, plural. This was, however, a routine form that is not necessarily indicative of who was present. Of those who are more specific, none mention Thurstan’s presence at the oath-taking. William of Malmesbury has the archbishop of Canterbury swear first followed by the ‘bishops’, with no mention of York.<sup>13</sup> Furthermore, Henry of Huntingdon states that Roger, bishop of Salisbury, swore second, after the archbishop of Canterbury.<sup>14</sup> If the archbishop of York were present, he would certainly have been the second to swear.

So, there are two errors in the revised account: the date and Thurstan’s presence. From whence did these errors come? The dating of the account to 1128 is not necessarily problematic. Dating events to the wrong years is common among medieval chroniclers. As we have seen, Simeon of Durham also dated the oaths to this year. Yet the dating to the octaves of Easter is odd. It is plausible that the 1133 renewal, reported by Ralph de Diceto, but not precisely dated, was sworn at this time of the year. Ralph states that a council was convened for the oath to be sworn once Henry had heard that his grandson had been born. The grandson, Henry, was born on 5 March. The octaves of Easter for 1133 fell on 1 April.<sup>15</sup> There would thus be 27 days for the news from Maine to reach Henry I. It should be noted that a large gathering would have been convened for the Easter assembly, so we need not factor in the time taken to send out summonses for a council and for the nobles to gather.

Other small details point to a link with the 1133 oath. The revised account places the ceremony at Westminster. None of the 1126/7 accounts explicitly have the oaths at Westminster;<sup>16</sup> Ralph places the 1133 submissions there. We know that King Henry was at the New Hall in Oxford at Easter 1133.<sup>17</sup> Was he at Westminster one week later? There is a gap in our knowledge of his itinerary until 30 April (when he was at Winchester).<sup>18</sup> Edmund King has associated a charter with Ralph de Diceto’s account.<sup>19</sup>

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<sup>13</sup> William of Malmesbury, *HN*, pp. 8–9. It is plausible that ‘bishops’ includes York.

<sup>14</sup> *HH*, pp. 700–01.

<sup>15</sup> Easter in 1133 fell on 26 March.

<sup>16</sup> The more detailed have the oaths at London. This could, of course refer to Westminster. The point is that none of them do so explicitly.

<sup>17</sup> *HH*, pp. 488–89.

<sup>18</sup> William Farrer, ‘An Outline Itinerary of King Henry the First’, *English Historical Review*, 34 (1919), 303–82 and 505–79 (569).

The charter is dated to 1133 at Westminster.<sup>20</sup> Stephen is among the witnesses, although it must be noted that Thurstan is not. The editors of the *Regesta Regum Anglo-Normannorum* date it to ‘June?’, but it is not implausible that Henry went from Oxford to Westminster after Easter and that it was issued there. There are three other charters located at Westminster, with no specific year that the editors also date ‘1133, June?’, but which could plausibly be dated to the octaves of Easter.<sup>21</sup> Among these, one has Thurstan as a witness, although none have the archbishop of Canterbury.<sup>22</sup> The charter evidence is far from perfect or conclusive. At best it complements the theory that the 1133 oath took place at Westminster on the octaves of Easter; at worst it merely does not disprove it.

John of Worcester’s revised account may therefore be a jumbled narrative of two different events. Perhaps John (or John’s source)<sup>23</sup> worked from two accounts and conflated them: one, dated to Easter, describing the ceremony of 1133, but without a year being specified in the source; and a second, entirely undated, describing the ceremony of 1126/7. Teasing what refers to the 1133 ceremony and what to 1127 from the account is possible in some instances. For example, the reference to Thurstan’s presence could be from the 1133 account. Similarly, the statement that the kingdom was assigned to Matilda and ‘her husband, if she had one’ (*cum legitimo suo si habuerit sponso*) presumably comes from an 1127 account, as the *si* clause would have been unnecessary after her marriage in 1128. Most importantly, and at the very least, we must be wary when using the revised account for any factual details of either ceremony. Nevertheless, the level of detail is useful in shedding light on how such ceremonies worked more generally in the twelfth century.

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<sup>19</sup> William of Malmesbury, *HN*, p. xcvi, n. 411.

