

Making sense of violence remains one of the central interpretative challenges in the history of eleventh-century France. Charters written by churchmen contain frequent, sometimes lengthy descriptions of violent acts committed by both laymen and fellow ecclesiastics. Two questions in particular have focused historians' attempts to understand such violence. The first has been how to explain the relationship between violence and eleventh-century legal institutions. For an older generation of historians — though whose views still find support — the relationship was direct: the violence recorded in the sources was a consequence of the failure of contemporary institutions to contain it.² The cause of this failure was long thought to lie in the collapse of the Carolingian political and legal structures epitomised by the *mallus publicus*, or public court. Public courts were, it was argued, privatised and taken over by lords acting in their private, rather than public interest, thus causing a crisis of confidence in legal institutions, and resulting in the widespread preference to settle disputes through force, rather than law.³ Debate since the work of Georges Duby in the late 1940s has concentrated

¹ Versions of this argument were presented before audiences in Leeds, London, and St Andrews, and I thank the participants at those conferences for their comments and suggestions. I am particularly grateful to Kenneth Duggan, John Hudson, and Alice Taylor who all gave this paper a thorough reading, as well as to the anonymous reviewers of the journal. Errors in fact and/or interpretation remain my own. The research for this paper was made possible by a Leverhulme Trust Early Career Fellowship, and I am thankful both to the Leverhulme Trust and to King's College London, my host institution, for their support.

² Thomas N. Bisson, 'The "Feudal Revolution"', *Past and Present*, no. 142 (1994), 6–42, and the ensuing debate: Dominique Barthélemy and Stephen D. White, 'The "Feudal Revolution": Comment', *Past and Present*, no. 152 (1996), 196–223, Timothy Reuter and Chris Wickham, 'The "Feudal Revolution": Comment', *Past and Present*, no. 155 (1997), 177–208, and Thomas N. Bisson, 'The "Feudal Revolution": Reply', *Past and Present*, no. 155 (1997), 208–25 all provide a good starting point. See now Thomas N. Bisson, *The Crisis of the Twelfth Century: Power, Lordship, and the Origins of European Government* (Princeton, 2009).

³ François-Louis Ganshof, 'Étude sur l'administration de la justice dans la région bourguignonne, de la fin du X^e au début du XIII^e siècle', *Revue Historique*, vol. 135, no. 2 (1920), 193–218; idem, 'Contribution à l'étude des origines des cours féodales en France', *Revue historique du droit français et étranger*, vol. 7 (1928), 644–65; Marc Bloch, *Feudal Society*, trans. L.A. Manyon (London, 1962), 359–74; and Georges Duby, 'The Evolution of Judicial Institutions: Burgundy in the Tenth and Eleventh Centuries', in idem, *The Chivalrous Society*, trans. Cynthia Postan (Berkeley, 1977), 15–58. See now for differing perspectives on the transformation of Carolingian courts (and further references), Stephen D. White, 'Tenth-Century Courts at Mâcon and the Perils of Structuralist History: Re-reading Burgundian Judicial Institutions', in Warren C. Brown and Piotr Górecki (eds.), *Conflict in Medieval Europe: Changing Perspectives on Medieval Society* (Aldershot, 2003), 37–68; and Chris Wickham, 'Justice in the Kingdom of Italy in the Eleventh Century', in *La Giustizia nell'alto Medioevo (secoli IX-XI)*. Settimane di studio del centro Italiano di Studi sull'alto Medioevo (Spoleto, 1997), 179–255 and

on whether this change occurred rapidly in the decades around the year 1000 — the thesis of the *mutation féodale* —, or more gradually as scholars like Marc Bloch or Yvonne Bongert believed.⁴ Regardless of chronology, however, the consequences were the same: the crisis faced by moribund Carolingian legal institutions was thought to have unleashed the social violence of the ‘feudal anarchy.’

Few now subscribe to this sombre image. Influenced by anthropological studies of conflict in small-scale acephalous societies, historians, led by the pioneering works of Fredric Cheyette and Stephen White in the 1970s and 1980s, fundamentally challenged and revised the underlying assumption of the *mutation féodale* thesis that the state was essential in the maintenance of social order.⁵ Despite considerable variety in approach and emphasis, this body of work cogently demonstrated that societies lacking the specialised legal institutions of the state did not descend into anarchy, and that they possessed effective means of maintaining order.⁶ Yet in recasting violence within the framework of dispute-processing and the social

idem, ‘Public Court Practice: The Eighth and Twelfth Centuries Compared’, in Stefan Esders (ed.), *Rechtsverständnis und Konfliktbewältigung: Gerichtliche und außergerichtliche Strategien im Mittelalter* (Cologne, 2007), 17–30.

⁴ The starting point remains Georges Duby, *La Société aux XI^e et XII^e siècles dans la région mâconnaise* (Paris, 1953). Debate on the subject of *mutation féodale* is vast. In addition to the literature in n. 1, above, see now in particular Richard E. Barton, *Lordship in the County of Maine, c.890–1160* (Woodbridge, 2004); Charles West, *Reframing the Feudal Revolution: Political and Social Transformation between Marne and Moselle, c.800–c.1100* (Cambridge, 2013); Jean-Pierre Poly and Éric Bournazel, *La Mutation féodale. X^e–XII^e siècle*, 3rd ed. (Paris, 2004); and Dominique Barthélemy, *La Mutation féodale de l’an mil a-t-elle eu lieu? Servage et chevalerie dans la France des X^e et XI^e siècles* (Paris, 1997). For the older chronology, see Bloch, *Feudal Society*; and Yvonne Bongert, *Recherches sur les cours laïques du X^e au XIII^e siècle* (Paris, 1949).

⁵ Fredric L. Cheyette, ‘Suum cuique tribuere’, *French Historical Studies*, vol. 6, no. 3 (1970), 287–99 and the articles collected in Stephen D. White, *Feuding and Peace-Making in Eleventh-Century France* (Aldershot, 2005). It is important to stress that neither Cheyette nor White originally imagined their work as a critique of the *mutation féodale*; Dominique Barthélemy, *La Société dans le comté de Vendôme de l’an mil au XIV^e siècle* (Paris, 1993), 652–80, however, noted that ‘Anglo-American legal anthropology’ leads ‘ineluctably’ to a rejection of *mutationisme*, see *ibid.*, 660, n. 70 in particular. Broader orientation to dispute-processing is provided in Brown and Górecki, *Conflict in Medieval Europe; Le Règlement des conflits au moyen âge*. XXXIe Congrès de la S.H.M.E.S. (Paris, 2001); and the now classic Wendy Davies and Paul Fouracre (eds.), *The Settlement of Disputes in Early Medieval Europe* (Cambridge, 1986). See also John Jordan, ‘Rethinking Disputes and Settlements: How Historians Can Use Legal Anthropology’, in Stephen Cummins and Laura Kounine (eds.), *Cultures of Conflict Resolution in Early Modern Europe* (Farnham, 2016), 17–50.

⁶ Studies of feud and vengeance are particularly relevant here. See in particular Dominique Barthélemy, *Chevaliers et miracles. La violence et le sacré dans la société féodale* (Paris, 2004), and White, *Feuding and Peace-Making*. The essays in Dominique Barthélemy, François Bougard, and Régine le Jan (eds.), *La Vengeance, 400-1200*. Collection de l’École française de Rome 357 (Rome, 2006) and Jeppe Büchert Netterstrøm and Bjørn Poulsen (eds.), *Feud in Medieval and Early Modern Europe* (Aarhus, 2007) provide good orientation to this large topic.

regulation of conflict, these studies risked perpetuating the underlying assumptions of the *mutation féodale* thesis that eleventh-century violence was in some way related to the absence (or failure) of contemporary legal institutions: what had been questioned was the moral evaluation of violence, not the more fundamental question of its relationship to eleventh-century courts.⁷ Take for example Warren Brown's recent assessment: 'the political transformation visible in the early Capetian sources [of France] did not replace public order with violent disorder', but rather, 'it provoked a large-scale shift in the normative order', which was expressed as 'the personal right to violence.' Brown then stresses that this 'large-scale shift' occurred because 'most lords... were unable to exercise control' over those wielding violence.⁸

Such views have dovetailed with historians' second main question directed towards the violence recorded in charters: how to understand this violence as discourse? Starting in the 1990s, scholars led by Dominique Barthélemy began to emphasise that accounts of violence survived in *ex parte* records, written by churchmen all too keen to cast themselves as victims of lay rapacity.⁹ Such arguments were initially formulated as a critique of the *mutation féodale* thesis and the sometimes simplistic way such violence was thought to reflect social realities. In 1996 Stephen White, drawing on the influential work of Otto Brunner, highlighted the dangers of relying on 'polemically charged religious sources' to reconstruct social attitudes surrounding the meaning and rôle of violence.¹⁰ Further, in 1997 Olivier

⁷ See in particular Patrick J. Geary, 'Living with Conflicts in a Stateless France: A Typology of Conflict Management Mechanisms, 1050–1200', in *idem, Living with the Dead in the Middle Ages* (Ithaca and London, 1994), 125–60, and Henk Teunis, *The Appeal to the Original Status: Social Justice in Anjou in the Eleventh Century* (Hilversum, 2006), itself largely modelled off Geary's study. For criticism of these paradigms, see above-all Bruno Lemesle, *Conflits et justice au Moyen Âge. Normes, loi et résolution des conflits en Anjou aux XI^e et XII^e siècles* (Paris, 2008), and note too Stephen D. White, 'From Peace to Power: the Study of Disputes in Medieval France', in Esther Cohen and Mayke B. de Jong (eds.), *Medieval Transformations: Texts, Power, and Gifts in Context* (Leiden, 2000), 203–18.

⁸ Warren Brown, *Violence in Medieval Europe* (Harlow, 2011), 126.

⁹ Dominique Barthélemy, 'La Mutation féodale a-t-elle eu lieu? (note critique)', *Annales. Économies, Sociétés, Civilisations*, vol. 47, no. 3 (1992), 767–77, and *idem, La Société*, esp. 19–83, 350.

¹⁰ White, 'Debate: "The Feudal Revolution"', 209; Otto Brunner, "*Land*" and Lordship: Structures of Governance in Medieval Austria, trans. from 4th ed. by Howard Kaminsky and James Van Horn Melton (Philadelphia, 1992).

Guyotjeannin offered a magisterial overview of the processes whereby monastic *scriptoria* became the chief centres of eleventh-century documentary production, thus opening the door to interpret such texts in light of monastic discourse.¹¹ Violence was thus reinterpreted as an integral component of just such a discourse — particularly that of ‘radical reform’ emanating from centres like Cluny, Fleury, and Marmoutier — whereby monks, in presenting lay/ecclesiastical relations in terms of violence, attempted to construct ideological distance between the sacred *Ecclesia* and the profane world of lordship.¹² Reinterpreting violence within the framework of monastic discourse has been part of a larger historiographical shift whereby the *mutation féodale* thesis seems poised to be replaced by a *mutation monastique*.¹³

Yet, arguments treating violence as monastic discourse mostly avoid larger questions over the relationship between violence and eleventh-century legal institutions, which had occupied an earlier generation of historians. This discourse of violence is treated as though it were separate from those institutions. But the problem of violence continues to be a thorny issue, especially amidst a larger revitalisation of interest in the functioning of legal institutions during the central middle ages.¹⁴ Indeed, given the importance of such

¹¹ Olivier Guyotjeannin, “*Penuria scriptorum*”: le mythe de l’anarchie documentaire dans la France du Nord (X^e–première moitié du XI^e siècle)”, *Bibliothèque de l’école des chartes*, vol. 155 (1997), 11–44; see also François Bougard, ‘Écrire le procès: le compte rendu judiciaire entre VIII^e et XI^e siècle’, *Médiévales*, no. 56. Pratiques de l’écrit (VI^e–XIII^e siècle) (2009), 23–40, and Lemesle, *Conflits et justice*, esp. 19–32.

¹² Florian Mazel, ‘Amitié et rupture de l’amitié. Moines et grands laïcs provençaux au temps de la crise grégorienne (milieu XI^e–milieu XII^e siècle)’, *Revue Historique*, vol. 307, no. 1 (2005), 53–95, and Nicolas Ruffini-Ronzani and Jean-François Nieus, ‘Société seigneuriale, réformes ecclésiastiques: les enjeux documentaires d’une révision historiographique’, in Steven Vanderputten and Brigitte Meijns (eds.), *Ecclesia in medio nationis: Reflections on the Study on Monasticism in the Central Middle Ages/Réflexions sur l’étude du monachisme au Moyen Âge central* (Leuven, 2011), 77–100. Note, however, Piotr Górecki, ‘Violence and the Social Order in a Medieval Society: The Evidence from the Henryków Region, ca.1150–ca.1300’, in Balázs Nagy and Marcell Sebók (eds.), *...The Man of Many Devices, Who Wandered Full Many Ways... Festschrift in Honor of János M. Bak* (Budapest, 1999), 91–104, for a critique against an over-emphasis on viewing violence as rhetoric.

