

# Threats and intimidation in Anglo-Norman legal disputes

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## CHAPTER 3

### THREATS AND INTIMIDATION IN ANGLO-NORMAN LEGAL DISPUTES

William Eves

English justice during the Anglo-Norman period lacked the administrative centralisation and widespread procedural regularity of the later English common law. Compared to subsequent periods, a greater number of disputes may have been conducted and resolved without being brought before a court, with the parties instead preferring extra-curial negotiation or low-level violence to settle the matter. Disputes which did follow a more formal legal process could be heard in a number of different courts, some pre-dating the Conquest and others introduced by the Normans, and cases could proceed with a certain amount of procedural flexibility. A number of factors, including a potential lack of clarity concerning legal norms, or power differences between the parties, meant that ‘extra-legal’ tactics are likely to have influenced the outcome of a significant number of these cases.<sup>1</sup>

This essay, drawing on William I. Miller’s work on the psychology of medieval disputing, examines the use of threats as one such extra-legal tactic.<sup>2</sup> It focusses on disputes which came before secular courts, and on cases which might later be termed ‘civil’ rather than criminal. It thus avoids the particularly inflammatory situations which are likely to have

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<sup>1</sup> For an overview of disputing in this period, see J. G. H. Hudson, *The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta* (London: 1996), 8 – 16; and J. G. H. Hudson, *The Oxford History of the Laws of England, Volume II, 871 – 1216* (Oxford: 2012), 4 – 9. I would like to thank John Hudson, Joanna Thornborough, and Sarah White for their helpful comments on drafts of this essay.

<sup>2</sup> See in particular W. I. Miller, ‘Threat’, in *Feud, Violence and Practice: Essays in Medieval Studies in Honor of Stephen D. White*, ed. B. Tuten and T. Billado (Farnham: 2010), 9 – 27.

occurred in homicide cases or other disputes arising from allegations of inter-personal violence. Likewise, cases from the period 1066 – 1135 are considered, but Stephen's reign is excluded so that our picture is not distorted by the exceptional circumstances of the Anarchy.

The most obvious types of threats are those made explicitly, whereby an opponent is promised unpleasant consequences if they act, or refrain from acting, in a certain way. Nevertheless, as Miller explains, many threats are implicit; 'they are simply in the air because of certain talents or blessings, or "suggestivenesses" that cause the other to fear you'.<sup>3</sup> The use of both types of threat in Anglo-Norman lawsuits is therefore considered.

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Some of the most important lay courts in Anglo-Norman England are mentioned in a writ issued by Henry I in 1108:

Know that I grant and order that henceforth my shire courts and hundred courts shall meet in the same places and at the same terms as they were wont to do in the time of King Edward... And if in the future there should arise a dispute concerning the allotment of land, or concerning its seizure, let this be tried in my own court if it be between my tenants-in-chief. But if the dispute be between the vassals of any baron of my honour let the plea be held in the court of their common lord. But if the dispute be between the vassals of two different lords let the plea be held in the shire court.<sup>4</sup>

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<sup>3</sup> Miller, 'Threat', 9.

<sup>4</sup> 'Charter of Henry I concerning the holding of courts shire and hundred (26 July 1108 – August 1111)', in *English Historical Documents*, vol. 2, 1042 – 1189, ed. D. C. Douglas and G. W. Greenaway (2nd ed., London: 1981), no. 43, at 474 – 5.

Henry's writ thus highlights the operation of the king's own court, the county (shire) and hundred courts, and the seigniorial courts of lords.

The role of the king in hearing pleas was well established before the Conquest. Medieval kings were frequently called upon to dispense justice, and English kings and Norman dukes certainly heard pleas before 1066.<sup>5</sup> The king's court also heard a wider range of disputes than those outlined in Henry's writ. As John Hudson points out, the fact that the king was regarded as the fount of justice meant that his court was 'potentially omnicompetent'.<sup>6</sup> Pleas might be heard as the king travelled around the country, although if he was unavailable royal administrators would sometimes hear a case. Likewise, if the king was out of the country, a family member or royal official would be designated to deal with judicial matters.<sup>7</sup>

As Henry's writ suggests, county and hundred courts were also part of the English legal landscape before 1066. County courts seem to have met twice a year at around the time of the Conquest, although by the thirteenth century many seem to have met every four weeks.<sup>8</sup> The legal treatise known as the *Leges Henrici Primi* (written c. 1116) explains that 'bishops, earls, sheriffs, deputies, hundredmen, aldermen, stewards, reeves, barons, vavassours, village reeves and other lords of lands' were expected to attend.<sup>9</sup> County courts could meet in a variety of locations, sometimes outdoors but also in castles, halls, houses, and

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<sup>5</sup> Hudson, *Formation*, 27.

<sup>6</sup> *Ibid.*, 28.

<sup>7</sup> *Ibid.*, 30.

<sup>8</sup> Hudson, *Oxford History*, 276.

<sup>9</sup> *Leges Henrici Primi*, ed. and trans. L. J. Downer (Oxford: 1972) (hereafter cited as *LHP*), ch. 7.2 (Downer, 99 – 101).

monasteries. Hearings, over which the sheriff would preside, could concern a variety of pleas, from land disputes to cases of theft or violence.<sup>10</sup> Occasionally individuals could be instructed by the king to act as royal justices and preside over meetings of the county when they dealt with certain matters which pertained to the king in some way.<sup>11</sup>

Hundreds (known as 'wapentakes' in former Danelaw regions) were administrative areas smaller than a shire. At the time of the Conquest, hundred courts met about once every month, although by the thirteenth century they seem to have met every fortnight.<sup>12</sup> The greater lords and landholders of the hundred were expected to attend, and a bailiff appointed by the sheriff, or a lord if the hundred was in seigniorial hands, usually presided.<sup>13</sup> The court could meet at local landmarks, or at a certain landowner's property.<sup>14</sup> Hundred courts dealt with matters ranging from land disputes to cases of theft or violence, although serious cases which might involve the death penalty were perhaps heard in the county court. In other matters, the jurisdictional relationship between the shire and hundred courts is somewhat obscure, and royal writs from the period sometimes regard either as an appropriate court in which a particular land dispute could be heard.<sup>15</sup>

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<sup>10</sup> Hudson, *Oxford History*, 278 – 9.

<sup>11</sup> P. A. Brand, *Origins of the English Legal Profession* (Oxford: 1992), 7.

<sup>12</sup> Hudson, *Formation*, 38. See also A. Harding, *The Law Courts of Medieval England* (London: 1973), 17 – 18.

<sup>13</sup> Hudson, *Oxford History*, 281.

<sup>14</sup> See Hudson, *Formation*, 38, suggesting that graveyards or thorn bushes may have also been used as meeting places.