<sup>20</sup> *RRAN*, II, no. 1761, p. 262.

<sup>21</sup> *Ibid.*, nos. 1758, 1759, and 1760, p. 262.

<sup>22</sup> *Ibid.*, no. 1759, p. 262.

<sup>23</sup> McGurk suggests that John’s source was dated to Easter (*JW*, III, 182–83, n. 7). It should also be noted that both archbishops were present at the 1131 oath-taking at Northampton, although this would not help to explain the Easter date of John’s revised account (*RRAN*, II, no. 1715, p. 253).



## Appendix II: An analysis of the manuscripts containing Cnut's Winchester code with some possible implications for the association of tithing and an oath related to theft

There is some evidence that suggests tithing (and by extension frankpledge) and theft oath were closely associated in the early twelfth century. It is possible that tithing and oath went together much earlier, but we may be able to demonstrate such an association with more confidence. We can do this by examining the different ways certain clauses were presented in various post-Conquest copies of Cnut's Winchester code. Basically, some manuscripts group together the clauses on tithing and oath into, effectively, one clause, perhaps suggesting that they were seen as the same institution. This is a stronger implication than one made based only on the proximity of the clauses.

There are three manuscripts containing Old English versions of Cnut's code, one from the mid-eleventh century, a second from the turn of the eleventh and twelfth centuries, and a third from the mid-twelfth. The code also survives in the form of various twelfth-century Latin translations in texts known as *Quadripartitus*, *Instituta de legibus regum anglorum* (popularly known as *Instituta Cnuti*), and *Consiliatio Cnuti*. There are numerous surviving manuscripts of these works; in total, there are fourteen manuscripts that contain a form of Cnut's Winchester code.<sup>1</sup> At the turn of the nineteenth into the twentieth century, Felix Liebermann edited the corpus of Anglo-Saxon laws in his *Gesetze der Angelsachsen*, breaking up each code into numerous clauses. Thus, we refer to the passage in Cnut's Winchester code that refers to the theft oath as clause 21. Although this is editorially necessary and based on some manuscript evidence, all the manuscripts actually differ in the way in which they lay out the code. Most of the scribes that wrote out Cnut's code, whether in Latin or Old English, rubricated certain letters that effectively mark out the beginning of a new clause. Some manuscripts also have what is, in essence, a contents list. We can therefore see what contemporaries viewed as a single block of material, in our parlance, a clause.

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<sup>1</sup> As one of these manuscripts (T) contains both *Quadr* and *InCn*, there are fifteen different forms that survive.

In this instance we are concerned with how medieval writers treated the following clauses: 20 (every freeman ought to be in hundred and tithing); 20a (everyone ought to be in hundred and pledge); 20.1 (a forbidding of powerful men protecting their men in certain ways); 21 (that all over the age of twelve should take an oath not to be a thief or a thief's accomplice); 22 (that trustworthy men are entitled to use the simple oath of exculpation to clear themselves in the hundred); 22.1 (that untrustworthy men shall have their oath-helpers chosen); 22.1a (that simple oath and triple oath should be sworn at the beginning); and 22.2 (a thegn can have a trustworthy man represent him).

Certain things are common across all post-1100 manuscripts. Clause 20 is always treated as a new clause. Clause 22 is usually treated as a new clause. Clause 20.1 is also frequently treated as a new clause, and 20a sometimes is. However, clause 21 is mostly not treated as new. Instead it is usually grouped together with clause 20.1. In *Colbertine Cnut*, an amalgamation of *Instituta Cnuti* and *Consiliatio Cnuti*, the manuscript of which dates from the end of the twelfth century, clauses 22, 22.1, and 22.1a are also grouped together with 20.1 and 21, seemingly as a clause on various forms of oath-taking. Indeed, this group is given the heading '*de sacramentis ab omnibus faciendis*', that is, 'concerning the oaths that will be done by everyone'.