¹³ Florian Mazel, ‘Pouvoir aristocratique et Église aux X^e–XI^e siècles. Retour sur la “Révolution féodale” dans l’œuvre de Georges Duby’, *Médiévales*, vol. 54 (2008), 137–52, and *idem*, ‘Monachisme et aristocratie aux X^e–XI^e siècles. Un regard sur l’historiographie récente’, in Vanderputten and Meijns (eds.), *Ecclesia in medio nationis: Reflections on the Study on Monasticism in the Central Middle Ages*, 47–75.

¹⁴ See the important article by Jane Martindale, “‘His Special Friend’? The Settlement of Disputes and Political Power in the Kingdom of the French (Tenth to Mid–Twelfth Century)”, *Transactions of the Royal Historical Society*, sixth series, vol. 5 (1995), 21–57; Chris Wickham, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford, 2003); Jeffrey A. Bowman, *Shifting Landmarks: Property, Proof, and Dispute in Catalonia around the Year 1000* (Ithaca, 2004); Lemesle, *Conflits et justice*; Julien Maquet, “Faire justice” dans le diocèse de Liège

institutions, historians are left searching for an explanation as to why violence was ‘almost always at issue’ in surviving disputes.¹⁵ Reading violence as monastic discourse is one attempt to sidestep the problem, while the other has been to describe such violence in terms of self-help or direct action. These were practices whereby disputants used force to express their claims upon landed property, practices which, according to Bruno Lemesle, were socially legitimate and no one questioned in principle.¹⁶ Violence would only become an issue law courts actively sought to contain with the resurgence of royal institutions in the second half of the twelfth century — informed by Roman law-inspired notions of crime — claiming to act in the public interest.¹⁷ Violence was a problem for the emerging state and its courts to contain, not the legal institutions of eleventh-century France.

Historians’ understanding of violence thus continues to be situated within a public/private framework, and this has seriously limited our understanding of eleventh-century courts. The conceptual dichotomy between private self-help on the one hand, and the public monopolisation (however aspirational) of the legitimate use of force on the other risks assuming that one of the principle functions of legal institutions is simply to limit recourse to violence and to punish those who use illicit force.¹⁸ If eleventh-century courts are measured against such criteria, then they patently failed. But this is to make two assumptions of those

au Moyen Âge (VIII^e–XII^e siècles). Essai de droit judiciaire reconstitué (Geneva, 2008); Hélène Couderc-Barraud, *La Violence, l’ordre et la paix. Résoudre les conflits en Gascogne du XI^e au début du XIII^e siècle* (Toulouse, 2008); and most recently Wendy Davies, *Windows on Justice in Northern Iberia 800–1000* (Abingdon, 2016).

¹⁵ Bisson, *Crisis of the Twelfth Century*, 137.

¹⁶ White, ‘Debate: The “Feudal Revolution”’, esp. 211–13; Wickham, *Courts and Conflict*, esp. 87–8, 277–86 offer particularly clear analyses; note also Lemesle, *Conflits et justice*, 9.

¹⁷ Bruno Lemesle, ‘Introduction’, in Bruno Lemesle and Michel Nassiet (eds.), *Valeurs et justice. Écarts et proximités entre société et monde judiciaire du Moyen Âge au XVIII^e siècle* (Rennes, 2011), 10–11. See the overview in Régine Beauthier, *Droit et genèse de l’État*, 4th ed. (Brussels, 2011), esp. 207–15; Alan Harding, *Medieval Law and the Foundations of the State* (Oxford, 2002); Nicole Gonthier, *Le châtement du crime au Moyen Âge (XII^e–XVI^e siècles)* (Rennes, 1998). French royal attempts to control violence in the later middle ages (post-1250) have been recently problematised in the excellent study of Justine Firmhaber-Baker, *Violence and the State in Languedoc, 1250–1400* (Cambridge, 2014), and see also the collected essays in Claude Gauvard, *Violence et ordre public au Moyen Âge* (Paris, 2005). For developments in learned law concerning crime, see Richard Fraher, ‘The Theoretical Justification for the New Criminal Law of the High Middle Ages: *Rei publicae interest, ne crimina remaneant impunita*’, *University of Illinois Law Review*, vol. 3 (1984), 577–95.

institutions: first, that their primary rôle in the dispute process was to enforce rules prohibiting the use of force; and second, and more fundamentally, that the very intervention of such courts was motivated chiefly out of a desire to assert a monopoly over the legitimate use of force on behalf of the court-holder. Since there is little evidence for the enforcement of prohibitions against the use of force, and even less — outside the context of the Peace of God, at least — for ideological claims to limit the use of force at all, historians’ understanding of eleventh-century violence has naturally veered towards models of self-help.¹⁹

Eleventh-century courts need to be viewed differently, and freed from the distorting effects of a perspective which remains, in essence, *étatiste*. This article does so by posing a more fundamental question of how court-holders used concepts of violence in the construction of authority within their courts and jurisdictions.²⁰ Approaching the issue this way allows us to question *why* violence was a concept with legal utility in such courts, rather than assuming that the principle interest legal institutions had in violence was to put into practice ideological claims for a monopolisation on the use of force. Just such an approach helps further to avoid the trap of evaluating the rôle of legal institutions based on their ability to enforce these ideological aspirations which may or may not have existed in the first place. My geographical focus is on Anjou in northwestern France, a region possessing a rich documentary tradition; my analysis covers a ‘long’ eleventh century stretching back to *c.*987

For England, see Paul Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca and London, 2003), which softens the effects of this transformation.

¹⁸ Brown, *Violence* and Couderc-Barraud, *La violence* are both structured explicitly on this dichotomy.

¹⁹ On the Peace of God, see Thomas Head and Richard Landes (eds.), *The Peace of God: Social Violence and Religious Response in France around the Year 1000* (Ithaca, 1992), and Dominique Barthélemy, *L’An mil et la paix de Dieu. La France chrétienne et féodale, 980–1060* (Paris, 1999) offering different perspectives.

²⁰ This article has found much inspiration in the work by specialists on later medieval government examining how control over the definition of violence was an integral component in the construction of political authority. This present article differs insofar as we cannot assume the state as our basis of political authority. See in particular Antoine Follain *et al.* (eds.), *La Violence et le judiciaire du Moyen Âge à nos jours. Discours, perceptions, pratiques* (Rennes, 2008); Firnhaber-Baker, *Violence and the State*; Alice Taylor, ‘Crime without Punishment: Medieval Scottish Law in Comparative Perspective’, in David Bates (ed.), *Anglo-Norman Studies: Proceedings of the Battle Conference 2012. Volume 35* (Woodbridge, 2013), 287–304; and Laure Verdon,

and reaching forwards to c.1151, when Anjou became integrated into the larger political structures of the Angevin empire.²¹

This article will therefore make two principal claims. First, it reevaluates the relationship between the discourse of violence on the one hand, and eleventh-century legal institutions on the other, by suggesting that contemporary understandings of violence depended upon courts to be meaningful. This subject occupies the first two sections. Next, I address why eleventh-century courts cultivated a particular understanding of violence. I suggest the maintenance of public order was not the primary ideological concern of such courts, and instead, that decisions made over violence represent attempts to mask legal decision-making in politically complex land claims. The legal framework of eleventh-century violence, then, finds an explanation not in any *étatiste* framework, but rather within the context of the internal structuration of newly developing proprietary jurisdictions.

I

Ecclesiastical charters resound with tales of violence.²² Take for example the case of Bernier, who in 1038 x 1055 aided his kinsman Guy d'Idré during the latter's dispute with the monks of Saint-Aubin over land at Vaux by killing the monks' mares, and burning down their

'Violence, norme et régulation sociale au Moyen Âge. Essai de bilan historiographique', *Rives méditerranéennes*, vol. 40 (2011), 11–25.

²¹ The political narrative of the region can be followed in: Louis Halphen, *Le Comté d'Anjou au XI^e siècle* (Paris, 1906); Olivier Guillot, *Le Comte d'Anjou et son entourage au XI^e siècle*, 2 vols. (Paris, 1972); Joseph Chartrou, *L'Anjou de 1109 à 1151. Foulque de Jerusalem et Geoffroi Plantagenêt* (Paris, 1928); and Jacques Boussard, *Le Comté d'Anjou sous Henri Plantagenêt et ses fils (1151–1204)* (Paris, 1938). Reform in the region is discussed in Jean-Hervé Foulon, *Église et réforme au Moyen Âge. Papauté, milieux réformateurs et ecclésiologie dans les Pays de la Loire au tournant des XI^e–XII^e siècles* (Brussels, 2008).

²² The sources used for the present study are: Bibl. nat. de France, ms. lat. 1930, 'Livre noir de Saint-Florent' [henceforth = *Livre noir*]; 'Cartae de rebus abbatiae majoris monasterii in Andegavia', ed. Paul Marchegay, in *Archives d'Anjou*, vol. 2 (Angers, 1850) [= *MMA*]; *Cartulaire de l'abbaye de Saint-Aubin d'Angers*, 3 vols., ed. Bertrand de Broussillon (Angers, 1896–1903) [= *SAA*]; *Cartulaire du chapitre Saint-Laud d'Angers*, ed. Adrien Planchenault (Angers, 1903) [= *SL*]; 'Cartularium monasterii Beatae Mariae Andegavensis', ed. Paul Marchegay, in *Archives d'Anjou*, vol. 3 (Angers, 1854) [= *RA*]; *Cartulaire noir de la cathédrale d'Angers*, ed. Charles Urseau (Paris, 1908) [= *CN*]; 'Cartulaire de Saint-Maur de Glanfeuil', ed. Paul Marchegay, in *Archives d'Anjou* vol. 1 (Angers, 1843) [= *SMG*]; *Grand cartulaire de Fontevraud*, 2 vols., eds. Jean-Marc Bienvenu, Robert Favreau, and Georges Pons (Poitiers, 2000, 2005) [= *FON*]; *Premier et Second livres des Cartulaires de*

buildings.²³ Because of this, Guy — not Bernier — was captured by Geoffrey Martel, count of Anjou (1040–1060), and handed over to Abbot Gautier de Saint-Aubin, to whom he paid compensation for the mares and houses, and abandoned his claim upon the land.²⁴ That Guy along with his mother obtained a life-interest in half this estate following the outcome of the case hints at a more complex underlying normative issue, but nevertheless, the focus on violence, both to structure the monks' complaint and to engage legal procedures, remains striking.²⁵

Saint-Aubin's complaint against Guy and Bernier is just one of approximately 255 cases from Anjou in which disputants accused their adversaries of committing acts of violence in the course of property disputes.²⁶ This violence was described evocatively at times, like when Hubert de Durtal and his men beat the canons of Saint-Maurice and burned down their chapel in the woodland of Chambiers; or when Boso and Raoul broke into mills belonging to the nuns of Fontevraud and stole grain and cheese (*caseos*).²⁷ More often, violence appears only in generic terms, emerging out of a broad linguistic register — a discourse of *violentia*. Deeds, sometimes 'wicked deeds' (*mala*), were done 'violently' (*violenter*), 'by violence' (*per violentiam*), 'by force' (*per vim* or *per forciam*), or 'with force and rapine' (*vi et rapina*);²⁸ and actions were described in verbs which implied force, such as to assault (*assalire*), to attack (*aggredi*), to damage (*dampnare* or *dampna inferre*), to extort (*extorquere*), to harass (*inquietare*), to injure (*injuriare*), to molest (*molestare*), to occupy

l'abbaye Saint-Serge et Saint-Bach d'Angers (XI^e et XII^e siècles), 2 vols., ed. Yves Chauvin (Angers, 1997) [= SSE]. All references are to charter numbers, with the exception of *Livre noir*, which refers to folio numbers.

²³ SAA 939.

²⁴ SAA 940 fleshes out some of the details of this case.

²⁵ Guy's was a hereditary claim upon land that had been given to his ancestors as a life-grant. On the difficulties arising from ecclesiastical institutions attempting to reclaim control over lands given out as life-grants, see Bruno Lemesle, 'Les Querelles avaient-elles une vocation sociale? Le cas des transferts fonciers en Anjou au XI^e siècle', *Le Moyen Âge*, vol. 115 (2009), 337–64.