<sup>15</sup> Hudson, *Oxford History*, 282.

Honorial courts, where lords heard disputes between their knightly or more important tenants, appear to have emerged in England after the Conquest.<sup>16</sup> Lords could hear disputes between their men as and when they arose, but they also held special sessions to hear pleas. These hearings could take place in the lord's castle or hall, although ecclesiastics who were secular lords might, if they did not possess a castle, hold their court in their cathedral or monastery, or even a house of one of their tenants.<sup>17</sup> We cannot be sure how frequently honorial courts met, although it is possible they did so only periodically.<sup>18</sup> The lord presided over the court and his tenants were expected to attend, but others who did not hold land of the lord, or were not his men, might also come to court.<sup>19</sup> Lords also held courts for their peasant tenants, known as manor courts or 'hallmoots', over which one of the lord's reeves, or sometimes his steward, might preside.<sup>20</sup> These were perhaps the most important type of court for unfree tenants, where the manor's agricultural matters might be discussed or complaints about the lord's officials heard.<sup>21</sup>

In practice, the composition of courts sometimes varied and the distinction between one type of court and another may not always have been obvious. Royal justices, for example, might be welcomed into a lord's court, and the presence of county landholders who were not the lord's men could also obscure the court's seigniorial origins.<sup>22</sup> Furthermore, the

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<sup>16</sup> Hudson, *Formation*, 41.

<sup>17</sup> Hudson, *Oxford History*, 285.

<sup>18</sup> Brand, *Legal Profession*, 5.

<sup>19</sup> Hudson, *Oxford History*, 286.

<sup>20</sup> *Ibid.*, 288 – 9. See also Brand, *Legal Profession*, 5 – 6.

<sup>21</sup> Hudson, *Oxford History*, 289.

<sup>22</sup> Hudson, *Formation*, 25 – 26.

jurisdictional boundaries between Anglo-Norman courts were somewhat flexible, and competition between court-holders to hear pleas, or an agreement between the parties, might bring a case before a court other than that stipulated in Henry's writ. Nevertheless, Hudson suggests that it would be wrong to consider these types of court as interchangeable and their business wholly negotiable.<sup>23</sup> Henry's writ shows that jurisdictional considerations mattered, at least to some, and arguments could be raised by litigants about the proper court before which their dispute ought to be heard.<sup>24</sup>

Court proceedings began with the plaintiff stating his or her claim. The plaintiff's opponent would then make their defence through a formal denial of the claim. Further pleading might then follow.<sup>25</sup> If the parties did not reach a settlement, or if the truth of the matter was not common knowledge, the court would make a 'mesne' judgment on who should provide proof, and the type of proof that was required. This could be documentary evidence, such as charters, or the use of oaths and sworn testimony. If there was no other way to resolve the dispute, recourse might be had to the unilateral ordeal of hot iron, or hot or cold water. Trial by battle could also be used in such circumstances. Final judgment would then be awarded on the basis of this proof.<sup>26</sup>

Judgments were generally made by the 'suitors', that is, those who had a duty to attend hearings, although the president of the court may have exerted some influence over the

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<sup>23</sup> Ibid., 26.

<sup>24</sup> Ibid., 26 – 27. See also the case discussed below at n. 79 and accompanying text.

<sup>25</sup> For a detailed examination of procedure, see Hudson, *Oxford History*, 303 – 32. See also Brand, *Legal Profession*, 4 – 5.

<sup>26</sup> Trial by battle was probably introduced by the Normans following the Conquest. See Hudson, *Oxford History*, 84 – 85 and 303.

decision. The *Leges Henrici Primi* thus explains that county court judgments were made by the ‘barons of the county’, probably drawn from the landholders, nobles, and public officials who were expected to attend court.<sup>27</sup> These suitors also made judgments when royal justices presided over the court.<sup>28</sup> The judgments of the hundred court were likewise made by at least some of the landholders of the hundred who were in attendance, and the judgments of honorial courts were made by the lord’s tenants, sometimes with other individuals added to the court with the lord’s permission.<sup>29</sup> The king could make judgments when hearing pleas, but in general the decisions of the king’s court often seem to have been made by his tenants-in-chief.<sup>30</sup>

Although the president and suitors of the court were not legal experts (in the sense that we understand the term today), pleading in court could involve recourse to legal norms. Hudson has shown that reference to such norms was, however, sometimes implicit rather than explicit. Arguments could, for example, concern the veracity of ‘legally charged’ facts, rather than a clear statement of a norm followed by an assertion that the facts of the case required the norm to be followed. A litigant may have argued, for instance, that an individual could not sell land because it was held in alms, invoking (although not explicitly stating) the norm that land held in alms was inalienable.<sup>31</sup>

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<sup>27</sup> *LHP* ch. 29, 1 and 1a (Downer, 131). See Brand, *Legal Profession*, 6 – 7.

<sup>28</sup> Brand, *Legal Profession*, 7.

<sup>29</sup> *Ibid.*, 5 – 6.

<sup>30</sup> *Ibid.*, 6.

<sup>31</sup> J. G. H. Hudson, ‘Court Cases and Legal Arguments in England, c.1066 – 1166’, *Transactions of the Royal Historical Society*, ser. 6, vol. 10 (2000), 91 – 115 at 100 –



Nevertheless, legal argument was only one factor which could influence the outcome of a dispute.<sup>32</sup> Some cases, for example, could lack clear norms for guidance as to how the dispute should be resolved.<sup>33</sup> These lawsuits, if they were not settled, may have been decided by arguments based upon moral and social considerations, or simply by the power, wealth, or influence of the parties.<sup>34</sup> Even cases underpinned by clear legal norms could be affected by extra-legal factors, which probably had a greater impact on lawsuits of the period than they do in modern law.<sup>35</sup>

The power, wealth, or influence of the parties could be brought to bear on a dispute in a number of ways. Much depended on the circumstances of the case and the particular advantages held by the litigant in question. Some litigants were able to secure the assistance of prominent individuals, maybe even the king himself, who might intervene in proceedings

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2 and 104. See also P. R. Hyams, 'Norms and Legal Argument before 1150', in *Law and History*, ed. A. D. Lewis and M. Lobban, Current Legal Issues 6 (Oxford: 2004), 41 – 61.

<sup>32</sup> Hudson, *Formation*, 11.

<sup>33</sup> Hudson, 'Court Cases', 109. See also Hyams, 'Norms and Legal Argument', 52 – 53.

<sup>34</sup> Hudson, 'Court Cases', 109. For studies of disputing in France from the eleventh century onwards which emphasise the centrality of social and moral arguments, political pressure and the importance of settlements, see S. D. White, "'*Pactum...Legem Vincit et Amor Iudicium*": The Settlement of Disputes by Compromise in Eleventh-Century Western France', *American Journal of Legal History* 22 (1978), 281 – 308; and F. L. Cheyette, '*Suum Cuique Tribuere*', *French Historical Studies* 6 (1970), 287 – 99. On norms and their role in legal arguments in French courts, see S. D. White, 'Inheritances and Legal Arguments in Western France, 1050 – 1150', *Traditio* 43 (1986), 55 – 103.