More important for the present discussion is that in three Latin manuscripts, clauses 20, 20a, 20.1, and 21 are treated as one clause. In the earliest *Quadripartitus* exemplar, of the early twelfth century, these clauses are treated as one in the contents: '*ut omnis homo liber sit in hundredo et decima, et ut discrete sciatur de singulis quis sit liber quis servus, et de iuramento legalitatis*'. This is significant despite the text giving clauses 20, 20a, and 20.1 as one clause separate from 21. We see something similar in an early thirteenth-century copy of the *Quadripartitus* text in the *Leges Anglorum Londoniis collectae*, where the contents treats 20–21 as one clause, but the text has two blocks of 20–20a and 20.1–21. In one *Quadripartitus* manuscript, from the turn of the twelfth and thirteenth centuries, the text gives 20–21 as one clause. That the sections concerned with tithing and with the oath could be treated as a single block in this way might suggest that tithing and oath were closely related by the early twelfth century.

It must be noted that the manuscript evidence is of no use for the pre-Conquest period. Not only does the earliest relevant Old English manuscript not have rubrications for any of the relevant clauses, it also may have been written after the Conquest.

Below, the relevant manuscripts are divided into the following categories: Old English manuscripts; *Quadripartitus* manuscripts; *Instituta de legibus regum anglorum (InCn)* manuscripts; *Consilatio Cnuti* manuscript; *Cobertine Cnut* manuscript; and *Leges Anglorum Londoniis collectae* manuscript. Within each section the manuscripts are arranged in chronological order. Every manuscript was consulted on the *Early English Laws* website: <http://www.earlyenglishlaws.ac.uk>. The dating and description of each manuscript is taken from the information provided there. This will be provided in the first paragraph of each section. The rest is the current author's work. At the end of this Appendix is a table that shows where the rubrics fall in each relevant manuscript, arranged chronologically.

## Old English manuscripts

### *G: London, British Library, MS Cotton Nero A.I, fols. 21v–22v*

The first part of this manuscript contains Cnut's Winchester code and Alfred's code with Ine's. This part of the manuscript is about 50 years later than the second part, which is early eleventh century. The manuscript is pocket sized and clearly intended to be carried around.

Perhaps based on this it might be conjectured to be a volume prepared soon after the Conquest. It is the oldest manuscript containing the legislation from Cnut's Winchester code

Throughout the manuscript new clauses are rubricated in various colours in the margin. However, there is only one letter rubricated (and prepared for rubrication) on the folios relevant for this discussion. The beginning of clause 19 (concerned with distraint of property) is rubricated. The next rubric is the beginning of clause 22.1. Thus clauses 19, 19.1, 19.2, 20, 20a, 20.1, 21, and 22 are treated as one body of text. It is not immediately clear why this is the case.

*B: Cambridge, Corpus Christi College, MS 383, fols. 42vr–43v*

This manuscript has been variously dated from the late eleventh century to the second quarter of the twelfth century, and was probably produced at St Paul's in London. See <http://www.le.ac.uk/english/em1060to1220/mss/EM.CCCC.383.htm>.

This manuscript has both rubrications at the beginning of clauses and headings for each clause within the margin. Clause 20 begins with a rubric and has a heading that reads: 'Ðæt ælc mon beo on teoðunge'. The next rubric is that beginning clause 21, which also has a heading: 'Be ðeofan'. The next rubric is not until clause 22.1a.

Based upon B and G, the earliest Old English exemplars, it would seem that clauses 20 and 21 were at some point in the eleventh century considered separate. It does not prove that they were separate when composed.

*A: London, British Library, MS Harley 55, fol. 9r*

The parts of this manuscript that contain Cnut's Winchester code date to *c.* 1150.

Each clause begins with a red rubric. Clause 20 has a slightly more elaborate rubric than any other for the start of a clause through the manuscript, but this does not appear to be significant. Clause 20a and 20.1 have rubrics. However, clause 21 is effectively treated as part of clause 20.1, as the next rubric is clause 22.

### Quadripartitus manuscripts

The *Quadripartitus* manuscripts have what could be termed contents pages.

*Dm: London, British Library, MS Cotton Domitian VIII, fols. 99r and 103r*

This is the oldest of the *Quadripartitus* manuscripts, dating from the first quarter of the twelfth century.

The contents treat clauses 20 and 21 as one clause: '*ut omnis homo liber sit in hundredo et decima et ut discrete sciatur de singulis quis sit liber quis servus et de iuramento legalitatis*'. However, in the text, clause 20 begins with a rubric and so does clause 21.