²⁶ This figure is drawn from the sources listed above, n. 22, and covers the period c.987 to c.1151.

²⁷ SSE i, 143 (1098x 1100); FON 250 (1118 x 1129).

²⁸ For *mala*, see: RA 176 (1067 x 1076), SSE i 165 (c.1090); *violenter*: CN 231 (1136 x 1148), *Livre noir* 58^r–59^v (1067), *Livre noir* 111^v–112^r, SAA 790 (c.1111), RA 182 (c.1106), RA 332 (c.1115), SAA 900 (c.1087), SL 5 (c.1111), SL 44 (1103); *per violentiam*: FON 637 (1129), SAA 674 (1142), SSE ii [8] 71 (1069 x 1093); *per vim*:

(*occupare*), to oppress (*opprimere*), to seize (*invadere*, *rapere*, or *abferre*), to usurp (*usurpare*), to vex (*vexare*), or to weary (*fatigare*).²⁹

Some immediate questions present themselves: are all these words part of a broader lexical category of *violentia*, and do they necessarily mean force — or violence — in its modern understanding? Bruno Lemesle, for instance, has suggested that *violentia* and its cognates refers to ‘injustice’ or ‘illegality’, rather than force; a ‘violent’ action in eleventh-century understanding was one done without a solid basis in right.³⁰ Without anticipating my argument too much, however, a major trend is visible from the evidence discussed in this paper. Contemporaries developed an expansive understanding of *violentia* within the shadow of legal institutions, which shaped the interpretation of social practice. They further displayed an increasing interest in the smaller details which helped them to interpret actions as violent, in our sense. Seizing goods ‘at night’, entering property with a ‘drawn sword’, committing deeds ‘by force’: all aimed at anchoring social practices more concretely within the conceptually broad notion of *violentia* developing in the legal sphere. None of this need necessarily mean violence in our modern sense: but what matters is that contemporaries seized upon the opportunity to situate complex social practices within a definite set of meanings which presupposed the use of force.³¹ My interest in this article lies in the

Livre noir 24^v–25^r (986 x 994), *Livre noir* 25^{r-v} (986 x 1005), *RA* 98 (c.1120), *SAA* 372 (1082 x 1106); *per forciam*: *SAA* 90 (1067 x 1081), *SAA* 167 (c.1060); *vi et rapina*: *SAA* 151 (c.1140), *SL* 19 (1109).

²⁹ *Assalire*: *SAA* 220 (1067 x 1081); *aggredi*: *SAA* 181 (1067 x 1082), *SAA* 430 (1113); *dampnare*: *SAA* 220; *dampna inferre*: *SSE* i 194/5 (1083), *SSE* ii [72] 125 (1080s); *extorquere*: *SAA* 674 (1142); *inquietare*: *FON* 457 (1145), *SAA* 144 (1107 x 1119); *injuriare*: *CN* 82 (1116), *Livre noir* 108^v–109^r (c.1070); *invadere*: *CN* 157 (1102 x 1125), *RA* 240 (1050 x 1055), *RA* 432 (c.1063), *SAA* 374 (1067 x 1109), *SSE* ii [57] 51 (1067 x 1081); *molestare*: *FON* 402 (1125 x 1130), *SSE* i 37 (1060 x 1068); *occupare*: *CN* 224 (1125 x 1148), *SAA* 180 (1075), *SSE* ii [2] 307 (1062 x 1082); *opprimere*: *SAA* 151 (c.1140), *SAA* 220; *rapere*: *FON* 250 (1118 x 1129), *RA* 50 (c.1115), *RA* 221 (c.1095), *SAA* 325 (1102), *SL* 5 (c.1111); *abferre*: *Livre noir* 56^r (c.1060), *Livre noir* 104^r (1058 x 1060), *SAA* 632 (1100 x 1102), *SAA* 706 (1082 x 1138), *SL* 19 (1109), *SL* 55 (1104), *SSE* i 6 (1082 x 1093); *usurpare*: *Livre noir* 79^v–80^v (1061 x 1070), *SAA* 217 (1056 x 1060), *SAA* 222 (1087); *vexare*: *SAA* 640 (1106), *SSE* ii [101] 219 (1138 x 1150); *fatigare*: *SSE* ii [53] 350 (1093 x 1102).

³⁰ Bruno Lemesle, Michel Nassiet, and Pascale Quincy-Lefebvre, ‘Introduction’, in Follain *et al.*, *La Violence et le judiciaire*, esp. 12–14. Note also Thomas Roche, ‘The Diplomatics of Depredation: Reconsidering Holy Trinity Caen’s List of Losses’, in Laura L. Gathagan and William North (eds.), *Haskins Society Journal* 26 2014. *Studies in Medieval History* (Woodbridge, 2015), 128–9, 135–6.

³¹ Note here the stimulating comments in Gadi Algazi, ‘Pruning Peasants: Private War and Maintaining the Lord’s Peace in Late Medieval Germany’, in Cohen and De Jong (eds.), *Medieval Transformations*, 260.

presentation of social action *as if* it involved force, regardless of whether the underlying social practices were actually violent.

Since accounts of *violentia* survive in ecclesiastical charters, they have been treated with a fair amount of skepticism by historians. Charters are partisan texts, written by ecclesiastics who were themselves party to the events they described — they were produced at an immediate remove from the perspective of the lay actors they describe. Moreover, charters and their accounts of *violentia* were written in Latin, as opposed to the vernacular of the lay world, creating even greater distance between the world of the texts and that beyond them. Together, these features of ecclesiastical charters have made historians doubt the extent to which such documentation can provide access to wider norms and values of lay society.³² Not surprisingly, problems of source criticism have contributed to the current consensus that *violentia* was a discourse motivated principally by the internal concerns of reforming churchmen.

It would be rash, however, to dismiss ecclesiastical complaints of *violentia* without first understanding how to place them in relation to legal processes, or how they acquired meaning as a form of discourse. The *violentia* of the charters arose from the very real business of formulating legal accusations: *violentia* is the language of complaint. Such language often appears in connection with descriptions that plaintiffs made an accusation (*clamor*) to an individual with the authority to convene a court and provide justice.³³ Take the following example: around 1060 Geoffrey *Advise* and Mainard de Liniers ‘usurped’ (*usurpaverunt*) a mill belonging to Saint-Florent de Saumur, whence the monks made a plaint (*clamor*) to Guy

³² See in particular the magisterial Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994), for an especially skeptical view.

³³ See Richard E. Barton, ‘Making a Clamor to the Lord: Noise, Justice and Power in Eleventh- and Twelfth-Century France’, in Belle S. Tuten and Tracey L. Billado (eds.), *Feud, Violence and Practice: Essays in Medieval Studies in Honor of Stephen D. White* (Farnham, 2010), 213–35; Bongert, *Recherches*, 186–9 remains useful.

de Vaucouleurs.³⁴ The association between *violentia* and accusations brought to court-holders appears frequently, and is a pattern which remains true during the entire period under consideration in this article.³⁵ This is an obvious point — and it should be — but it is important to underline that there is a recurring emphasis on *violentia* and the process of seeking justice from those with the authority to convene courts.³⁶

Litigation was accusatorial, and complaints exercised a vital rôle in structuring proceedings. Accusations might, at times, have been made in informal circumstances, such as when Robert Borellus burst into the parlour of the bishop of Angers to denounce the abbot of Saint-Aubin and his monks as thieves (*raptores*).³⁷ But it is necessary to distinguish initial complaints, which may display elements of informality, from the formal counts which opened a trial.³⁸ Lambert son of Martin, for instance, between 1050 and 1070, brought a number of complaints to various officials of Saint-Florent which convinced them, eventually, to gather a court before the abbot: Lambert was given a fixed date and told, ‘tomorrow, or the day after, you will be prepared to make your complaint (*clamor*) over this challenge in the presence of the lord abbot.’³⁹ The procedural accusation is foundational to our understanding of *violentia* because this language needs to be interpreted with the rhythm of litigation always firmly in mind.

We do, in fact, have documents which are compilations of complaints brought to the attention of a court-holder. The purpose of such texts (I shall refer to them as *querimoniae*) was to gather a list of accusations in advance of formal proceedings, to serve as an aide-mémoire

³⁴ *Livre noir* 56^r.

³⁵ See *inter alia*: *CN* 153 (1122 x 1123), *CN* 207 (1136 x 1148), *FON* 376 (1123 x 1148), *FON* 637 (1129), *Livre noir* 26^v (c.1000), *Livre noir* 56^r (c.1060), *Livre noir* 107^{r-v} (c.1070), *RA* 183 (1150 x 1154), *RA* 194 (c.1115), *RA* 282 (c.1090), *RA* 283 (c.1090), *SAA* 644 (1140), *SAA* 932 (1129), *SAA* 949 (1151), *SSE* i 201 (1069 x 1081), *SSE* ii [8] 71 (1069 x 1093), *SSE* ii [84] 171 (1100 x 1150).

³⁶ Note also Barton, ‘Making a Clamor’, 224, 226.

³⁷ *SAA* 112 (1100).

³⁸ Vernacular literature provides a useful framework for thinking about trial procedure, on which see the still classic Paul Hyams, ‘Henry II and Ganelon’, *Syracuse Scholar*, vol. 4 (1983), 22–35, and R. Howard Bloch, *Medieval French Literature and Law* (Berkeley, 1977).

³⁹ *Livre noir* 112^{r-v}.

when pleading.⁴⁰ Saint-Aubin's celebrated *querimoniae* about their priory at Méron, produced sometime before 1081, records some twenty-two separate accusations made against Renault, lord of Montreuil-Bellay, and his agents, ranging from seizures of moveables and cash, alleged abuses of justice, the destruction of livestock, and low-level thuggery directed towards the peasantry.⁴¹ The nuns of Le Ronceray similarly produced a list of *querimoniae* against Hugh de Juvardeil and his men.⁴² Of the nine recorded accusations, five were against Hugh himself, and included: (i) the seizure and ransom of one Raoul for 40s., (ii) the theft (from Raoul, again) of two oxen worth 50s., and rapine against his land valuing 25s., (iii) the collection of renders *per violentiam* from land of Le Ronceray, (iv) compulsion of monastic dependents to ride in his patrols (*equitaturas*), and (v) the compulsion of these same men to use the mill in his castle. The complaints against his men told a similar story: Fraaudus Bos, *vicarius*, stole oxen from one Ranier; Landric broke into an estate (*fregit quandam domum*) to steal two oxen; Lambert, an arms-bearer (*armiger*), orchestrated the nocturnal theft of Renault Bordel's pigs; and Garnier took oxen from one Bernard Barre.

If ecclesiastical charters record *violentia* often at a considerable remove from lived legal experience, the *querimoniae* are valuable because they are one step closer to actual legal practice. Although they still do not preserve the spoken words of real, vernacular accusations, the complaints they record nevertheless reflect a less 'worked up' understanding of *violentia*. In these texts, scribes sought to express violence in ways designed to be more immediately accessible to the curial contexts where plaintiffs sought justice.

⁴⁰ Such texts are comparable to Catalan *querimoniae* on which see Blanca Garí, 'Las *querimoniae* feudales en la documentación catalana del siglo XII (1131–1178)', *Medievalia* V (1984), 7–49, and Thomas N. Bisson, *Tormented Voices: Power, Crisis, and Humanity in Rural Catalonia, 1140–1200* (Cambridge [MA], 1998). On the use of documents in Angevin courts preparatory to pleading, see Dominique Barthélemy, 'Une Crise de l'écrit? Observations sur des actes de Saint-Aubin d'Angers (XIe siècle)', *Bibliothèque de l'École des Chartes*, vol. 155 (1997), 95–117.

⁴¹ *SAA* 220 (1067 x 1081). On this dispute, see Lemesle, *Conflits et justice*, 123–38; cf. Bisson, *Crisis of the Twelfth-Century*, 136–42.

⁴² *RA* 246.

Querimoniae therefore provide a helpful way of thinking about the language of *violentia* more broadly: *violentia* functioned like a palimpsest, for underneath the glitz and glamour of ecclesiastical rhetoric lie the more banal records of legal accusations. Take the plaint made against Eudes de Sermaise and Bouchard by the monks of Saint-Aubin: ‘stirred by the spirit of iniquity, they cut down trees from the monks’ land, and carried the chopped wood home.’⁴³ The charter draftsman further described Eudes and Bouchard as ‘filled with contempt’, and opened his text with a proem alluding to Matt. 24:12 decrying the ever-increasing abundance of iniquity in the world. Saint-Aubin’s account is a self-confident, rhetorically stylised text, and may have been written partly out of a desire to take pride in the monastic victory which followed Eudes’ and Bouchard’s actions.⁴⁴ But beneath the layers of this rhetorical craftsmanship lies a core substantive plaint: entry into monastic property, seizure of resources in that land, and the removal of said resources.