<sup>35</sup> Hudson, 'Court Cases and Legal Arguments', 112 – 3.

on their behalf. The *Liber Eliensis*, for example, mentions that Simeon, abbot of Ely, was able to quash various claims through not just legitimate argument, but also royal favour.<sup>36</sup> Some wealthy individuals also made payments, perhaps to the king, to obtain favourable treatment in court.<sup>37</sup> Litigants could also use threats to influence the outcome of the case.

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A study of the way in which threats were used in lawsuits is restricted somewhat by the nature of the surviving sources. Evidence is limited because proceedings were largely oral, and courts of the period do not appear to have kept any formal written records of hearings. We can glean some information about litigation from treatises such as the *Leges Henrici Primi*, although these texts generally describe what the author thought should be done in court, and do not provide detailed information about individual cases.<sup>38</sup> The provisions contained in such treatises can nevertheless shed light upon certain patterns of litigant behaviour which the courts, or others involved in the administration of justice, were attempting to encourage or prohibit.

Information about individual cases can be found in sources such as charters, Domesday Book *clamores*, letters, hagiographical texts, and monastic chronicles. The number of recorded cases available to us is nevertheless quite small. R. C. van Caenegem's largely comprehensive collection of material relating to Anglo-Norman lawsuits contains accounts of fewer than 'ten cases per decade in 1071 – 1080, between ten and twenty in 1081

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<sup>36</sup> *Liber Eliensis*, ed. E. O. Blake, Camden Third Series 92 (London: 1962), book ii: 119 at p. 203. For an English translation, see *Liber Eliensis: A History of the Isle of Ely from the Seventh Century to the Twelfth*, trans. J. Fairweather (Woodbridge: 2005), 241.

<sup>37</sup> Hudson, *Oxford History*, 9.

<sup>38</sup> See Hudson, *Formation*, 249 – 50.

– 1090, between twenty and thirty in 1091 – 1110, between thirty and forty per decade in 1111 – 1120 and 1131 – 1150, [and] between forty and fifty in 1121 – 1130’.<sup>39</sup> Narrative accounts of cases, found in sources such as hagiographies and chronicles, are the most useful for discovering information about the use of threats in the period. However, these accounts are particularly scarce, comprising only about thirty percent of the material collected by van Caenegem.<sup>40</sup>

Some of these narratives may be accurate accounts of what was said in court – the *ipsissima verba* of the parties.<sup>41</sup> However, caution is required as it is possible that some reported speech was invented by the scribe. Furthermore, these accounts are often Latin descriptions of vernacular proceedings, which raises the possibility that the words of the parties have been distorted in translation.<sup>42</sup> Accounts of litigation which do not report direct speech may also portray events inaccurately. As Hudson points out, most narrative accounts of cases are recorded in monastic chronicles, often to record the successful claims of the house. They are not, therefore, impartial records and may seek to present the opposing party in as poor a light as possible. This also means that in most cases at least one of the parties belonged to the clergy, and cases involving only laymen are rare.<sup>43</sup> As Hudson also suggests, some narratives have a tendency to sensationalise, possibly exaggerating the actions of litigants in court. Likewise, unusual or particularly problematic cases may have been

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<sup>39</sup> *English Lawsuits from William I to Richard I*, ed. R. C. van Caenegem, 2 vols, Selden Society 106 and 107 (London: 1990 and 1991) (hereafter cited as *Lawsuits*), I, xxiv.

<sup>40</sup> *Lawsuits*, I, xxiii.

<sup>41</sup> *Ibid.*, xv – xvi.

<sup>42</sup> Hudson, ‘Court Cases’, 93.

<sup>43</sup> *Ibid.*, 94. See also *Lawsuits*, I, xxiv;

accorded the most detailed treatment, potentially giving a false impression of the general nature of cases in the period.<sup>44</sup> It must also be noted that, as the authors of these accounts were not writing specifically for a legal audience, information that a legal historian may wish to know is sometimes omitted. The status of the parties, for example, is not always clear and we cannot tell on every occasion whether a litigant is a knight or an ordinary freeman.<sup>45</sup> Likewise, the type of court before which the case was heard cannot always be discerned, although as discussed above there may not always have been a clear distinction between certain types of court in the period.<sup>46</sup> The scarcity and nature of the sources thus prevents any kind of quantitative analysis of case material. Nevertheless, even with our limited sample, and bearing in mind the above caveats, the surviving records of cases offer a revealing insight into the way threats were used in Anglo-Norman lawsuits.

Threats could take many different forms. Individuals with sufficient worldly power could, for example, threaten their opponent with consequences such as inter-personal violence, imprisonment, loss of land, or the loss or destruction of possessions. Even the threat of homicidal violence was not unknown. According to the *Liber Eliensis*, two noble families, the Richards and the Giffards, had made it unsafe for ‘for anyone at all from among the magnates to compete with them over the reception of guests or the conduct of lawsuits, since frequent killings were carried out at court by their hands and on many occasions they had struck terror into the king’s majesty’.<sup>47</sup> Churchmen too could resort to physical violence, although perhaps not to such extremes. The *Abingdon Chronicle* recounts that Abbot

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<sup>44</sup> Hudson, ‘Court Cases’, 94 – 95.

<sup>45</sup> *Lawsuits*, I, xxiv.

<sup>46</sup> *Ibid.*, xxv.

<sup>47</sup> *Liber Eliensis*, book ii: 142 (Blake, 226; Fairweather, 273).

Adelelm once used a stick to beat a royal reeve who had demanded transport services for the king and wood from the abbey and, the next time they met, terrified him to such an extent that he fled on horseback and then waded through a river in an attempt to get away.<sup>48</sup>

A case described in the *Textus Roffensis* between Gundulf, bishop of Rochester and Picot, the sheriff of Cambridgeshire, provides a striking example of how such threats could be delivered, and the way in which they could influence a dispute.<sup>49</sup> As Robin Fleming notes, it provides an insight into the ‘real-world, hard-ball politics that must have operated at every court in the tenth and eleventh centuries’.<sup>50</sup> Gundulf brought a claim for certain land in Isleham, Cambridgeshire, arguing that the land, an appurtenance of Freckenham in Suffolk, belonged to Rochester Cathedral. Picot, who had granted it to a certain king’s serjeant, said that the land belonged to the king. The case came before the county court of Suffolk, with Odo of Bayeux presiding. It seems that the court comprised not just Suffolk landholders, but

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<sup>48</sup> *Historia Ecclesie Abendonensis: The History of the Church of Abingdon*, ed. and trans. J. G. H. Hudson, 2 vols (Oxford: 2002 – 2007), II, 15. This case is *Lawsuits*, I, no. 12. Note that van Caenegem’s translation in *Lawsuits* is based on Stevenson’s earlier edition of the text: *Chronicon monasterii de Abingdon*, ed. J. Stevenson, Rolls Series 2, 2 vols. (London: 1858).