*M: Manchester, John Rylands University Library, MS Lat. 420, fos. 46r-84v*

This is the second oldest *Quadripartitus* manuscript. It is from the second quarter of the twelfth century. The first twenty folios, which would have included the Cnut code, are missing.

*Hk: London, British Library, MS Additional 49366, fols. 18r and 26v*

This dates to the third quarter of the twelfth century.

The contents treat clauses 20.1 and 21 as the same, but 20 as separate. The text matches this, with 20 and 20.1 having a rubric, but 21 not having one. Clause 21 is thus treated as part of 20.1

*R: London, British Library, MS Royal 11 B.II, fol. 110r*

This dates to the third quarter of the twelfth century and was produced at Worcester.

There are no contents in this manuscript. Clause 20 has a heading that reads ‘*Ut omnis homo liber sit in hundredo et decima*’. The first letter of the clause is rubricated. Clause 20.1 has a heading reading ‘*Divisio liberorum et servorum*’. The first letter is rubricated. Clause 21 is treated as part of 20.1.

*T: London, British Library, MS Cotton Titus A.XXVII, fols. 92r and 99r*

This manuscript is from the late twelfth or early thirteenth century.

The contents page treats clauses 20 and 21 as the same, as does the text.

### **Instituta de legibus regum anglorum (InCn) manuscripts**

*H: Strood, Medway Archive and Local Studies Centre, MS DRc/R1 (Textus Roffensis), fols. 65v–66r*

This manuscript was probably compiled during the time of Bishop Ernulf of Rochester (1115–24).

Clauses 20, 20a, and 20.1 are all rubricated. Clause 21 is not and is treated as part of clause 20.1.

*Di: Oxford, Bodleian Library, MS Digby 13, fol. 44v*

This is a mid-twelfth-century manuscript, and the original quires holding the *Instituta* circulated as a separate booklet.

Manuscript is not rubricated.

*La: London, Lambeth Palace Library, MS 118, fols. 98r–98v*

This dates from the second half of the twelfth century.

Manuscript is not rubricated.

*Rl: Oxford, Bodleian Library, MS Rawlinson C. 641, fols. 34r–34v*

The *Instituta* in this late twelfth-century manuscript were copied from MS H. The compiler or scribe may have been connected to the treasuries at London or Winchester or to the Exchequer.

Clauses 20 and 20.1 are rubricated. Clause 21 is not and is treated as part of clause 20.1

*T: London, British Library, MS Cotton Titus A.XXVII, fol. 165r*

A late twelfth- or early-thirteenth-century manuscript, already discussed as it contains a copy of *Quadripartitus*.

Manuscript is not rubricated.

### **Consiliatio Cnuti manuscript**

*Hr: London, British Library, MS Harley 1704, fol. 3v*

This is an early fourteenth-century manuscript containing a twelfth-century translation.

Clauses 20, 20a, and 21 are rubricated. Clause 20.1 is treated as part of 20a. Clauses 22, 22.1, and 22.1a are treated as part of clause 21.

### **Colbertine Cnut manuscript**

This is an amalgam of *InCn* and *ConsCn*. The relevant clauses here are taken from *InCn*.

*Cb: Paris, Bibliothèque Nationale, MS lat. 4771, pp. 13–14*

This is a late twelfth-century lawbook, copied in England.

Clause 20 is rubricated and has a heading: *‘Quod unusquisque in plegio sit’*. Clause 20a also begins with a rubric and is headed: *‘Item si etiam terra et domo careat’*. Clause 20.1 also has a rubric and a heading: *‘De sacramentis ab omnibus faciendis’*. The clause includes clauses 21, 22, 22.1, and 22.1a.

### **Leges Anglorum Londoniis collectae manuscript**

*Rs: Manchester, John Rylands University Library, MS Lat. 155, fols. 35v and 43r–43v*

This is an early thirteenth-century manuscript and the text of the relevant clauses is that of *Quadripartitus*.

The contents are not rubricated but it appears to treat clauses 20 and 21 as one under the heading: *‘Ut omnis homo liber sit in hundredo et in decima, ut discrete sciatur de singulis an sit liber an servus, et de iuramento legalitatis’*. In the text, clauses 20 and 20.1 have their own rubric. Clause 21 is treated as part of clause 20.1.