The stories disputants brought to court-holders were organised around a finite number of themes, and *violentia* provided one of the core substantive issues around which to construct a legal claim.⁴⁵ Indeed, one Saint-Aubin charter stated expressly that whenever a plaint was made by laymen against the monks or their dependents, the appellant was to specify the offence for which the defendant was impleaded.⁴⁶ There are, additionally, many charters in which laymen and ecclesiastics agreed that if some offence should occur, the lay lord would first make a plaint (*clamor*) prior to the exercise of distraint — that is, the seizure of goods aimed at compelling attendance at court or making up the loss caused by the initial offence.⁴⁷ Take for instance the agreement between the monks of Saint-Florent and Guy de

⁴³ *SAA* 270 (1080s).

⁴⁴ Lemesle, *Conflicts et justice*, 31, on self-congratulation as a motive for the production of dispute charters.

⁴⁵ See here John Hudson, *The Oxford History of the Laws of England, Volume II: 871–1216* (Oxford, 2012), 70, 307–8, who distinguishes claims that a wrong had been done to the claimant from claims that the defendant had property belonging to the claimant. The distinction is foundational, and is unlikely to have been understood differently in northern France.

⁴⁶ *SAA* 226 (1055 x 1093); see also Bongert, *Recherches*, 188.

⁴⁷ On this type of violence connected to the operation of legal processes, see in particular John Hudson, *Land, Law and Lordship in Anglo-Norman England* (Oxford, 1994), 22–51.

Vaucouleurs, formed around 1070, whereby Guy promised that ‘his *vicarius* may never enter the aforesaid land in order to do justice, but may instead make a plaint (*clamor*) to the monk [living there], and he [the monk] will distraint (*distringat*) his own serfs (*villanos*) in pursuit of justice (*justiciam faciendo*).’⁴⁸ Such provisions appear in charters from about the 1040s, and encouraged would-be litigants to construct specific claims for which they sought justice.⁴⁹ There are even cases where courts judged against defendants because they had not made such a *clamor* prior to the taking of distraint; and accusations were also made that the defendant had used force *sine clamore* or *sine iudicio*.⁵⁰ Not only did such provisions mean that the use of force *prior* to making a complaint was itself an actionable wrong, but they also reveal a broader trend towards specificity in the formulation of legal complaints.

This is why when *clamores* touched on *violentia*, they can so often be reduced to a number of common elements. Le Ronceray’s *querimoniae* against Hugh de Juvardeil, for instance, almost all took the form of an accusation of theft/forceful seizure. The verb *abferre* (to seize) was used in three accusations, *accipere* (to take) twice, and *furari* (to steal) once. Plaints likewise display a specificity in value: Hugh stole oxen worth 50*s.*, and committed rapine valued at 25*s.* In the Méron *querimoniae*, Renault’s *vicarius* Calvin wrongfully obtained a total of 147*s.* These complaints also display an attention to circumstantial detail, hinting at increasing specificity and an interest in actual force. Lambert, the man of Hugh de Juvardeil, committed his theft at night (*noctu*); Landric, another of Hugh’s men, broke into an estate to steal oxen; Renault’s man Baldwin likewise plundered victims at night; and this

⁴⁸ *Livre noir* 55^v: *ut vicarius ejus in jam dictam terram nequaquam ingrediatur justiciam facturus, sed clamorem ad monachum faciat et ipse suos villanos justiciam faciendo distringat.*

⁴⁹ For further examples, see: *Livre noir* 95^{r-v} (c.1040), *RA* 206 (c.1110), *SAA* 233 (c.1087), *SSE* i 151 (1056 x 1082), *SSE* i 315 (1056 x 1082), *SSE* ii [41] 357 (1056 x 1082), *SSE* ii [97] 202 (1113 x 1133). Though cf. earlier clauses of immunity, on which these eleventh-century clauses may have been modelled; on the earlier immunity, see Barbara Rosenwein, *Negotiating Space: Power, Restraint, and Privileges of Immunity in Early Medieval Europe* (Ithaca, 1999).

⁵⁰ For cases, see: *CN* 207 (1136 x 1148), *MMA* [pp.] 45–7 (c.1120), *RA* 13 (1147), *RA* 367 (c.1110), *SAA* 178 (1056 x 1060), *SAA* 325 (1102), *SL* 60 (c.1142). See also Barton, ‘Making a Clamor’, esp. 229–32. The phrase *sine iudicio* would lie at the heart of novel disseisin cases in Angevin England, on which see Hudson, *Oxford*

same Baldwin entered a monastic estate with a drawn sword (*gladio evaginato*).⁵¹ Nor is this specificity limited to the *querimoniae*-style documents. In 1006 x 1039, for instance, the *ministri* of Fulk Nerra entered an episcopal house in Angers and stole the basin used for washing episcopal vestments because they thought the house was unoccupied. The bishop of Angers, Hubert de Vendôme, then made a *clamor* to Fulk specifically ‘over the invasion (*infractio*) of his washing house, and over the stolen basin.’⁵²

This is more than rhetoric intended only for internal, ecclesiastical consumption. Appellants’ complaints instantiated the abstract jurisdictional claims of court-holders, a jurisdiction which was ordinarily expressed as justice over the four offences or *forisfacta*: homicide/bloodshed, rape, arson, and theft. Such statements are found in charters where a lord — often the count, but not necessarily so — reserved the right to hear cases pertaining to these four *forisfacta*.⁵³ The *forisfacta* covered types of actionable wrong by which plaintiffs could structure their accusations: wider notions of jurisdiction provided, in a sense, scripts when it came to seeking justice from a court-holder. That a symmetry existed between *clamor* and *forisfacta* can be seen most clearly in cases where plaintiffs used the language of *forisfacta*, like in 1070 x 1090 when the monks of Saint-Florent complained simply that Haimo had committed ‘many *forisfacta*’ against them.⁵⁴ Likewise, adversaries’ actions were sometimes expressed with the verb *forisfacere*, a verb built around the latent jurisdictional ideas contained in the notion of the *forisfacta*.⁵⁵ One of the ways in which *violentia* worked

History of the Laws of England, 609–14, and 611 for *sine iudicio*; and Donald W. Sutherland, *The Assize of Novel Disseisin* (Oxford, 1973), esp. 26.

⁵¹ RA 246, SAA 220. On the sorts of circumstantial detail that contributed to notions of theft, see in particular Valérie Toureille, *Vol et brigandage au Moyen Âge* (Paris, 2006).

⁵² CN 80. In a sense, the text is better read as two accusations.

⁵³ Comital grants: see FON 168 (1116 x 1125), FON 868 (1135), *Livre noir* 125^v–126^r (1060 x 1067), SAA 864 (1151). For non-comital grants, see RA 208 (c.1115), SAA 221 (1082), SAA 226 (1055 x 1093), and SAA 919 (1087), for a gift of two thirds of ‘blood spilt’ (*sanguinis*). Not every example of such jurisdiction mentions all four offences. Note Lemesle, *Conflits*, 81.

⁵⁴ *Livre noir* 72^r. See also: *Livre noir* 117^v–118^r (1060 x 1070), RA 221 (c.1095), SAA 7 (1067 x 1070), SAA 105 (1080 x 1106), SAA 216 (1060 x 1067), SSE i 143 (1098 x 1100).

⁵⁵ *Forisfacere*: SAA 89 (1067 x 1098), SAA 178 (1056 x 1059).

as a discourse was to help channel complaints towards one of the *forisfacta* — a point I shall return to shortly.

When ecclesiastical scribes labelled their adversaries thieves (*latrones, fures*), accused them of theft (*furtum*), complained of robbery (*latrocinium*) or rapine (*rapina*), or alleged their opponents had entered ecclesiastical lands by violence (*per violentiam*) or with force (*vis*), they were thus situating their interpretation of these actions explicitly within the framework of wider views of jurisdiction.⁵⁶ There was an intrinsic logic to the language of *violentia* which sought to bridge the gap between the self-proclaimed victim's perspective, and that of the external legal world in which ecclesiastical actors operated. This helps reorientate our approach to the more generic terms within the discourse of *violentia*, and a consideration of the range of verbs employed in accusations is revealing. Out of a total 273 complaints, 222 use a verb to evoke *violentia*.⁵⁷ The most common verb by far is *ab/auferre*, implying theft, appearing in seventy-eight of the complaints (35%); other theft-like verbs, such as *abstrahere, subripere, absportare*, and, of course, *furari*, appear in a total of eighteen complaints (8%). The other most common category is verbs expressing violent seizure: *invadere* alone appears in twenty-three complaints (10%), whilst similar verbs (*rapere, pervadere*) figure in twelve complaints (5%). Whilst this evidence cannot be pushed too far, the pattern is clear, and suggests a conceptual relationship whereby *violentia* in ecclesiastical charters was associated above-all with ideas implying theft or the violent seizure of property.

The world of accusations provides, therefore, a helpful tool in thinking about how to get from the generic *violentia* of the charters towards the real substance of eleventh-century litigation before court-holders. Charters were the product of a dialectic between legal

⁵⁶ For *latrones* or *fures*, see: *SAA* 220 (1067 x 1081), *SAA* 226 (1055 x 1093); for *furtum*, see: *SAA* 430 (1113); for *latrocinium*: *RA* 51 (c.1109), *SAA* 220; for *rapina*, see: *Livre noir* 119^{r-v} (c.1060), *RA* 380 (c.1110); for *per violentiam*, see above, n. 27.

⁵⁷ The discrepancy between the number of complaints (273) and the number of disputes (255) is explained by the fact that some disputes contain multiple accusations against different individuals, as in the *querimoniae* documents.

procedures and the representation of those procedures, and at heart here was the legal plaintiff.⁵⁸ Although this was an oral procedure, its echoes reverberate in ecclesiastical charters: however indirectly such plaintiffs are preserved in these charters, they nevertheless point outwards to a world beyond the text. The language of *violentia* cannot be explained exclusively in terms of ecclesiastical rhetoric intended for internal consumption.

II

Accusations need not reflect a literal understanding of events in terms of theft or another of the *forisfacta*. Plumes of smoke or mounds of smouldering ash no doubt made accusations of arson unambiguous, yet when it came to theft, litigants possessed considerable interpretative wiggle-room as to whether or not any given act was actually theft.⁵⁹ The accumulation of circumstantial details to complaints of theft hints at the conscious attempt to present the facts of the case in as negative a light as possible, but many complaints of *violentia* were recorded simply as so-and-so ‘seized’ (*abstulit*) land, woodland, mills or some other object.⁶⁰ The meaning of such phrases is far from clear and must have in many instances required an act of doublethink to be understood literally as theft. Eleventh-century litigants were not fools. Instead, it was the potential for accusations to be flexibly mapped onto categories of actionable wrong that mattered, however tenuous this mental cartography may seem. *Violentia* was an intrinsically malleable discourse which could be moulded to appeal to a particular logic of jurisdiction.

There are cases demonstrating litigants’ conscious efforts to make their plaintiffs fit this jurisdiction. The nuns of Le Ronceray, around 1110 for instance, found themselves in court

⁵⁸ See in particular Lemesle, *Conflicts*, esp. 213–46 and Wickham, *Courts and Conflicts* on this dialectic process.

⁵⁹ For arson, see: *SAA* 663 (1151), *SAA* 939 (1038 x 1055), *SL* 19 (1109), *SSE* i 143 (1098 x 1100).