This essay uses Hudson’s translation of material from the *Abingdon Chronicle* throughout.

<sup>49</sup> The Latin text is provided in *Registrum Roffense*, ed. J. Thorpe (London: 1769), 31 – 32.

For a translation, see *Lawsuits*, I, no. 19.

<sup>50</sup> R. Fleming, ‘Oral Testimony and the Domesday Inquest’, in *Anglo-Norman Studies* 17, ed. Christopher Harper-Bill (Martlesham: 1995), 108. For a similar perspective on this case, see A. Cooper, ‘Protestations of Ignorance in Domesday Book’, in *The Experience of Power in Medieval Europe, 950-1350*, eds. R. F. Berkhofer, A. Cooper and A. J. Kosto (Aldershot: 2005), 169 – 182, at 178 – 179.

also men from Staploe, the Cambridgeshire hundred in which Isleham was located.<sup>51</sup> When the matter came to judgment, we are told that the suitors, because they feared the sheriff, affirmed that the land belonged to the king. ('Illi autem congregati, terram illam regis esse potius quam Beati Andree timore vicecomitis affirmaverunt'). As the malign influence of Picot was suspected, twelve of the suitors were assembled to confirm on oath that what they had just said was true. At least five of those selected were from Staploe, and it is possible that all twelve came from this hundred.<sup>52</sup> However, when these twelve had withdrawn to consider their oath, 'they were utterly terrified by a message [or messenger] from the sheriff' (a vicecomite per internuncium conteriti fuissent). On returning, they 'swore to be true that which they had said before'.<sup>53</sup> The matter was eventually rectified when a monk, formerly a reeve of Freckenham, heard about the case and told the bishop that he knew for a fact that Isleham belonged to the cathedral. The bishop informed Odo of Bayeux, who summoned two of the twelve jurors who had sworn the oath at the county court to appear before him. These two jurors confessed their perjury. Odo then ordered Picot to send the remaining ten jurors to London, along with another twelve of the suitors of the county court who were tasked with confirming the oath of the former twelve.<sup>54</sup> An assembly was convened with many of the greater barons of England in attendance, and the men who had sworn the original oath were convicted of perjury. The second twelve then wished to assert that they had not been in agreement with those who had sworn the first oath and promised to undergo the ordeal of hot

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<sup>51</sup> Fleming, 'Domesday Inquest', 107 – 8.

<sup>52</sup> Ibid., 108.

<sup>53</sup> *Lawsuits*, I, no. 19, p. 51. This is a slightly modified version of van Caenegem's translation.

<sup>54</sup> Ibid.

iron to prove this. However, they either reneged on this promise or failed the ordeal (‘se facturos promiserunt, et facere non potuerunt’) and were fined a total of three hundred pounds.<sup>55</sup> As Fleming points out, Picot appears to have escaped punishment, despite the fact that his threats caused the whole controversy.<sup>56</sup>

As this account is written from Rochester’s perspective, it may attempt to portray Picot as a thuggish oppressor to give more credence to the cathedral’s own claim to the land. However, the *Textus Roffensis* is not alone in suggesting that the sheriff was a formidable opponent, and one who would readily employ such tactics. The *Liber Eliensis*, for example, complains about his frequent vexations of Ely Abbey and refers to him as ‘the most vile man in the populace’.<sup>57</sup> The same source also mentions his ‘Gaetulian temperament’, most likely a reference to Sallust’s description of North African Gaetuli tribesmen as people controlled ‘neither by customs, laws, nor the authority of any ruler’.<sup>58</sup>

Though we do not know the exact content of the message, Picot’s threat was clearly effective for a number of reasons. First, it was communicated to the jurors with impeccably sinister timing, reaching them whilst they were still considering the oath that they were about to swear. The fact that it was apparently delivered by a messenger, rather than in person, would have added to their terror as they were left to dwell on its implications without any opportunity to plead with the sheriff or determine whether he was bluffing. The force of the

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<sup>55</sup> Ibid.

<sup>56</sup> Fleming, ‘Domesday Inquest’, 108.

<sup>57</sup> *Liber Eliensis*, book ii: 132 (Blake, 212; Fairweather, 251).

<sup>58</sup> *Liber Eliensis*, book ii: 131 (Blake, 211; Fairweather, 250); Sallust, *Bellum Iugurthinum*, ch. 18, in *The Conspiracy of Catiline and the Jugurthine War*, trans. Rev. J. S. Watson (Philadelphia: 1896), 146.

threat would have been further intensified if the messenger was himself intimidating, especially if he was tasked with delivering the threat orally. However, additional factors also determined the effectiveness of the threat. The case was heard in Suffolk, a county in which Picot, as sheriff of neighbouring Cambridgeshire, probably had considerable influence. Furthermore, a number of the suitors came from Cambridgeshire, including at least some of those selected to swear the oath, and were thus particularly susceptible to Picot's influence. It was therefore not simply the content of the threat and the manner in which it was delivered that made it effective. The location of the hearing and the composition of the court also played a large part in determining its effectiveness.

The dispute between Gundulf and Picot thus shows how threats backed up by worldly force could have a dramatic effect on the course of litigation. Nevertheless, threats were not confined to the secular world. Some litigants, for example, attempted to strike fear into their opponents with warnings of excommunication or malediction. Here, the success of the threat would depend upon the perceived spiritual authority of the individual making it, and how seriously the recipient treated such warnings of spiritual peril.<sup>59</sup> Litigants could also make

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<sup>59</sup> In addition to what follows, for a good later-twelfth-century example of the potential uses of excommunication see T. Walsingham, *Gesta Abbatum Monasterii Sancti Albani*, 3 vols, ed. H. T. Riley, Rolls Series 28.4 (London: 1867 – 9), I, 159 – 66. For a translation of this St Albans case, see *Lawsuits*, II, no. 396. Disputes from the Anglo-Saxon period also show how excommunication could be used against an opposing party. See, for example, *Liber Eliensis*, book ii: 96 (Blake 165 – 6; Fairweather, 196 – 7). Limitations of space prevent a discussion of whether depictions of saintly vengeance, as found in hagiographic texts, might also be used as a basis for threats during the course of a dispute. For examples of disputes involving the vengeance of saints, and a discussion of religious attitudes towards this type of vengeance



threats which had both religious and secular force, and the combined pressure of this two-pronged approach could be particularly effective.