		Which of Liebermann's clauses are treated as a new clause							
MS/Language	Rough date	19	20	20a	20.1	21	22	22.1	22.1a
G (OE)	s.xi <sup>med</sup>	X						X	
B (OE)	s.xi/xii	X	X			X			X
Dm (L) ( <i>Quadr</i> )	s.xii <sup>in</sup>	X	X			X	X		
Dm (L) ( <i>Quadr</i> ) contents	s.xii <sup>in</sup>	X	X				X		
H (L) ( <i>InCn</i> )	s.xii <sup>in-med</sup>	X	X	X	X		X		X
A (OE)	s.xii <sup>med</sup>	X	X	X	X		X		
Hk (L) ( <i>Quadr</i> )	s.xii <sup>med-ex</sup>	X	X		X		X		
R (L) ( <i>Quadr</i> )	s.xii <sup>ex</sup>	X	X		X		X		
Rl (L) ( <i>InCn</i> )	s.xii <sup>ex</sup>	X	X		X		X		X
Cb (L) ( <i>CnCb</i> )	s.xii <sup>ex</sup>	X	X	X	X				
T (L) ( <i>Quadr</i> )	s.xii/xiii		X				X		
Rs (L)	s.xiii <sup>in</sup>	X	X		X		X		
Rs (L) contents	s.xiii <sup>in</sup>	X	X				X		
Hr (L) ( <i>ConsCn</i> )	s.xiv <sup>in</sup>	X	X	X		X			

<sup>1</sup> Contents included when they differ from the text.

<sup>2</sup> In MSS Cb and Hr, the next new rubric is the start of clause 22.2.

## Appendix III: Latin translations of the Old English account of the oath of Salisbury

Two surviving narratives of the oath of Salisbury are clearly translations of the Peterborough account. Henry of Huntingdon's account of 1085, probably written in the 1120s, contains only one event that does not appear in the Peterborough Chronicle, namely that the bishop of London began the task of building a *templum maximum* (St Paul's).<sup>1</sup> Despite some minor differences and the occasional odd translation, Henry's account of 1085 and 1086 is at times a direct translation and at others a summary.<sup>2</sup> His account of the Salisbury oath is clearly a translation.<sup>3</sup>

The Annals of Waverley in Surrey have not been given attention in other historians' accounts of the Salisbury oath. A writer at the abbey in the early thirteenth century translated an account of the Salisbury oath from an Old English account, which was a common ancestor of the Peterborough Chronicle (E) and the D recension.<sup>4</sup> Importantly, the entry under 1086 appears to be translated from a passage matching that which appears in the Peterborough Chronicle. The annalist also copied parts of Robert of

<sup>1</sup> HH, pp. 400–03. Henry tells us the building was not finished in his own day. For when Henry was writing, see *ibid.*, p. lxi.

<sup>2</sup> The most striking difference between the 1086 accounts is that Henry has the king in London at Whitsun, whereas the Chronicle has him at Westminster. Whilst this is not necessarily contradictory—London could be said to include Westminster in the early twelfth century—it is odd that, in translating a passage, Henry would choose to move away from using the more specific location of Westminster.

Henry also translates '*dubbade his sunu Henric to ridere þar*' quite strangely as '*Henricum filium suum iuniorum virilibus induit armis*'. The Waverley annalist, copying this passage through the copy that Robert of Torigni made of it, gives the more obvious '*militem fecit*' (*Annales Monasterii de Waverleia*, in *Annales Monastici*, ed. by Henry Richards Luard, 5 vols (London, 1864–69), II (1865), 129–411 (195)). See also Robert of Torigni, *Chronica*, p. 44.

Further, Henry has the knighting of his namesake after Pentecost and doesn't name the location, in contrast to the Chronicle having him knighted *þar*, at Westminster on Pentecost.

All these differences are very minor and may be explained by Henry using a now lost recension of the Chronicle that contained, for example, detail about the beginning of the building of St Paul's. For our purposes this is a moot point—Henry's account of the oath is a translation.