⁶⁰ Land: *CN* 52 (1040 x 1080), *Livre noir* 26^v–27^v (987 x 1011), *SSE* ii [2] 312 (1093 x 1113), *SSE* ii [87] 171 (1100 x 1150); woodland: *SSE* i 207 (1056 x 1082); mills: *Livre noir* 119^{r-v} (c.1060). Accusations of theft or rapine over tithes or the fish from fishing weirs, for instance, make more immediate sense: *SSE* ii [17] 39 (1100 x 1110), *SSE* ii [74] 128 (1138 x 1150), and for the fishing weir, see *MMA*, [pp.] 17–18 (1070 x 1080).

before Count Fulk V (1109–1129) because their steward, Barbot, had seized and discarded loaves of bread when a number of bakers attempted to sell them in a market where the right to such sales was exclusive to the nuns. Upon seeing their wares maltreated, the bakers made a plaint (*clamor*) to William des Moulins, a comital prévôt, over Barbot's actions; William then 'accused Barbot and wished to implead him about the seizure [of bread] as if it were a *forifactum*' (*et cum Guillermus accusaret Barbotum et vellet inde causari de invasione quasi de forifacto*).⁶¹ At court, Fulk V upheld the nuns' monopoly and Barbot, presumably, was off the hook. From the nuns' perspective, Barbot's actions were entirely just since he was simply defending the interests of his lord, the community of Le Ronceray: this was patently not a *forisfactum* — nor, for that matter, was it violence. But, that an ecclesiastical adversary sought to present these actions as if they did constitute a *forisfactum*, as if violence had occurred, is an important indication of how contemporaries consciously structured and presented their plaints. Barbot's case is exceptionally clear in this regard, though many other cases in which plaintiffs concentrated on the facts of *violentia* point in the same direction.⁶²

The presentation of cases 'as if' they pertained to a specific category of claim casts light on the basic structures of eleventh-century legal thought. Litigants emphasised particular facts in the construction their cases to have their plea fall under a specific set of rules governing violent wrongs.⁶³ An emphasis on *violentia* may, in part, have been motivated by a desire to engage procedures and forms of redress appropriate to the appellant's type of

⁶¹ RA 60.

⁶² For similar plaints that an adversaries' actions were 'like' or 'as if' an offence, see RA 51 (c.1109), for an accusation by the nuns of Le Ronceray against the monks of Saint-Nicolas, 'who attempted to steal their parish as if by theft (*furtim*) and robbery (*latrocinium*).' For the context of this parish dispute, see Belle S. Tuten, 'Disputing Corpses: Le Ronceray d'Angers versus Saint-Nicolas d'Angers, 1080–1145', *Medieval Perspectives*, no. 10 (1995), 178–88.

⁶³ On 'juridical qualification' of facts in cases, see in particular, John Hudson, 'Court Cases and Legal Argument in England, c.1066–1166', *Transactions of the Royal Historical Society*, sixth series, vol. 10 (2000), 91–115, and Lemesle, *Conflits et justice*, 83–121, esp. 85–8. From a more theoretical perspective, Yann Thomas, 'Présentation', *Annales. Histoire, Sciences Sociales*, no. 6 (2002), 1425–28, and Olivier Cayla, 'La Qualification ou la vérité du droit', *Droits*, vol. 18 (1994), 3–18.

claim.⁶⁴ Evidence of fines and damages in court cases offers one profitable route into these issues.⁶⁵ The ability to impose fines and/or pecuniary redress was inextricable from notions of jurisdiction, with some charters describing a court-holder's jurisdiction over the *forisfacta* simply as the right to try 60s. offences.⁶⁶ Compensation and penalties amounted to one possible procedural consequence of successfully accusing an opponent of *violentia*. Although claims for such compensation, whether owed to courts or plaintiffs, were at times forgiven, and this could form an important element of the peace-making process, this was a far from universal rule.⁶⁷ Many cases do in fact show defendants making payments (*emendare*, *vadiare*) or offering pledges that they will make appropriate material satisfaction by a fixed date.⁶⁸ The appearance of fines and damages in court cases suggests that appellants had successfully convinced the court-holder to act on a plea concerning *violentia* — to present their claim in such a way that it was actionable within a jurisdictional framework focused on violent wrongs.

The discourse of *violentia* was an attempt to isolate a particular set of facts that were subject to recognisable legal rules over the treatment of violent wrongs, irrespective of and often in explicit opposition to the wider land claims in any dispute. Take the following example: in 1082 x 1101, Rouald de Luigné claimed land possessed by the monks of Saint-Aubin was his by right, and in making his claim, he seized (*invadere*) the contested land. The case eventually entered the court of the bishop of Angers, and the scribe recounted the action

⁶⁴ Note here Hudson, *Oxford History of the Laws of England*, 70.

⁶⁵ Most of the evidence deals with damages to which the (successful) appellant was entitled, rather than fine owed to the court-holder. Court-holders, however, seem to have set the amount of damages.

⁶⁶ For example, CN 56 (1092), *Livre noir* 96^v (1060 x 1067), RA 5 (1040). See Julius Goebel, *Felony and Misdemeanor: A Study in the History of Criminal Law* (New York, 1937, reprint with introduction by Edward Peters, Philadelphia, 1976), 208–10, esp. 208, n. 43.

⁶⁷ Stephen D. White, “‘*Pactum...Legem Vincit et Amor Judicium*’ — The Settlement of Disputes by Compromise in Eleventh-Century Western France”, *The American Journal of Legal History*, vol. 22, no. 4 (1978), 297; and Bruno Lemesle, “‘Ils donnèrent leur accord à ce jugement.’ Réflexions sur la contrainte judiciaire (Anjou, XI^e–XII^e siècle)”, in *La Justice en l’an mil*, 136–8.

⁶⁸ See *inter alia*: FON 42 (1108 x 1113), *Livre noir* 25^{r-v} (986 x 1005), *Livre noir* 28^{r-v} (990 x 1011), RA 152 (c.1100 x 1115), RA 221 (c.1095), RA 247 (c.1110), RA 259 (c.1110), SAA 178 (1056 x 1059), SSE ii [102] 222 (1123 x 1148). Note also the mini-essay in Goebel, *Felony and Misdemeanor*, 225–7, n. 73.

as follows: ‘The abbot and the monks first made a plaint (*clamor*) over the unjust seizure (*injusta invasione*) of their possession, but Rouald said that he would give no response to those things (*ad illa*) unless first the bishop would promise to do right to him concerning the abbot and the monks.’⁶⁹ A similar separation of claims appears in a case involving one Roscelin and the monks of Saint-Maur de Glanfeuil in 1086 x 1089.⁷⁰ Roscelin had a land claim against the abbot, but whilst he awaited a date to plead in court, his brothers seized oxen from the contested land, whereupon the prior (not the abbot) of Saint-Maur fixed a court-date with the brothers in the court of Montreuil-Bellay for the seized oxen. Meanwhile, Roscelin again inquired with the abbot about the land claim, and was told that he could attend the court-date arranged by the prior where he and his brothers could plead over the land *and* the seized oxen. Roscelin seems to have been concerned that his land claim would be swallowed up by the abbey’s accusation that they had suffered a violent wrong. His response, therefore, was as follows: ‘I shall plead for myself alone, and in no way have anything to do with my brothers.’⁷¹

The distinction here is between claims for land (or rights in land) and accusations of violent wrong. The reasoning stands as an attempt by one party to ensure that the court focused on the violent wrong, rather than the land claim. The expectation on the part of the ecclesiastical plaintiffs was that the emphasis on *violentia* would have a significant effect on the *type* of case presented to the court. Complaining to court-holders about violent wrongs was a worthwhile exercise for plaintiffs, working full well in the expectation that such a plaint could substantially alter the course of the trial. Violence against property served as an actionable wrong in its own right; part of the rationale which gave this force was its quasi-criminal appearance deriving from the basic jurisdictional framework outlined above. But what is vital to recognise is that plaintiffs (and by implication, court-holders) were

⁶⁹ *SAA* 203. Cf. Barton, ‘Making a Clamor’, 228–9 for an alternative reading of this case.

⁷⁰ *SMG* 32. Lemesle, *Conflicts et justice*, 66–8 gives an extended discussion of aspects of this case.

distinguishing land claims from accusations denouncing the actions undertaken by parties in pursuit of those very claims. Violent wrongs against property were separable from the wider legal questions of any particular dispute.

Similar considerations are seen in a complex case from the early 1080s. Bouchard, son of Guérin, and Eudes de Sermaise were accused by the monks of Saint-Aubin of entering monastic land, chopping down two oak trees, and carting off the chopped wood.⁷² In the court of Roger de Montrevault, judgment went against Bouchard only, and he was ordered to pay 30s. in damages to the abbot of Saint-Aubin. Bouchard then humbly asked for a remission of this debt, which Abbot Gérard granted him, saving 2s. What the charter draftsman here does say is that Bouchard had a land claim upon the woodland. His father had held rights in this woodland as the *vicarius* of Thibaud de Jarzé earlier in the 1060s when Thibaud gave the property to Saint-Aubin, compensating Guérin with 10s. to abandon his share.⁷³ Bouchard's claim was for his inheritance, then, but the charter keeps mum on this important point. Instead, the narrative of the case emphasises violence: entry into monastic land, chopping down wood, and taking the cuttings away. Before the violence, however, Bouchard and Eudes were confronted at the woodland by Adenor de Jarzé, wife of the original donor of the property, along with a band of men. Adenor offered to deal with the case in court, and reportedly said: 'I shall have lord Roger – your lord too! – hold a just judgment between you and the monks of Saint-Aubin when he first arrives, for it falls to him to judge that which requires judgment.'⁷⁴ The offer was spurned, and Bouchard and Eudes proceeded to commit the wrongs they were accused of, not before leaving a number of Adenor's men wounded or slain for good measure.

⁷¹ *SMG* 32.

⁷² *SAA* 270. Note above, 0000–0000, on this case.

⁷³ *SAA* 269 (1060 x 1067).

⁷⁴ *SAA* 270.

Two points stand out from this case. First, the silence on Bouchard's land claim is matched only by the resounding focus on *violentia*. The charter draftsman repeats twice the nature of Bouchard's wrong: entry into monastic land, chopping down trees, and carrying chopped wood away. Moreover, the *violentia* presented to the court is manifestly that against property: Bouchard was ordered to pay 30s. for the two oak trees, while Adenor's wounded and slain men seem unimportant to the judgment. Second, the case hints that the presentation of a case as one of wrongdoing was connected to the legitimacy of the court-holder. Adenor's fictional speech — 'it pertains to him to judge that which requires judgment' — is an unequivocal affirmation of the legitimacy of Roger's right to judge, and that such a statement was even made suggests legitimacy was itself in question.⁷⁵ Given the narrative focus on *violentia*, it is reasonable to suggest that having a court judge on issues of *violentia* somehow helped in constructing the legitimacy of seigneurial justice.

The explicit link drawn between the emphasis on *violentia* and the authority of the court-holder to judge on matters of violence is striking, and reminds us of an important, though often overlooked, fact: ecclesiastical complaints of wrongdoing would have been meaningless had contemporary legal institutions not been willing to hear those claims in the first place. The discourse of *violentia* is the product of a dialectical relationship between litigant and court-holder. Litigants selected the line of argument they thought most likely to succeed, but perceptions of the likelihood of success were limited by what court-holders would, in fact, do. When someone like Roger de Montrevault gathered his court to judge on a matter of wrongdoing, he provided feedback onto the wider arena of litigant strategy: *violentia* as a form of complaint worked.⁷⁶ The decisions of court-holders ossified patterns of litigant behaviour

⁷⁵ The immediate cause was likely due to the fact that Roger had wed Adenor's daughter, Agnes, thus giving him a vested interest in maintaining the Jarzé family's monastic patronage. See *SSE* i 180 (1057 x 1081) for the marriage.

⁷⁶ This point has benefitted from Marc Galanter, 'Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law', *Journal of Legal Pluralism*, vol. 19, no. 1 (1981), esp. 2–17 on describing the 'centrifugal' function of courts in disseminating strategies and knowledge of legal behaviours. Two especially useful

and argument, and by pronouncing judgment on a matter of violence, they enhanced in the minds of litigants the likelihood that a similar strategy, in similar circumstances, may work.⁷⁷

That court-holders possessed agency in giving shape to contemporary legal argument comes across with especial clarity in cases where litigants' attempts to isolate *violentia* as a substantive issue failed to convince the court-holder. The abbot of Saint-Aubin in 1113, for example, went to Hubert de Durtal to complain that Maurice, one of Hubert's men, had stolen (*furto aggressus*) monastic possessions (*res*), cut-down vineyards, set-fire to monastic buildings including mills, and 'inflicted upon the monks a great many other things just as harmful.'⁷⁸ Maurice's actions were undertaken in pursuit of a land claim against the monks — he claimed the inheritance of his uncle who had once been a steward of Saint-Aubin — and this is important in understanding Hubert's response to the abbot's plaint.⁷⁹ He promised to 'do right' over Maurice's actions — that is, he would provide a judgment on the acts of violence — but only if the abbot promised to 'do right' to Maurice over the latter's land claim.⁸⁰ Refusing to allow a plea over *violentia* to trump a claim for right reveals the important rôle played by court-holders such as Hubert in validating, or not, any given legal strategy.