The *Chronicle of the Archbishops of York* describes a dispute between Ealdred, archbishop of York, and the sheriff of Yorkshire which provides a good illustration of how such threats could work in practice. The part of the *Chronicle* containing this account was written in the early twelfth century to emphasise the importance of the archbishopric of York and its independence from the See of Canterbury.<sup>60</sup> We should therefore be aware that it is likely to have exaggerated, and perhaps fictionalised, aspects of the dispute in an attempt to portray Ealdred as a masterful guardian of the rights of his archbishopric. Nevertheless, it is a powerful example, and at the very least it illustrates how individuals in the early twelfth century were aware of the way in which such threats could be delivered for maximum effect.

We are told that the dispute began just outside York when the sheriff encountered a number of horses and carts carrying wheat and other foodstuffs intended for the archbishop.<sup>61</sup> Ealdred's servants explained that what they were carrying was necessary for his sustenance. However, the sheriff, 'having no respect for the archbishop and his servants...ordered his underlings to divert all the supplies to the castle of York'.<sup>62</sup> The source, obviously sympathetic to the archbishop, implies that the sheriff unjustly and opportunistically seized

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in the Anglo-Norman period, see P. R. Hyams, *Rancor and Reconciliation in Medieval England* (New York: 2003), 119 – 28.

<sup>60</sup> *Historians of the Church of York and Its Archbishops: Volume II*, ed. J. Raine, Rolls Series 71 (London: 1886), x – xii.

<sup>61</sup> Raine, *Historians*, 350 – 3. For a translation, see *Lawsuits*, I, no. 1.

<sup>62</sup> Raine, *Historians*. 351. (*Lawsuits*, I, no. 1, p. 1).

goods intended for the archbishop. It is possible, however, that the real cause of the confrontation was a dispute over the right of the sheriff to certain exactions.

When the archbishop heard that his carts had been seized, ‘he at once sent messengers, with clerics and citizens’ to the sheriff, ordering him ‘to restore to him what was his and to give satisfaction to St Peter and himself, his vicar, otherwise he should know that afterwards he would take pontifical action’.<sup>63</sup> The sheriff was indignant and ‘proudly answered with several grave threats, treating the messengers with injuries and contumelies’.<sup>64</sup> The messengers retreated and told the archbishop what had happened. Ealdred immediately travelled to London, where he was met by the bishop of London and a large gathering of clergy and laymen. The bishop accompanied Ealdred to worship at St Paul’s church, and then at St Peter’s church at Westminster. It was here that the archbishop, wearing his pall and carrying his episcopal staff, encountered King William. The king was kneeling, perhaps in prayer or perhaps ready to receive a customary blessing. Before he could get to his feet, Ealdred stood before him and, ‘without any fear of the king’s majesty or the impudence of the leading men who were standing around’, said:

Listen ... King William. When you, a foreigner, had, because God allowed it and punished the pride of our people, obtained the kingdom of Britain, albeit with much bloodshed, I consecrated you as king and placed the crown on your head with my blessing. Now, however, because you have deserved it, instead of my benediction I shall pronounce my malediction against you as a

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<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

persecutor of God's church, an oppressor of his servants, and a transgressor of the promises and oaths which you swore to me before the altar of St Peter.<sup>65</sup>

According to the *Chronicle*, the king was frightened by these words and threw himself at the archbishop's feet, imploring him to explain what he had done to deserve such a threat. The magnates who were standing around were shocked and, suggesting that the archbishop should be exiled, urged him to let the king get to his feet. Ealdred simply replied, 'let him lie, for he is not lying at the feet of Ealdred, but at Peter's feet. He who has not feared to cause the vicar of Peter injury must undergo Peter's power'.<sup>66</sup> He then took hold of the king's hand, helped him to his feet, and explained the reason for his visit. The king listened gravely and 'begged him to change the malediction, with which he had been threatened, into a benediction'.<sup>67</sup> The matter was decided in favour of the archbishop, who was rewarded with honours and gifts. The king sent one of his most trusted magnates to Yorkshire with a letter to the sheriff ordering that everything be restored to the archbishop, even down to the ropes that had been on the sacks.<sup>68</sup>

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<sup>65</sup> Ibid., 352 (*Lawsuits*, I, no. 1, p. 2): 'Audi ... Willelme Rex, cum esses alienigena, et, Deo permittente nostraeque gentis superbiam puniente, regnum Britanniae, quamvis multo cum sanguine, obtinuisses, ego te in regem consecravi, et coronam capiti tuo cum benedictione imposui. Nunc autem, quia ita meruisti, pro benedictione maledictionem tibi imponam, sicut ecclesiae Dei persecutori, et ministrorum Ejus oppressori, et promissionum atque juramentorum quae mihi coram altare Sancti Petri jurasti transgressori'. The English translation is a modified version of van Caenegem's translation in *Lawsuits*.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid., 353 (*Lawsuits*, I, no. 1, p. 2).

Ealdred's threat was almost certainly different to that made by Picot in the latter's case against Gundulf of Rochester. It was also delivered in a different manner: openly and dramatically rather than slyly and by proxy. However, as in Picot's case, its success owed much to its timing and the place in which it was made. Ealdred approached the king in a church, wearing his archiepiscopal garb and carrying his staff, which emphasised his religious authority to the fullest extent. The fact that the meeting took place at Westminster, where William had sworn his coronation oath and where Ealdred himself had placed the crown on his head, also helped remind the king of the archbishop's importance and spiritual authority. Furthermore, William did not have time to stand up but remained kneeling in a position of subservience while the archbishop addressed him. Ealdred's speech, although probably embellished by the author of the *Chronicle*, was also finely crafted and deserves attention. The archbishop began forcefully ('Audi, Willelme Rex'), and used the circumstances of William's coronation to his advantage. By pointing out that God had allowed William ('a foreigner') to obtain the crown in order to punish the pride of the English, he implied that God might also punish the new king's pride. Furthermore, Ealdred reminded William that he had been crowned with his blessing, making his threatened malediction all the more significant. The archbishop continued to emphasise his spiritual authority when challenged by William's magnates, explaining that the king had offended not simply Ealdred the man, but Ealdred the vicar of St Peter.

The impact of Ealdred's threat was also amplified by its immediate real-world implications. Whilst attempting to consolidate his conquest of England, William could not afford to lose the support of the English Church. The support of the archbishop of York was especially important as the legitimacy of Stigand, the archbishop of Canterbury, was in doubt. Stigand's appointment in 1052 had been subject to papal disapproval, as he had obtained the archbishopric from the exiled Robert of Jumièges and had failed to relinquish the See of

Winchester upon doing so. As a result, he had not travelled to Rome to receive his pallium from Pope Leo IX, instead wearing the one which had been abandoned by Robert. He eventually received his own pallium from Benedict X, but the latter's legitimacy as Pope was also in doubt.<sup>69</sup> It was because of this concern over Stigand's position that Ealdred oversaw the coronation of William, and the king would have been well aware that if he displeased the archbishop he risked losing the support of the most powerful religious voice in England at that time.