<sup>3</sup> Prestwich called it an 'undoubtedly late and faithful translation' (J. O. Prestwich, *The Place of War in English History, 1066–1214*, ed. by Michael Prestwich (Woodbridge, 2004), p. 81). Elsewhere, when considering whether John of Worcester's account is a translation of the same passage, he states that Henry 'made a much better job of it' (J. O. Prestwich, 'Mistranslations and Misinterpretations in Medieval English History', *Peritia*, 10 (1996), 322–40 (334)).

<sup>4</sup> *Annales de Waverleia*, p. 195. According to Cecily Clark, the annals from 1000 to 1121 consist mainly of a translation from an Anglo-Saxon Chronicle, and they most closely resemble the E recension (Peterborough). However, occasionally the annalist agrees with D rather than E, suggesting he used a common ancestor of D and E. See *The Peterborough Chronicle*, ed. by Cecily Clarke, 2nd edn (Oxford, 1970), pp. xix–xx. That the Waverley annalist correctly places his own translation under 1086 further suggests that he was using a different manuscript to E.

Torigni's chronicle. In turn, Robert of Torigni copied parts of Henry of Huntingdon, including the account of the 1086 Salisbury oath. However, Robert placed this copied passage under 1084.<sup>5</sup> Bizarrely, we therefore have, in the Waverley annals, two entries for the Salisbury oath. There is Henry of Huntingdon's translation placed under 1084—where the location of the ceremony is not mentioned—and there is the Waverley annalist's own translation placed, correctly, under 1086.

It is interesting to compare his translation with that of Henry. The Waverley annalist is more literal in his translation than the condensing Henry of Huntingdon. The Waverley annalist renders '*ealle hi bugon to him 7 weron his menn*' as '*omnes homines regis effecti sunt*'—'all were made the men of the king'—choosing to bring the two clauses of the Old English into one Latin clause. In Henry's account, William is made the subject: 'he received the homage'—'*accipiens hominium*'. Also striking is how the Waverley annalist renders '*þær him comon to his witan and ealle þa landsittende men*'. He gives '*ibique venerunt contra eum barones sui, et omnes terrarii hujus regni*'. It is tempting to take *contra eum* as *against* him, reflecting a different recension of the Anglo-Saxon Chronicle, with a hostile crowd coming to Salisbury, angry at the Domesday survey and the billeting of mercenaries in the winter. However, it is more likely that the author is using *contra* to mean 'towards (so as to encounter)'.<sup>6</sup> Other sources would surely have mentioned a hostile gathering against the king. The 1086 entry is also not the only place where the annalist seems to use *contra* in this way.<sup>7</sup>

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<sup>5</sup> Robert of Torigni, *Chronica*, p. 44. Robert also places Henry of Huntingdon's account of the Domesday survey in 1083 (which Henry incorrectly has in 1084). Robert also copies an account of '*pestes infirmatis et famis*' under 1085, where Henry places it in 1087. The Peterborough Chronicle records such an event in 1086.

<sup>6</sup> *DMLBS*, s.v. 'contra', 3b.

<sup>7</sup> See, for example, the 1072 account of Malcolm of Scotland submitting to William, which also seems to be a translation of the Old English account of the Peterborough Chronicle: '*rex vero Melcolm venit contra eum, et concordatus est cum eo, et dedit illi obsides, et homo suus devenit*' (*Annales de Waverleia*, p. 192).

## Appendix IV: ‘a certain noble lady, daughter of Baldwin de Redvers’

The following passage from the work of William FitzStephen is quoted in our conclusion:

A certain noble lady, daughter of Baldwin de Redvers, acting manfully and having the zeal of God’s obedience, did not swear the oath of apostasy nor did she allow any of her men to swear.

Tamen hoc sacramentum apostasiae nobilis quaedam domina, filia Baldewini de Reivers, viriliter agens et zelum habens obedientiae Dei, neque juravit neque aliquem hominum suorum jurare permisit.<sup>1</sup>

### Who was this *nobilis domina*?

Baldwin de Redvers was a nobleman, made earl of Devon by Matilda in the early 1140s. He died in 1155.<sup>2</sup> His first marriage—to Adeliza, who died *c.* 1146—produced at least five children. Four of their names survive: Richard; Henry; William de Vernon; and Hawise.<sup>3</sup> Not knowing the names or gender of any other offspring, nor whether Baldwin’s second marriage to Lucy, widow of Gilbert de Clare, produced issue, leaves Hawise the only known daughter.