This may go some ways towards explaining a rather puzzling issue: given the apparent readiness of many courts to judge on pleas of *violentia*, however fictitious the violence of those pleas actually was, why did men like Bouchard, Rouald, or Roscelin's brothers still

historical studies to help make sense of legal pluralism more broadly are: Caroline Humfress, 'Thinking through the Lens of Legal Pluralism: "Forum Shopping" in the Later Roman Empire', in J. Duindam, Jill Harries, Caroline Humfress, and N. Hurvitz (eds.), *Law and Empire: Ideas, Practices, Actors* (Leiden, 2013), 225–50, and Ido Shahar, 'Legal Pluralism and the Study of Shari'a Courts', *Islamic Law and Society*, vol. 15, no. 1 (2008), 112–41.

⁷⁷ On trying to reconstruct the law in the minds of past actors, see here Dirk Heirbaut, 'Exploring the Law in Medieval Minds: The Duty of the Legal Historian to Write Books of Non-Written Law', in Anthony Musson and Chantal Stebbings (eds.), *Making Legal History: Approaches and Methodologies* (Cambridge, 2012), 118–30, and William Ewald, 'Comparative Jurisprudence (I): What Was it Like to Try a Rat?', *University of Pennsylvania Law Review*, vol. 143, no. 6 (1995), 1889–2149.

⁷⁸ *SAA* 430.

⁷⁹ The inheritance aspects of the case are discussed more fully in Stephen D. White, 'Inheritances and Legal Arguments in Western France, 1050–1150', *Traditio*, vol. 43 (1987), 55–103, esp. 73–6.

⁸⁰ *SAA* 430.

exercise the use of force? We can only speculate on this point, but there are several possibilities. One is that these men, and others like them, were brazen in their defiance of court-defined standards of behaviour — the use of actual force functions similar to the formal ‘defiance’ of court-judgments discussed by Bruno Lemesle. Alternatively, such men may simply have read the legal landscape poorly, in the hopes that courts would not, in fact, intervene. Whether a failure of strategy derives from incompetence or simply bad luck does not matter, however: what does, is that within the context of eleventh-century courts, the cards were becoming increasingly stacked against Bouchard and men of his ilk. *Violentia* was actionable, and the prudent litigator would need, henceforth, to bear this in mind.

So our perspective has now shifted away from litigants and towards court-holders. Theirs remains the most elusive viewpoint in the disputing process to reconstruct, but, forms of legal complaint may provide an important clue as to what court-holders valued, and the patterns of legal thought their decisions encouraged. The question to ask now is why did *violentia* matter to such individuals?

III

The discourse of *violentia* mattered to court-holders, but why? One explanation would be to situate complaints of *violentia* within a framework of public order linked to comital jurisdiction. Comital courts feature prominently in the evidence, with some taking on the appearance of landmark cases concerned with public order. In 1040, for instance, shortly after his accession, Geoffrey Martel held a ‘general court’ (*generale placitum*) on the subject of ‘evil customs’ in the ‘lands of the saints’ (*terra sanctorum*).⁸¹ Notice of this survives only in the archives of Saint-Florent, but there are hints that this was perhaps a county-wide court

⁸¹ *Livre noir* 28^v–29^r, which also survives as an original in *Archives départementales de Maine-et-Loire* H 1840, no. 5.

gathered specifically to deal with intrusions upon ecclesiastical lands.⁸² Similarly, the earliest surviving example of a judgment against a defendant because he had seized goods without first making a plaint (*sine clamore*) was issued by Geoffrey Martel's court again, in a case heard between the monks of Saint-Aubin and Éon de Blaison in 1056 x 1060.⁸³ The Angevin counts might have been particularly keen to promote a sense of public order, and to present their courts as the natural guarantors of that order.⁸⁴

The public order line of argument can be extended to other jurisdictions as well. Lay jurisdictions may equally have held a commitment to maintaining the peace.⁸⁵ It has traditionally been thought that such jurisdictions were modelled, more or less, on regalian notions of justice centred above-all in the concept of the *bannum*: the powers of command and punishment.⁸⁶ Julien Maquet has recently stressed that the *bannum* carried the blueprint for governmental authority; the authority implicit in the *bannum* formed an important ideological component in the construction of seigneurial power as lords sought to ensure peace within their territories.⁸⁷ Lay cultivation of an ideology of public order could easily have been sharpened through engagement with the comital court, where many of these lay

⁸² Bisson, *Crisis of the Twelfth Century*, 131 makes a similar point; see also Guillot, *Le comte d'Anjou*, i, 373. On the importance of Geoffrey Martel's reign in the consolidation of Angevin government, see especially Olivier Guillot, 'Sur la naissance de la coutume en Anjou au XI^e siècle', in Jacques Krynen (ed.), *Droit romain, jus civile, et droit français*. Études d'histoire du droit et des idées politiques no. 3 (Toulouse, 1999), 273–96, and *idem*, 'Un Aperçu sur le gouvernement des états angevins aux premiers temps capétiens: les voies de l'accession au pluralisme (987–vers 1060)', in Olivier Guillot and Robert Favreau (eds.), *Pays de Loire et Aquitaine de Robert le Fort aux premiers capétiens* (Poitiers, 1997), 229–51.

⁸³ SAA 178. See above, 0000.

⁸⁴ Lemesle, *Conflits et justice*, 31–81. Promotion of the comital court's rôle in the maintenance of order cannot be separated from the processes of political expansion undertaken by the counts in the first half of the eleventh century, first in the Saumurois in the 1020s, the Vendômois in the 1030s, and the Touraine in the 1040s. Justice, as Martindale, "'His Special Friend'", 39 notes, was a central component in stabilising political authority following conquest. For similar arguments about active comital promotion of public order in Gascony, see Couderc-Barraud, *La Violence*.

⁸⁵ Note the comments to this effect in François Olivier-Martin, *Histoire du droit français de ses origines à la Révolution* (Paris, 1948), 129, 140–1.

⁸⁶ See the comments in Chris Wickham, 'Defining the *seigneurie* since the War', in Monique Bourin and Pascual Martínez Sopena (eds.), *Pour une anthropologie du prélèvement seigneurial dans les campagnes médiévales (XI^e–XIV^e siècles). Réalités et représentations paysannes* (Paris, 2004), 43–50; and Fredric L. Cheyette, 'Georges Duby's *Mâconnais* after Fifty Years: Reading it Then and Now', *Journal of Medieval History*, vol. 28 (2002), 291–317 for historiographical discussion on the *seigneurie banale*.

court-holders appear as suitors, as well as by the ever-present moral voice of clerics extolling the virtues of *pax*.⁸⁸ The capacity to define the parameters of *violentia* and to provide redress for victims of what was considered *violentia* thus had an important political dimension in the construction of territorial authority, as well as a strong moral dimension as laymen performed dutifully their Christian obligations to defend the church and the powerless.

Such arguments have much to recommend them, but they cannot provide a complete explanation.⁸⁹ An emphasis on public order to account for why *violentia* mattered to eleventh-century court-holders minimises the political dimensions of lawsuits and misrepresents the agency of those court-holders themselves. Counts, for instance, had strong ties of friendship with the ecclesiastical institutions in whose favour they pronounced judgment. When in 1151 he crushed the lord of Montreuil-Bellay, razing his castle and quashing the ‘intolerable customs’ Berlai II had imposed upon Saint-Aubin, Geoffrey le Bel was apparently inspired by a vision of Saint Albinus who reminded him of the special relationship between the Angevin counts and the abbey of Saint-Aubin, a relationship which went back to the 960s when Geoffrey Greymantle (960–987) reformed the abbey.⁹⁰ This was personal protection as much as it was a commitment to public order.⁹¹ Even cases where a

⁸⁷ Maquet, “Faire justice” dans le diocèse de Liège, esp. 543–5. Note the equivocation on this point, however, in Maïté Billoré, Isabelle Mathieu, and Carole Avignon. *La Justice dans la France médiévale (VIII^e–XV^e siècles)* (Paris, 2012), 9.

⁸⁸ Lemesle, *Conflits et justice*, 71–80; idem, ‘Practiciens de la justice et juridictions (Haut-Maine, fin du XI^e siècle)’, in Dominique Barthélemy and Olivier Bruand (eds.), *Les Pouvoirs locaux dans la France du centre et de l’ouest (VIII^e–XI^e siècles). Implantation et moyens d’action* (Rennes, 2004), 215–32. For eleventh- and twelfth-century notions of *pax* from an ecclesiastical perspective, see now Jehangir Yezdi Malegam, *The Sleep of Behemoth: Disputing Peace and Violence in Medieval Europe, 1000–1200* (Ithaca, 2013).

⁸⁹ For stimulating arguments on the construction of a lordship into a form of governmental authority, see in particular Débax, *La Féodalité languedocienne*, 269–325.

⁹⁰ The events of 1151 are recorded in SAA 864 (1151). See also the narrative accounts in *Chronica vel sermo de rapinis, injusticiis et malis consuetudinibus a Girardo de Mosteriolo exactis; et de eversione castri ejus a Gaufrido comite in Chroniques des églises d’Anjou*, eds. Paul Marchegay and Émile Mabilie (Paris, 1869), 83–90 and *Historia Gaufridi ducis Normannorum et comitis Andegavorum*, eds. Louis Halphen and René Poupardin, in *Chroniques des comtes d’Anjou et des seigneurs d’Amboise* (Paris, 1913), 215–23. For the re-foundation of Saint-Aubin in the 960s, see Guillot, *Le comte d’Anjou*, i, 138–51.

⁹¹ Note Bisson, *Crisis of the Twelfth Century*, 137. Worth returning to in this regard is the classic Jacques Flach, *Les Origines de l’ancienne France, Vol. I, X^e et XI^e siècles. Le régime seigneurial* (Paris, 1886), esp. 137ff. See also Richard E. Barton, ‘Between the King and the Dominus: The Seneschals of Plantagenet Maine and Anjou’, in Martin Aurell and Frédéric Boutouille (eds.), *Les Seigneuries dans l’espace plantagenêt (c.1150–c.1250)*

generalised notion of public order was implied were still expressed in terms of protection. In c.1120, for example, the comital court, presided by Countess Arembourg at Baugé, judged against Robert *Papa Bovem* in favour of Marmoutier, and added that ‘they [the count and countess of Anjou] are lords and princes of this land to the effect that whosoever gives alms will see those alms immediately fall under their protection’ (*statim sub eorum defensione devenirent*).⁹² In one sense comital defence of churches was a form of public order, but to situate *violentia* within a conceptual paradigm of public order performs a slight-of-hand that minimises just how central patronage and protection were to jurisdiction, where the rationale of a protective jurisdiction was subtly but fundamentally different from an abstract commitment to public order.⁹³

An emphasis on public order is important amidst the historiographical context of *mutationisme* which has interpreted the *violentia* of eleventh-century sources as the nadir of the feudal anarchy. But if we do away with the ‘alarmist rhetoric’ and ‘implicit moralism’ which has so coloured historians’ grim views of the eleventh century, not only can we discard views of anarchic disorder, but also the historiographical imperative to react to such descriptions by over-playing arguments for a particular kind of public order.⁹⁴ A political thought which drew a connection between violence and its redress in legal *fora* acting in a quasi-public interest was not yet so internalised as to seem automatic. Public law’s sovereignty over violence is an ideological claim, and if a lay court in the 1080s, for instance,

(Bourdeaux, 2009), 139–62, who argues convincingly that Angevin ‘public’ authority was only effective in the comital demesne, thereby softening arguments in favour of the growth of public government.

⁹² *MMA*, [pp.] 45–7.

⁹³ I have benefitted greatly from T.B. Lambert, ‘Theft, Homicide and Crime in Late Anglo-Saxon Law’, *Past and Present*, no. 214 (2012), 3–43, and Justine Firnhaber-Baker, ‘Seigneurial War and Royal Power in Later Medieval Southern France’, *Past and Present*, no. 208 (2010), 37–76, when thinking about jurisdiction and protection.

⁹⁴ The phrases come from White, ‘The “Feudal Revolution”: Comment’, 221 and Wickham, ‘The “Feudal Revolution”: Comment’, 196 respectively.

seems to be making a similar claim, we need to understand why.⁹⁵ Short of falling back on arguments for ‘the Invisible Hand of Custom’ where curial redress of violence reveals structural continuities with a distant Carolingian past — which fails to explain eleventh-century jurisdiction on its own terms — we lack a satisfactory answer to this question.⁹⁶ Eleventh-century court-holders were not the passive conduits by which public order could descend from the Carolingians to the later Capetians: they were actively interested parties themselves. When a court-holder judged on a case of *violentia*, he — and less often she — was enacting complex political and ideological claims. Judgment was a political act. To understand the relationship between *violentia* and eleventh-century jurisdictions, therefore, we need to understand the political circumstances giving rise to this act.