The political influence of Ealdred amongst the English magnates further added to the potency of the threat. In the years preceding the Conquest, the archbishop had been a strong supporter of the Godwin family. Following Harold Godwinson's defeat at Hastings, he joined with the earls Eadwine and Morcar in an attempt to rally support for Edgar the Aetheling's claim to the English throne before submitting to William at Berkhamsted in December 1066.<sup>70</sup> Ealdred's threatened malediction thus had purely secular connotations. It carried the message that, in a period in which William was attempting to retain the support of the remaining English magnates, it would be unwise for the king to lose the support of one of his most powerful native-English supporters.

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Explicit threats could therefore take various forms and have a significant impact on the outcome of a dispute. However, parties could also manipulate lawsuits without voicing their threats directly. Implicit threats, communicated by an individual's conduct or demeanour,

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<sup>69</sup> H. E. J. Cowdrey, 'Stigand (*d.* 1072)', in *Oxford Dictionary of National Biography*, vol. 52, ed. H. C. G. Matthew and Brian Harrison (Oxford: 2004), 774 – 7.

<sup>70</sup> M. K. Lawson, 'Ealdred (*d.* 1069)', rev. Vanessa King, in *Oxford Dictionary of National Biography*, vol. 17, ed. H. C. G. Matthew and Brian Harrison (Oxford: 2004), 552 – 4.

could play a large part in proceedings. Litigants often, for example, sought to intimidate their opponents by arriving at a hearing backed by powerful supporters. Such individuals might, of course, make their own explicit threats, but their mere presence at court could speak volumes in itself.

A number of abbeys secured, or attempted to secure, the assistance of powerful figures by making grants of land on the condition that the grantee would support them in lawsuits.<sup>71</sup> For example, Nigel d'Oylly, baron of Hook Norton, constable of Oxford castle, and constable of Henry I, held land in the fee of Abingdon on the condition that he would support the abbot in any pleas heard in the king's court unless the abbey's opponent was the king himself. The abbot brought a lawsuit against Nigel to do homage for his lands and acknowledge the services he owed in which it was made clear that this support was not simply general encouragement, but Nigel was to be 'present on the abbot's side' at court (*ipsius abbatis parti idem aderit*).<sup>72</sup> Other examples, noted by Paul Brand, include Hamo *dapifer*, the sheriff of Kent and steward to the king, who had an obligation to 'advise, help and succour' the abbot of St Augustine's, Canterbury, and his church in pleas in the county court and king's court.<sup>73</sup> A certain Colswain, lord of the Brattleby barony, also had an obligation to 'maintain' the property of the abbey of Peterborough and the men of the abbey

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<sup>71</sup> For the following, see P. A. Brand, 'The Origins of the English Legal Profession', *Law and History Review* 5, no. 1 (1987), 31 – 50 at 33 – 34.

<sup>72</sup> *Historia Ecclesie Abendonensis* (Hudson, II, 195). This case is *Lawsuits*, I, no. 206.

<sup>73</sup> *The Register of St Augustine's Canterbury, Commonly Called the Black Book*, ed. G. J. Turner and H. E. Salter, vol. II (London: 1924), 462 – 3.

in the county court and elsewhere.<sup>74</sup> These men, as Brand notes, were ‘friends’ well worth having.<sup>75</sup>

Whilst having one powerful supporter could be valuable, some litigants attempted to secure the assistance of as many as possible. As Miller points out, a group of men ‘is rarely a benign phenomenon’, and a large gathering of supporters would have been particularly intimidating.<sup>76</sup> According to the *Liber Eliensis*, for example, it was not just the Richards and Giffards families’ reputation for violence that scared people, but the fact that, ‘whenever a meeting of nobles took place, their procession was supported by a huge entourage which was terrifying’.<sup>77</sup>

The advantage of appearing in court with supporters is also recognised by the *Leges Henrici Primi*, which explains that it was sometimes better, if possible, to postpone or defer a case ‘depending on the presence or absence of friends or opponents’.<sup>78</sup> This also hints at the manoeuvring which could take place as each side attempted to maximise their own support and proceed with the case at the moment when their opponent was weakest. A case from the *Chronicle of Battle Abbey* illustrates how these manoeuvres could play out in practice, and

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<sup>74</sup> E. King, ‘The Peterborough *Descriptio Militum* (Henry I)’, *English Historical Review* 84, no. 330 (1969), 84 – 101 at 100.

<sup>75</sup> Brand, ‘Origins’, 33 – 34.

<sup>76</sup> As Miller notes, the word ‘threat’ is of Anglo-Saxon origin (*bréat*) and, at its core, meant simply a group or press of men. It was the fact that a group of men was ‘rarely a benign phenomenon’ that gave the word its pejorative sense. Miller, ‘Threat’, 12.

<sup>77</sup> *Liber Eliensis*, book ii: 142 (Blake, 226; Fairweather, 273).

<sup>78</sup> *LHP*, 49, 2a (Downer, 163).

shows how such tactics could be combined with other indirect attempts to intimidate an opponent.

We are told that, while the abbey was in the custodianship of Geoffrey de St Calais in the early twelfth century, its manor of Wye was found to be in a state of neglect. Robert de Chilton, the reeve of Wye, was summoned to the manor court to answer for his actions.<sup>79</sup> However, Robert arrived ‘backed by the force of the county nobles’ and refused to accept the accusations or even come to an equitable agreement.<sup>80</sup> We have no record of any explicit threats being made, but the threat advantage Robert obtained by arriving with a throng of powerful county nobles is clear.

Following Robert’s refusal to answer the accusation laid against him, Geoffrey summoned him to appear at the court of Battle Abbey. At first, he and his supporters refused to accept the summons. Eventually, however, Robert and ‘many other barons’ (aliique barones quamplurimi) came to the court. We are told that they were brought ‘by the power and terror of the royal name’ (vi ac terrore regii nominis), which may imply that Geoffrey had obtained a royal writ.<sup>81</sup> As it was late in the afternoon, the custodian adjourned proceedings until the morning so that young members of the abbey could be present. The *Chronicle* reports that this was done ‘by conviction, albeit regretfully’, and the postponement accords with the Rule of St Benedict’s stipulation that if anything important is to be done in the monastery ‘the abbot shall call the whole community together...[as] the Lord often

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<sup>79</sup> *The Chronicle of Battle Abbey*, ed. and trans. E. Searle (Oxford: 1980), 108 – 12. This case is *Lawsuits*, I, no. 174.