There is a slim possibility that *filia* could here refer to what we would term a daughter-in-law. There is only one possible candidate. The eldest son of Baldwin, Richard, who succeeded his father in 1155, married Dionisia, a daughter of Reginald de Dunstanville, earl of Cornwall. She lived into John’s reign.<sup>4</sup> As Dionisia’s father was a man of note, we might expect her to be styled as ‘Reginald’s daughter’. Indeed, in Robert of Torigni’s

<sup>1</sup> William FitzStephen, *Vita Sancti Thomae*, in *Materials for the History of Thomas Becket, Archbishop of Canterbury*, ed. by James Craigie Robertson, 7 vols (London, 1875–85), II (1877), 1–154 (102).

<sup>2</sup> For his career, see the work of Robert Bearman, ‘Baldwin de Redvers: Some Aspects of a Baronial Career in the Reign of King Stephen’, *Anglo-Norman Studies*, 18 (1996), 19–46; Robert Bearman, ‘Revières, Baldwin de’, *Oxford Dictionary of National Biography* (Oxford, 2004) [<http://www.oxforddnb.com/view/article/1163>]; ‘Introduction’, in *Charters of the Redvers Family and the Earldom of Devon, 1090–1217*, ed. by Robert Bearman (Exeter, 1994), pp. 1–52 (*passim*). See also, GEC, IV, 311–12 (under the entry for ‘Devon’).

<sup>3</sup> *Charters of the Redvers Family*, pp. 10–11.

<sup>4</sup> *Ibid.*, p. 12, n. 79. The third eldest son, William de Vernon, does not seem to have married until after 1169, and the second eldest is only known from his witnessing a couple of his father’s charters. See *ibid.*, pp. 13 and 11 respectively.

account of Richard de Redvers' death in 1162, this is how she is named: '*filia Rainaldi, comitis Cornubiae*'.<sup>5</sup>

### Why might Hawise have refused to swear?

Why did the *nobilis domina* refuse to swear in 1169? Although we know very little about either Hawise or Dionisia, it seems obvious that the refusal to swear was based upon disapproval of what was being sworn—in the words of the chroniclers, a repudiation of the pope; in the words of FitzStephen, *hoc sacramentum apostasiae*. We might expect such a refuser to be an exceptionally pious woman, one who might join a convent on the death of her husband perhaps—neither of these women did. Hawise's grants to ecclesiastical institutions do not seem to be particularly exceptional.<sup>6</sup> However, it can be speculated that Hawise had a special sensitivity to the importance of oaths. Her father-in-law was Robert of Gloucester. The work that he patronised, William of Malmesbury's *Historia Novella*, stressed the importance of the oath he had sworn to Matilda in his own actions during Stephen's reign. Other writers stressed the importance he attached to this oath as well. No doubt oral family stories also highlighted his oath-keeping.<sup>7</sup> It is possible, and perhaps probable, that such family stories also stressed the oath-keeping of Baldwin de Redvers, Hawise's father, who was a consistent Matilda supporter after Stephen's accession.<sup>8</sup> It is possible that in Hawise we see the marrying of disagreement with the premise of the oath to a sensitivity to the importance of oath-keeping, the two combining into a refusal to swear.

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<sup>5</sup> Robert of Torigni, *Chronica*, p. 213.

<sup>6</sup> *Charters of the Redvers Family*, nos. 111, 112, 113, 118, 119, and 120.

<sup>7</sup> In the words of Matthew Strickland, regarding literary works about secular elites, there is 'little doubt as to the wealth of such material that must once have existed in a society obsessed with honour and reputation' (Matthew Strickland, *War and Chivalry: The Conduct and Perception of War in England and Normandy, 1066–1217* (Cambridge, 1996), p. 8).

<sup>8</sup> A detailed study of Baldwin's actions in the civil war stresses the self-interest of his actions, rather than the importance of the oath (Bearman, 'Baldwin de Redvers', pp. 20–24). It would not be at odds with this for the family stories to emphasize the oath.

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