IV

Politics were intrinsic to seigneurial justice. Over the course of the eleventh century, lords of all persuasions — comital or castellan, lay or ecclesiastic — sought to expand and consolidate the competence of their jurisdictional authority. The means by which this was accomplished were manifold, but centred above-all in the control of land and property rights. Lords sought new ways of extending their jurisdictional reach over property, and of consolidating that control once the foundations of their claims had been laid. The expansion of such jurisdiction rested on integrating property practices into a conceptual model of protective lordship, able to justify drawing landholders into seigneurial courts. A jurisdiction legitimated, in the first instance, upon protection and patronage engendered political

⁹⁵ On the development of ideas of public law over the *longue durée*, see in particular Martin Loughlin, *Foundations of Public Law* (Oxford, 2010) and from a more general perspective, idem, *The Idea of Public Law* (Oxford, 2003).

⁹⁶ This phrase I take from Stephen D. White, “‘The Peace in the Feud’ Revisited: Feuds in the Peace in Medieval European Feuds”, in Kate Cooper and Conrad Leyser (eds.), *Making Early Medieval Societies: Conflict and Belonging in the Latin West, 300–1200* (Cambridge, 2016), 223.

problems when it came to making decisions when faced with competing land claims. It is against this background that *violentia* took shape in eleventh-century courts.

The building blocks of seigneurial jurisdiction were many, and I want to mention just three here. The render of dues, either in cash or kind, provides the first. Such renders formed one of the primary means by which ties of dependence were formed and acted upon, binding those liable for renders to the lord entitled to collect them.⁹⁷ Such ties had proprietary and jurisdictional implications: not only were renders often delivered in a lord's court — payment was in effect a performance of dependence, personal and jurisdictional —, but obligations to pay renders also meant that lands from which they were due were actionable in that lord's court, in the case of default.⁹⁸ Further, the relationship between lords and 'customs-men' (*consuetudinarii*), as they were sometimes called in the charters, was conceptualised in terms of protection. Some charters lumped 'customs' and renders together under the rubric of the *commendise*, or 'protection-money', making the framework of protective lordship explicit: 'customs' were, in this sense, literally the price to pay for the benefits of a lord's protection.⁹⁹

Our second building block is the practice whereby lords gave their assent to transfers of property within their territories.¹⁰⁰ The fact that the lord's territory was described as his (less often her) *feodum* or *fevum* — i.e., fief — should not mislead us into thinking that the practice has much of anything to do with classic models of feudalism familiar from

⁹⁷ See the remarks in Laurent Feller, *Paysans et seigneurs au Moyen Âge. VIII^e–XV^e siècles* (Paris, 2007), esp. 153–6, and more broadly Bourin and Sopena (eds.), *Pour une anthropologie du prélèvement seigneurial*. Note also Chris Wickham, 'Property Ownership and Signorial Power in Twelfth-Century Tuscany', in W. Davies and P. Fouracre (eds.), *Property and Power in the Early Middle Ages* (Cambridge, 1995), 221–44.

⁹⁸ The importance of courts as centres for the delivery of renders comes out most clearly in disputes where the lord seeks to obtain the recognition in court by the disputant that he did in fact owe service to the lord. See for instance *SAA* 61 (1060 x 1081) in which two men were dragged into Saint-Aubin's court after refusing to pay rents 'which other burgesses were accustomed to pay.'

⁹⁹ Feller, *Paysans et seigneurs*, 155. For an overview, see Pierre Duparc, 'La Commendise ou commende personnelle', *Bibliothèque de l'école des chartes*, vol. 119 (1961), 50–112. For disputes arising from the *commendise* in my sample, see e.g.: *Livre noir* 28^rv (990 x 1011), *Livre noir* 28^v–29^r (c.1040), *SAA* 146 (1114).

¹⁰⁰ See *inter alia*: *Livre noir* 51^v–52^r (c.1070), *RA* 206 (c.1110), *RA* 260 (c.1110), *SAA* 95 (1082 x 1106), *SAA* 114 (1117), *SAA* 768 (c.1090), *SSE* i 4 (1090 x 1135), *SSE* i 122 (c.1100), *SSE* i 423 (c.1102 x 1113), *SL* 45 (1103), *FON* 211 (1101 x 1108), *FON* 214 (1101 x 1108), *FON* 215 (1108 x 1116), *FON* 222 (1123 x 1124). See also Stephen D. White, *Custom, Kinship, and Gifts to Saints: The Laudatio parentum in Western France*,

textbooks.¹⁰¹ Lords consented to transfers of property as a means to assert a claim of jurisdiction over the property in question, rather than as an automatic function of the lord having originally granted it as a fief to the current alienor. Consent was an instrument to construct jurisdiction.¹⁰² Seigneurial consent was often obtained in the lord's own court, making the relationship between a court's authority and a particular piece of property explicit — indeed, like the delivery of rents or 'customs', consent was a performance of this legal relationship.¹⁰³ Finally, also like the delivery of renders, seigneurial consent could be conceptualised within the framework of protection. This is seen most clearly in examples where lords gave their consent and promised, expressly, to defend the transferred property.¹⁰⁴

This brings us to the third building block: warranty of land. Warranty refers to the practice whereby a lord promised to defend the beneficiaries of his patronage from outside challenge, and to provide compensation should he prove unable to acquit his obligation.¹⁰⁵ Clauses recording warranty obligations appear from the 1040s, and make the connection between warranty and a conceptual model of protective lordship obvious, not least because by the later eleventh century, verbs like 'to defend' (*defendere*) and 'to protect' (*tueri, protegere*) had become the most common ways of expressing warranty.¹⁰⁶ Although warranty clauses only survive in connection with grants to churches, disputes show laymen calling upon their warrantors, indicating that the notions of protective lordship contained within

1050–1150 (Chapel Hill, 1988), esp. the appendices on 222–7 which show that lords consented to between 15% and 25% of White's sample property transactions in northwestern France, between c.1000 and c.1200.

¹⁰¹ Note here Reynolds, *Fiefs and Vassals*, esp. 146–52.

¹⁰² Note here the comments in West, *Reframing the Feudal Revolution*, 203–5, though my emphasis on jurisdiction differs slightly from West.

¹⁰³ For consents obtained in court, see: *SSE* i 328 (1113 x 1133), *SSE* i 344 (early twelfth century); *FON* 172 (1101 x 1108), *FON* 306 (1128), *FON* 697 (1115 x 1129).

¹⁰⁴ See, *inter alia*, *SSE* i 55 (1102 x 1113), *SSE* i 157 (1096), *SSE* i 335 (1104), *SAA* 121 (1121 x 1127), *SAA* 361 (1060 x 1081), *SAA* 667 (1082 x 1106), *SAA* 825 (1082 x 1106).

¹⁰⁵ A good introduction to this topic is Paul Hyams, 'Warranty and Good Lordship in Twelfth-Century England', *Law and History Review*, vol. 5, no. 2 (1987), 437–503, which, although focussed on England, is relevant in considering similar clauses in northern France. For Normandy, see Emily Zack Tabuteau, *Transfers of Property in Eleventh-Century Norman Law* (Chapel Hill, 1988), 196–204.

¹⁰⁶ For *defendere*: *FON* 180 (1119 x 1125), *FON* 308 (1115 x 1149), *FON* 514 (1108 x 1116), *Livre noir* 89^{r-v} (1070 x 1086), *Livre noir* 91^{r-v} (1072 x 1080), *Livre noir* 103^v–104^r (c.1058), *RA* 71 (1142), *RA* 130 (1110 x

warranty were not limited to ecclesiastical landholders.¹⁰⁷ Warranty thus ensured (theoretically, at least) a lasting relationship characterised as protection between lord and landholder. Warranty contained an implicit — sometimes explicit — jurisdictional claim, as well: those who received the lord's warranty also agreed that the land in question was actionable within the lord's court. Clauses where a lord promised to do justice in his *own* court offer explicit statements of what must have been a more common assumption.¹⁰⁸

Each of these building blocks combined ideas of protective lordship with claims for jurisdictional authority over land — the authority of a court to deal with disputes concerning any given property. That these types of jurisdictional claim were expanding into new situations involving property can be seen in a few ways. The novelty of warranty clauses from the 1040s is one indication.¹⁰⁹ Another comes from cases where a lord reclaimed land on the grounds that he had not consented to its original alienation.¹¹⁰ In c.1080, for instance, Berlai de Montreuil took mills into his demesne (*in suo dominio*), seizing the mills' tithes from the monks of Saint-Nicolas; when asked by the monks why he had done so, he replied: 'because you have not asked that I give it to you, or that I allow you to have it (*aut concederem*); nor did the donors of the tithe ask my permission. Therefore, I am having and holding it because I have not consented.' Berlai's response implies uncertainty and novelty over when and in what circumstances consent was, in fact, necessary.¹¹¹ Nevertheless, the result of sustained assertions to make concrete a lord's jurisdictional claims worked over time

1115), *RA* 279 (1110), *SAA* 288 (1060 x 1087), *SAA* 655 (1097); for *tueri*: *SL* 44 (1103), *SSE* i 6 (1082 x 1093), *SSE* i 55 (1102 x 1113), *SSE* i 243 (1093 x 1102), *SSE* ii [69] 120 (1056 x 1082).

¹⁰⁷ See *SL* 20 (1099), *SAA* 362 (1060 x 1067), *SAA* 388 (1082 x 1106). There is much more evidence for ecclesiastical litigants vouching their warrantors, owing to the provenance of the evidence.

¹⁰⁸ *SAA* 328 (1060 x 1067); note also *SAA* 940 (1038 x 1055) where the warrantor promised to defend his grant *in curia*.

¹⁰⁹ The novelty of such clauses is partly attested by the early use of vernacular verbs (*garantire* or some variant), suggesting the need to find a new means of expressing such ideas in charter diplomatic. See *SAA* 104 (1039 x 1055) for an early use of vernacular (as *guarendare*). Not also *SAA* 362 (1060 x 1067) for a litigant vouching his *guarentus*, and *Livre noir* 39^{r-v} (1050 x 1060) for a court judge against a litigant who had no valid claim *per guarent*.

¹¹⁰ For such cases, see: *Livre noir* 30^{r-v} (1055 x 1060), *Livre noir* 122^v (1092), *RA* 102 (ante 1120), *SSE* i 122 (late eleventh century), *SSE* i 323 (1096).

to acculturate contemporaries — willing or not — to the fact that the basis for right in land was coming increasingly to depend on the authority of a seigneurial court, packaged, in the first instance, within the conceptual framework of protection.

Protection was, of course, political. It was a discourse aimed at legitimating the relationship of lordship and dependence, of structuring inequalities between persons. The enthusiasm with which the claims of would-be lord-protectors were greeted no doubt varied considerably. For a small-scale landowner paying rents, acceptance may often have been grudging; the close follower of a lord, conversely, no doubt willingly sought the securities offered by his lord's court. There could be considerable scope for tension and resistance to the claims of lords — not least in a refusal to acknowledge that one's property rights depended on seigneurial authority. Nevertheless, protection worked as a universalising discourse, despite the very different origins to the practices it served to justify, meaning that structural ambiguity was at the heart of seigneurial jurisdiction. And this ambiguity created problems. Any combination of landholding, justiciability, and protection was bound to pose challenges in the context of disputes. Behind the question of whose right in land was greater, party *A* or party *B*, were conflicting ways of understanding how lordship had been superimposed on property practices. Imagine the following case: the landholder (*A*) who pays rent twice a year to a lord (*C*) finds his land claimed by another landholder (*B*), claiming to have received *C*'s warranty for that same land, and the case enters *C*'s court. On its surface, this case is about right in land, but beneath the surface also lie expectations of *C* — the expectation that the different forms of protective lordship binding *A* and *B* to *C* would count for something. Court cases were thus seldom bilateral conflicts, but instead three-dimensional disputes. Cases turning on land claims posed hard questions: lords and their courts were

¹¹¹ Paul Marchegay (ed.), 'Chartes angevines des onzième et douzième siècles', *Bibliothèque de l'École des Chartes*, vol. 36 (1875), 381–441, no. 15.

asked, albeit implicitly, to choose one interpretation of lordship, to prioritise one form of patronage over another.¹¹²

Politics and patronage were the problems here, and decisions in seemingly straightforward questions of whether *A* or *B* had a stronger claim to right in land had a marked political quality.¹¹³ Litigants had long memories, and the losing party could easily draw conclusions about the relationship between past performances in court instantiating the lord's jurisdictional authority over landholder, and current political decision. Decision-making in such cases was vulnerable to charges of patronage: the defeated party could reasonably ask the extent to which political favour, rather than right, determined the outcome of the case. Indeed, such was inevitable when the conceptual distinction between lordship and rights in land became blurred.