<sup>80</sup> *Chronicle of Battle Abbey* (Searle, 109 – 11; *Lawsuits*, I, no. 174, p. 145).

<sup>81</sup> *Chronicle of Battle Abbey* (Searle, 109 – 11; *Lawsuits*, I, no. 174, p. 146). See also van Caenegem’s comments at n. 7, p. 146.



reveals what is better to the younger [brothers]'.<sup>82</sup> Nevertheless, the postponement was to the abbey's advantage. Geoffrey's opponents, now his guests, were treated to lavish hospitality, which created the opportunity for discussion about the case in a situation where, as his opponent's host, Geoffrey was in a dominant position. Furthermore, the parties reconvened the next morning in Battle Abbey church with Geoffrey's monastic brothers seated around him. The threat advantage gained by Robert in the manorial court had been lessened, if not nullified. The *Chronicle's* assertion that the postponement was made regretfully, but by conviction perhaps reveals an understanding of how advantageous the delay actually was.

Opening the morning's proceedings, the custodian asked his opponents whether they would accept the justice of the abbey's court. They replied that they were bound to the justice done in their own county court, but not the abbey's court. There was argument on this point until Geoffrey asked whether they would consider themselves bound by the judgment of a royal court. They answered that they would. 'Well then', Geoffrey replied, 'you cannot on that ground resist this court, for it is the king's'.<sup>83</sup> The custodian's argument was that Battle Abbey was so closely connected to the king that its honorial court was, in effect, a royal court.<sup>84</sup> It appears that Robert and his supporters had no answer to this. Finding themselves trapped by Geoffrey's argument, they got up and attempted to walk out. However, the custodian immediately ordered the doors to be locked, 'vowing that each of them would be reported to the king if they would not subject themselves to the rights of a royal court'.<sup>85</sup>

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<sup>82</sup> *Chronicle of Battle Abbey* (Searle, 111; *Lawsuits*, I, no. 174, p. 146). *Regula*, ch. 3. See T. Fry, *The Rule of St Benedict in English* (Collegeville, MN: 1982), 25.

<sup>83</sup> *Chronicle of Battle Abbey* (Searle, 111 – 13; *Lawsuits*, I, no. 174, p. 146).

<sup>84</sup> Hudson, *Formation*, 26 – 27.

<sup>85</sup> *Chronicle of Battle Abbey* (Searle, 113; *Lawsuits*, I, no. 174, p. 146).

Geoffrey now possessed several advantages. He had the support of all his monks, who were carefully assembled in his own abbey, and a compelling argument backed up by the threat of royal sanctions. He also had his opponents in the humiliating position of being locked in court, showing that he was not intimidated by Robert's powerful supporters. It is also significant that the hearing took place in the abbey's church. Here, Robert and his supporters were surrounded by religious architecture and imagery, reminding them of the influence the Church had over the fate of their souls. No explicit threats had been made, but Geoffrey was clearly in control of the proceedings. We are told that once his opponents had 'thought over the courage of this man and the fairness of the royal distraint, finally the timid tyrants [pavidi tiranni] subsided and declared that they would both do and receive justice there'.<sup>86</sup> Judgement was then passed against Robert, who was fined ten pounds of silver and ten measures of wheat. Geoffrey closed the proceedings by asking those present if anyone had any complaint against him, although we may suspect that this was less of a question and more of a slightly threatening statement that no more should be said on the matter. When no one spoke up, the court was dismissed. Perhaps only at this point were the doors unlocked.

The dispute between Geoffrey and Robert de Chilton may be compared to a case in the *Abingdon Chronicle* which shows what could happen if a party appeared in court without supporters.<sup>87</sup> During the vacancy of Abingdon following the death of Abbot Faritius in 1117, a number of people desired to get hold of some of the abbey's land.<sup>88</sup> They turned to a certain

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<sup>86</sup> Ibid. Note that here Searle translates 'pavidi ... tiranni' as 'timid bullies'.

<sup>87</sup> *Historia Ecclesie Abendonensis* (Hudson, II, 105 – 7). This case is *Lawsuits*, I, no. 217.

<sup>88</sup> The source describes these individuals as 'greedy-minded men' (quidam cupide mentis homines), which serves to remind us that the account is written from the monks' perspective.

*Historia Ecclesie Abendonensis* (Hudson, II, 104; *Lawsuits*, I, no. 217, p. 183).

Benedict, a man ‘of extremely crafty nature’ (*plurimum callenti ingenio*) who frequently acted as counsellor to the earl of Chester.<sup>89</sup> Benedict began to demand unaccustomed dues from the land and, when these were not delivered, carried off whatever could be found there. The abbey sent an envoy to the earl of Chester’s court, carrying a charter which bore witness ‘to the earl’s own authority regarding the freedom from all exaction of that land’.<sup>90</sup> The envoy entered the earl’s court and made his complaint ‘in the presence of the greater of the suitors’.<sup>91</sup> He produced the charter and read it to the court. Benedict, who was also in court, then asked for it to be handed over to him as he did not quite understand it. However, as soon as he took hold of the charter he hid it away in his tunic. The *Abingdon Chronicle* records that the envoy was ‘amazed at his action, and at first stood stunned. Then when he sought back the letters, he received nothing from that predator except laughter [*risum*]’.<sup>92</sup> The suitors of the earl’s court ‘whom justice pleased’ were indignant, but others joined in the mockery of the envoy, who returned to the abbey ‘defeated and worn out by his toils and despondency’.<sup>93</sup> Fortunately for Abingdon, Benedict eventually fell out of favour with the earl and was expelled from his service. He left the charter behind, presumably with the earl, and it was subsequently recovered by the abbey.

It is unlikely that the envoy would have been openly mocked, nor the charter he was carrying stolen, if he had been accompanied by a group of powerful supporters such as those

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<sup>89</sup> *Ibid.*, 105 (*Lawsuits*, I, no. 217, p. 183).

<sup>90</sup> *Ibid.*, 106 – 7 (*Lawsuits*, I, no. 217, p. 183).

<sup>91</sup> *Ibid.* (*Lawsuits*, I, no. 217, p. 184).

<sup>92</sup> *Ibid.* For another example of mockery in court, see *Liber Eliensis*, book ii: 33 (Blake, 266 – 9; Fairweather, 320 – 5). This latter case is *Lawsuits*, I, no. 204.