Concerns over the blurred lines between law and politics were made explicit at times. Between 1080 x 1096, for instance, Abbot Natalis of Saint-Nicolas approached Hugh de Chantocé to warrant (*acquitar*) his earlier gift to the monks when Hugh's knight (*miles*), Gautier, challenged it; but Hugh found himself in a tight spot, unwilling at the same time 'to cause distress to his baron and for Saint-Nicolas to have contested property.'¹¹⁴ Indeed, the gravitas attached to loyalty (*fidelitas, fides*) as a rationale for avoiding conflict between lord and client at both the élite and non-élite level is one way of representing concerns over the political dimensions of land cases.¹¹⁵ Similarly, open defiance of judgments — that is the refusal to accept a court's decision — must often have arisen out of doubts over the court's

¹¹² On the multivalency of ideas of lordship, see the essays collected in Stephen D. White, *Re-thinking Kinship and Feudalism in Early Medieval Europe* (Aldershot, 2005).

¹¹³ There is still much to gain from J.C. Holt, 'Feudal Society and the Family in Early Medieval England, III: Politics and Patronage', *Transactions of the Royal Historical Society*, fifth series, vol. 34 (1984), 1–25 and S.F.C. Milsom, *The Legal Framework of English Feudalism* (Cambridge, 1976). See also White, 'Inheritances and Legal Arguments', esp. 56–64, 96–103 for the relevance of models of English lordship in understanding northern French lordship.

¹¹⁴ Laurent le Peletier, *De rerum scitu dignissimarum a prima fundatione monasterii S. Nicolai Andegavensis ad hunc usque diem epitome, nec non et ejusdem monasterii abbatum series* (Angers, 1635), 21–2.

¹¹⁵ For the non-élite level, see Lemesle, *Conflicts et justice*, 235–8, analysing *SL* 7 (1067 x 1100).

partiality.¹¹⁶ Patronage could be such a concern to court-holders that they would even award further proof to victors, as did the count of Redon to the monks of Saint-Florent de Saumur, ‘lest he seem to favour the monks unduly’ in a judgment against Giron, son of Robert Avenel.¹¹⁷ Perceptions of justice mattered both to litigants and courts, and the trick was to find a way to mask the fact that judicial decision-making in property claims could quickly become an expression of political will.

This is an old problem, and was a central tenet of the legal-historical tradition of *la justice féodale*.¹¹⁸ Views of the ‘feudal anarchy’ took the evidence of *violentia* as the direct consequence of this patrimonial justice; individuals, it was thought, turned to self-help to pursue their claims out of doubts for a fair hearing in court.¹¹⁹ Historiography since the 1970s has done surprisingly little to revise this particular view of the relationship between eleventh-century courts and *violentia*, content to rationalise the violence, but to leave unchallenged the *a priori* assumption that the prominence of accounts of *violentia* was conditioned by a widespread crisis of confidence in court-based justice. But, rather than interpreting *violentia* as the product of a wider structural crisis in eleventh-century legal institutions, we can view the discourse of *violentia* as a legal solution to the problems outlined above. *Violentia* worked as a form of legal complaint and argument to divert the immediacy of questions over patronage and politics. When litigants separated acts of wrongdoing from the context of larger land claims, they sought to present the court-holder with substantive issues fundamentally different from

¹¹⁶ For cases, see: *Livre noir* 108^v–109^r (1062), *Livre noir* 112^{r-v} (1050 x 1070). On refusal to accept judgments as one of the principles of eleventh-century litigation, see Lemesle, *Conflits et justice*, esp. 294.

¹¹⁷ *Livre noir* 62^v–63^r (1066 x 1076): *at comes, ne ille suspiciaretur quod parti monachorum magis faveret*. See here, too, Martindale, “‘His Special Friend’”, 47–8 for discussion of a similar case, recorded in *Chartes et documents pour servir à l’histoire de l’abbaye de Saint-Maixent*, Archives historiques du Poitou XVI, ed. Alfred Richard (Poitiers, 1886), no. 164 (c.1087).

¹¹⁸ Flach, *Les Origines*, vol. 1; Bongert, *Recherches sur les cours laïques*, 117–33.

¹¹⁹ Such was the view of Bloch, *Feudal Society*, 359–74; Bongert, *Recherches sur les cours laïques*, esp. 41–77; note also the classic Louis Halphen, ‘La Justice en France au XI^e siècle. Région angevine’, *Revue historique*, vol. 77 (1901), 279–307. It must be stressed that the potential to turn to self-help is not in dispute here: it is simply that the evidence of *violentia* is not so straightforward a reflection of this.

the question of right (*ius*): did the defendant's actions fit into the categories of *violentia*, and was the defendant guilty of such an act?

Judgment on *violentia* was no less a political act than judgment on a land claim: but judgment on *violentia* masked the immediacy of this act. How *violentia* functioned as a mask is difficult to see in cases — often impossible given that so much of the evidence was produced after the plaintiff had achieved a successful outcome.¹²⁰ But one dispute shows the defendant explicitly call into question the way *violentia* masked deeper property claims. In 1143, the monks of Saint-Aubin brought a plaint (*querimonia*) to Count Geoffrey le Bel about the *violentia* done to them by Engressus, the count's seneschal.¹²¹ The *violentia* in question was that Engressus had ordered ditches be made for irrigation in monastic land, and the monks stressed the harm and loss (*dampna*) suffered 'by the violence' (*per violentiam*) of the seneschal. The plaint was enough to convince Geoffrey to act: he summoned Engressus 'to his presence', and forbade him from harassing the monks, confirming the immunity they claimed had been violated. Engressus, however, 'hearing that his impudence had been put to an end', claimed that the count was doing him harm by devaluing the *vicaria* (judicial rights) he (Engressus) had accepted from him.¹²² Geoffrey therefore offered judgment on the matter, ordering his judges to decide if the count had done wrong (*injuriam*) to Engressus. When the judges retreated to deliberate, Engressus — perhaps wisely — agreed to follow the count's wishes, abandoning his claim and thus avoiding judgment. The lessons to draw from the case could not be clearer. *Violentia* worked in an almost superficial way to reach a decision in a case that had very little to do with violence. The case is exceptional in that the defendant convicted of *violentia* called the court out, demanding judgment on the proprietary issue

¹²⁰ Lemesle, *Conflicts et justice*, esp. 288 on the dangers posed by retrospective accounts of disputes; see now the suggestions in Davies, *Windows on Justice*, *passim*.

¹²¹ *SAA* 627.

¹²² *Ibid.*

violentia had masked: that is, to judge on the normative status of the defendant's right which derived, ultimately, from his relationship to his lord.

The language of *violentia* reveals, therefore, a legal discourse taking shape amidst the context of larger changes in how contemporaries envisaged property rights, and the political problems arising from an increasingly close relationship between lordship and property rights. Legal decisions in land claims blurred the line between the operation of law and the exercise of political patronage, so much so that disgruntled litigants could complain of the arbitrary expression of lordly favour. Decisions over *violentia*, often isolated from their larger context of a land claim, softened the immediacy of this patronage. In entertaining legal complaints and arguments focused on *violentia*, court-holders structured the decisions reached in their courts in such a way where the operation of law — that is to say, judgment informed by legal rules — *appeared* to be separate from the exercise of political power. The discourse of *violentia* occupied a conceptual, functional space where the act of judgment was delivered on issues at a measure of distance from the immediate circumstances arising from conflicting claims upon lordly patronage.

Who this discourse sought to convince is another question altogether. Court-holders had an obvious interest in presenting the decisions of their courts in as legitimate a way as possible, but much of the best evidence from this paper is valuable precisely because the mask of *violentia* failed to convince the losing party. That losers were unsatisfied with adverse decisions should not surprise us, but it does raise larger questions of the audience for *violentia*. We can only speculate on this point. Nevertheless, the force of *violentia* as a means of structuring legal decision-making needs to be set alongside the capacity for a language of property rights to accomplish the same task. When rights were coming to be integrated into models of lordship with an alarming complexity, forceful statements of those rights based on patronage must have seemed especially precarious. For the wider political community that

formed the composition of any seigneurial court, and whose property was, to varying degrees, becoming dependent on the authority of that court, *violentia* may have seemed a more palatable way to determine the outcome of cases. The alternative was to expose the hard truth that the ties of protection binding individual, land, and court were not, after all, very strong, and on another day, any suitor could find himself falling afoul of seigneurial favour. *Violentia* thus operated as a collective fiction, enabling the political community to rationalise to itself the internal contradictions of nascent proprietary jurisdiction.

* * *

We are now in a better position to make sense of the *violentia* mentioned in eleventh-century charters. Such language is evidence for the strategies and patterns of legal argument used by litigants when presenting their legal claims. Although there was, no doubt, much actual violence underneath such language — whether that be the violence of lordly thuggery or the more ordered self-help —, it is vital to stress that the evidence used to substantiate such claims is often, actually, depicting forms and patterns of legal argument brought before court-holders. The discourse of *violentia* therefore cannot be taken as a straightforward indication of the absence, weakness, or failure of contemporary legal institutions to limit violence. This discourse of *violentia* in fact makes little sense outside those very institutions. *Violentia* is better read as evidence for the vitality of eleventh-century courts as centres which diffused patterns of thought and legal behaviour, for institutions which spread a conceptual framework in which to think about violence.

Courts have been central to my argument. Throughout this paper, *violentia* has been treated as a discourse intrinsic to the construction of eleventh-century political and legal authority. But this process cannot be explained exclusively, or even primarily, as an attempt by court-holders to assert symbolic and/or institutional claims upon the monopolisation of

legitimate force. Keeping the peace within an eleventh-century territorial lordship was, of course, important; but this was not the basis of political and legal authority within such structures. Rather, control of patronage was key.¹²³ This can be seen through the diverse means lords used to put into practice relations of jurisdictional dependence between their own courts and local landholders. It was in these property practices that we approach the core elements in the construction of eleventh-century political authority.¹²⁴ Amidst this context, *violentia* acquired significance as a legal concept. Its legal utility seems less ideological, and more the practical response to the political problems raised in the development of lordly jurisdictions. The dialectic from which *violentia* took shape as a legal argument was concerned less with claims to limit actual violence, and more with attempts to circumvent thorny land claims. This is vital if we are to move forward in understanding not only violence in the eleventh century, but more importantly, courts and jurisdiction.

The relationship between *violentia* and deeper issues of an emerging proprietary jurisdiction can be teased out from a final example. In c.1063 the abbess of Le Ronceray, after obtaining a judgment in her favour against Fulcrède de Rochefort wrote to Count Geoffrey le Barbu asking, ‘O count, the abbess asks you whether or not [she can] seize (*invadere*) his land?’¹²⁵ The case usefully shows a litigant attuned to the potential legal consequences of violence, and seeking sanction — and probably assistance — *prior* to taking action. The abbess had already obtained a favourable judgment, meaning the interest of this particular case lies in the fact that she sought permission prior to the use of force. That the abbess of Le Ronceray even asked such a question invites speculation on a broader point. One could interpret this as evidence for the existence of some form of public order ready to sanction the illicit use of force, but this line of argument would stop short and miss a crucial

¹²³ Note here Chris Wickham, *The Inheritance of Rome: A History of Europe from 400 to 1000* (London, 2009), esp. 523–4, 558–61 on the politics of land.

¹²⁴ From a broader perspective, see here the stimulating arguments in Rosa Congost, ‘Property Rights and Historical Analysis: What Rights? What History?’, *Past and Present*, no. 181 (2003), 73–106.

observation. Restraint from violence encouraged the formulation of claims and counter-claims within the conceptual categories of landholding and lordship taking shape in contemporary legal institutions. The potential legal consequences of *violentia* channelled legal claims into the framework which emphasised precisely the sort of relationship between lordship and right which was so problematic. Here we find the real structural transformation from the Carolingian period: there seems little reason to agree with the view that the eleventh century witnessed a ‘large-scale shift in the normative order’ regarding how contemporaries thought about violence — the willingness of legal institutions to judge on matters of violence actually looks like major continuity.¹²⁶ But how contemporaries envisaged the relationship between force and the pursuit of property rights was in flux. The motor of these changes was the gradual emergence of new forms of jurisdictional authority, of a proprietary jurisdiction where lordship was superimposed on rights in property. Thus, how historians approach the subject of *violentia* can give insight into the profound changes in how eleventh-century individuals understood property rights, the consequences of which would continue to be felt well beyond the eleventh century.

¹²⁵ RA 183.

¹²⁶ Cf. Brown, *Violence*, 126.