<sup>93</sup> *Historia Ecclesie Abendonensis* (Hudson, II, 107; *Lawsuits*, I, no. 217, p. 184).

who accompanied Robert de Chilton to Battle Abbey's court. In the latter case, the presence of Robert's supporters meant that the custodian of the abbey had to manoeuvre very carefully in order to defeat his powerful adversaries. In contrast, Benedict, who enjoyed the friendship of the earl of Chester and the support of at least some of the suitors, was faced with no such constraints. Indeed, the latter's behaviour conveyed a certain threat of its own as it sent the monks a message that the earl's man could do as he liked without fear of repercussions, and that they should be wary of pursuing the matter further. It is also significant that the dispute occurred while the abbey was without an abbot who might muster support and act as a powerful figure in his own right to back up the abbey's claims.<sup>94</sup>

A comparison of these cases also highlights the advantages which could be obtained by having a dispute heard in one's own court, or the court of a close ally. Like the custodian of Battle Abbey, who overcame his opponents when the case was heard at the abbey, Benedict could derive confidence not just from the presence of supporters, but from the familiarity of the surroundings. Shame and some loss of authority might, of course, follow a defeat on home territory, but this would itself work to a litigant's advantage if the fear of such a defeat provided them with additional motivation to emerge victorious. Custodian Geoffrey would not have wished to lose his case against Robert de Chilton in front of his monastic brethren, especially not the junior members of the community whom he had ensured were present. Benedict, too, would be wary of losing face before the earl's men, especially once he had made the bold move of stealing the charter from the envoy in front of the whole court.

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<sup>94</sup> The *Abingdon Chronicle* also reveals that during the vacancy of the abbey, Simon the dispenser of Henry I obtained possession of Marcham church through a royal order because 'there was no one there to provide resistance', *Historia Ecclesie Abendonensis* (Hudson, II, 235). This part of the *Abingdon Chronicle* is reproduced in *Lawsuits*, I, no. 222.

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The cases discussed here illustrate a variety of ways in which threats could be used in lawsuits. They also allow some comments to be made on the attitudes displayed towards threats, and the relationship between threats and legal norms. Although the scarcity of sources means that we cannot draw wide-ranging conclusions, some points stand out. The surviving accounts of lawsuits do not always discuss threats negatively. Threats were sometimes regarded, at least by the side making them, as praiseworthy attempts to ensure that justice prevailed against a nefarious oppressor. The way Ealdred handled his case and terrified the king, for example, showed ‘how steadfast that man was’.<sup>95</sup> In contrast, threats made by an opponent were regarded with distaste. The account of the dispute between Bishop Gundulf of Rochester and Picot the sheriff undoubtedly presents Picot’s actions as improper. Likewise, the author of the *Battle Chronicle*, writing about Robert de Chilton’s case, makes his feelings about Robert and his supporters clear when he describes them as ‘timid tyrants’. As one might expect, these accounts reveal a flexible attitude amongst litigants and their supporters as to what was considered acceptable, depending on whether they or their opponents made the threat. This is similar to the way in which some litigants justified the use of money or gifts to influence a case. The party making (or receiving) a gift or payment could explain it as a measure to ensure that justice was not obstructed or delayed. The same individuals might, however, criticise an opponent who made a similar payment or gift for attempting to pervert the course of justice through bribery.<sup>96</sup>

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<sup>95</sup> Raine, *Historians*, 350 (Lawsuits, I, no. 1, p. 1).

<sup>96</sup> For an attempt by a twelfth-century royal official to explain that justice was not sold when such payments were accepted by the treasury, but merely hastened, see Richard fitz Nigel, *Dialogus de Scaccario, and Constitutio Domus Regis / The Dialogue of the Exchequer, and*

Parties might use threats instead of invoking legal norms, but threats could also be used alongside legal argument. The exact stage of proceedings at which they were used depended on the circumstances. Archbishop Ealdred threatened King William and then afterwards laid out his case whilst, according to the *York Chronicle*, the terrified king listened anxiously. Geoffrey, the custodian of Battle Abbey, gathered his monastic brethren to oppose Robert de Chiltern's supporters and then raised a legal argument about the jurisdiction of the court. When this was rejected he locked his opponents inside the church, thus bookending his legal argument with behaviours designed to intimidate his opponents.

The importance of legal argument should therefore not be ignored. Indeed, litigants who could invoke clear norms and argue their cases eloquently may sometimes have been able to overcome even powerful opponents without threats. The *Abingdon Chronicle*, for example, records a time when several English pleaders (*causidici*) were retained at the abbey, 'whose arguments no wise man opposed' (*quorum collationi nemo sapiens refragabatur*).<sup>97</sup> According to the *Chronicle*, whilst these men were protecting the abbey's public affairs, 'its opponents became tongue-tied' (*eius oblocutores elingues fiebant*).<sup>98</sup> This also suggests that

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*The Establishment of the Royal Household*, ed. and trans. E. Amt and S. D. Church (Oxford: 2007), II, 23 (Amt and Church, 178 – 80). See also Hudson, *Oxford History*, 9. For an account critical of the use of money to influence a case, see *The Vita Wulfstani of William of Malmesbury*, ed. R. R. Darlington, Camden Society 3<sup>rd</sup> Series, 40 (London: 1928), 24 – 26 (reproduced in *Lawsuits*, I, no. 3). Cf. *Historia Ecclesie Abendonensis* (Hudson, II, 51 – 53; *Lawsuits*, I, no. 146) for a case before the king in which both sides bid against each other to receive a favourable judgement.

<sup>97</sup> *Historia Ecclesie Abendonensis* (Hudson, II, 5). This case is *Lawsuits*, I, no. 4.

<sup>98</sup> *Ibid.* (*Lawsuits*, I, no. 4, p. 7).

threats were of little use against individuals who could argue their case with particular adroitness, although the abbey's experience may not have been typical.

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This essay has illustrated the variety of ways in which litigants in the Anglo-Norman period used threats to influence the outcome of lawsuits. These threats could have a secular or religious character, sometimes combining elements of both worldly and spiritual intimidation. They could be made, explicitly or implicitly, against either the court or an opposing party. It is possible that some litigants used threats as their sole means of influencing the outcome of a lawsuit. However, threats could also be used alongside legal arguments, and might form part of a wider disputing strategy which incorporated a variety of legal and extra-legal factors.

The surviving accounts of lawsuits perhaps do not record every instance of threatening behaviour in the cases they describe, whilst some may instead invent or embellish threats. Nevertheless, the instances of threatening behaviour in the accounts available to us suggest that litigants often thought carefully about how they could bring threats, explicit or implicit, to bear upon a dispute. Although the success of such threats could vary, the cases which have been discussed also show that some litigants were able to develop and use their threat advantage very skilfully. Bill Miller, focussing in particular on legal disputes in Icelandic sagas, suggested that medieval people 'were masters of threat', with many spending 'a good portion of their social lives cultivating threat advantage, or undermining that of their opponents and competitors'.<sup>99</sup> The evidence found in the surviving accounts of Anglo-Norman lawsuits does much to support this statement.

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<sup>99</sup> Miller, 'Threat', 14.

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