Mr Chairman, ladies and gentlemen,

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

My paper will look at the evidence principally of the surviving Anglo-Saxon legal texts (wills, charters, writs and laws) for evidence of the Anglo-Saxon judiciary and how it operated in particular areas. It will look specifically at 4 questions:-
(a) What evidence is there as to who the Anglo-Saxon judiciary were and in which courts they sat?

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

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

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

**PRELIMINARY POINTS**

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

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

1. **THE WITENA GEMOT**

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

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

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

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

3. THE HUNDREDGEMOT

_Hundred_ was a secular district within the shire. So _Hundredgemot_ means the ‘Hundred-Moot’ or the ‘Hundred Court’.

4. THE FOLCGEMOT

_Folc_ means ‘people’. So the _Folcgemot_ is a meeting of the people of a town or district.

5. THE BURHGEMOT

Boroughs had their own courts and assemblies.

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

More extensive details will be found in Appendix II.

In the Anglo-Saxon legal documents at which I have looked, I have found no specific references to the Hundred-Moot or to the Folc-Moot, or to any private courts, manorial or whatever they may be. This may well be because the cases which went there were not sufficiently important (or more likely did not involve sufficiently important people) to make those documents - rather
like modern cases not being sufficiently important to make the law reports. As the old saying goes, 'It is not what you know, but who you know'. Equally I have found no specific references to the Borough-Moot. The same reason is less plausible here, but probably correct. I have found no helpful references in the Anglo-Saxon wills. There are extensive references in the Anglo-Saxon writs but none of them say clearly which court they relate to. These are set out in detail in Appendix III. There are five Anglo-Saxon charters, which I have found and which act as a kind of Anglo-Saxon law report and do give us some interesting and useful information. They are all quoted in Appendix III with translation and notes.

(A) WHO WERE THE ANGLO-SAXON JUDGES? IN WHICH COURTS DID THEY SIT?
What evidence is there as to who the Anglo-Saxon judiciary were and in which courts they sat?

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

Charter 66 is clearly a case in the shire-moot. Initially it began in the Witena Gemot with the King presiding, and (presumably) all the Witan making the decision. The case was settled in the shire-moot: so no-one actually made a decision. It was the three Witan who brokered the settlement, Bishop Aethelsige, and Bishop Aescwig, and Abbot Aelfric, which suggests that they were the presiding judges. We are told that ‘7 eal seir’ ‘and all the shire' were present. This implies, but does not prove that they would have been judges too in any decision which was made. It is also interesting that there is no mention of Aelfric, Bishop of Ramsbury, being present, as Berkshire was probably in his diocese and the laws of King Edgar (repeated in the laws of King Cnut) require the presence of the diocesan bishop at a shire-moot. It is also interesting that there is no mention of the presence of the local Earl Aelfric, which was also required. One possible reason for this is that this shire-moot was operating under the authority of the Witena Gemot. Another is that Earl Aelfric was a witness and thus disbarred form presiding and that the case took place during a vacancy in the see between Sigeric's translation to Canterbury and Aelfric’s enthronement at Ramsbury: see Robertson, op. & ed. cit. in Appendix
VI (Select Bibliography), p.381. Perhaps this is why delegated authority was needed from the Witena Gemot.

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

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

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

(B) ANGLO-SAXON JUDGMENTS
What evidence do we have for how they approached giving their judgments? How can we interpret the charters which record the result of a law suit?

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

The fact that there are five charters shows that Anglo-Saxon judgments were not always oral. Indeed Charter 88 reveals a judgment being recorded in writing in a gospel-book. Gospel-books would have been regarded as very holy in those days.
The evidence cited above points to the whole assembly participating in the judgment, presumably by majority vote. Presumably it was some kind of Athenian democracy. If so, there could not be a reasoned judgment such as a modern judge sitting alone and without a jury would produce. There could only be a decision, which the presiding judge would announce. Anyone present might well have been able to divine what the reasons for that decision were from the discussion which took place, but the evidence of the Anglo-Saxon charters suggests that (understandably perhaps) this was not recorded. In Charter 69, for example, the hint is that the reason why a settlement was advocated was the weight of the evidence, though this is not explicitly stated. In Charter 78, for example, there is evidence that the whole moot disapproved of the way the sone was treating his mother.

(C) ANGLO-SAXON JUDGES' POWERS

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

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

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

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

1. There was no full-time legal profession in Anglo-Saxon England, as there is to-day. Therefore there was no pool of trained lawyers from which the judges could be drawn, whether by promotion or otherwise.

2. There was no legal education in Anglo-Saxon England in anything remotely resembling the modern sense. The nearest equivalents to schools and universities were the monasteries.

3. There would have been no rules of professional conduct in the modern sense, though presumably episcopal judges would have been subject to ecclesiastical discipline. See also point 4 below. Presumably too episcopal judges would have been expected to maintain Christian standards of conduct in all they did, including their judicial functions. Whether they did or not, is a separate issue!

4. Human rights in the modern sense would have been unknown.

5. The lay Anglo-Saxon judges would not have been able to cope with the complexities and intricacies of, for example, a modern Chancery or commercial case. Educated judges, such as the Bishops, would have had a better chance. I would not say that the Anglo-Saxon legal documents which I have studied are the most complex I have encountered in almost 30 years in practice, but there are things which could puzzle a layman.

Were there any similarities?
1. Most of the proceedings would have been oral. Though it is arguable that this is being whittled away to-day, oral proceedings have always been an integral part of English legal proceedings.

2. Legal proceedings, then as now, would have been directed to the resolution of disputes.

3. The process by which this was done would have been by an judicial adjudication in court rather than by any modern process of conciliation or mediation. That procedure too would have
been more akin to a modern court hearing than to a modern arbitration. Having said that the evidence of the charters for the presiding judge encouraging a settlement has modern overtones and a hint of modern mediation and conciliation procedures, and this is something I have known modern judges encourage.

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

CONCLUSION

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

APPENDIX I - ABSTRACT

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

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

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

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

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

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

APPENDIX II - THE ANGLO-SAXON COURTS

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

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

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

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

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

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

2. **THE SCIRGEMOT**

*Scir* means and is the modern English word 'shire'. *Scirgemot* thus means 'shire-meeting' or 'shire-court'. The shire, though immortalised by J.R.R. Tolkien) was the Wessex unit of local government. Berkshire, Hampshire, Wiltshire, Somersetshire, Dorsethire and Devonshire were all ancient shires of Wessex. When England became unified after the Viking raids of the 9th century the Wessex unit of local government became extended to the rest of the country. The newly created shires were normally named after the principal town in the shire, eg Buckinghamshire, Oxfordshire. County was the Norman word and came in with the Norman Conquest, though without ousting completely the Saxon word, which survives to this day. For this reason it is tautologous and wrong to refer to, for example, *the County of Oxfordshire.* Though in England the two words, county and shire are effectively synonymous, historically the Norman word, county, means the area ruled over by a count. The word count derives from the sub-Roman *comes bellorum* (or 'companion of wars'), which was a military title. It corresponds to the German *Graf.*

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

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

It is interesting to compare the following words:-

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

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

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

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

The word *scir* could also be used to refer to a diocese, and *scirbisceop* meant diocesan bishop. This use is interesting when one considers the bishop's role as a judge in the scirgemot. It is also worth remembering that there tended to be a considerable correspondence between the original Wessex secular shires and ecclesiastical dioceses: for example the dioceses of Winchester served Hampshire; the diocese of Sherborne (founded in 705; first Bishop St Aldhelm, 705-
moved to its modern location of Salisbury after the Conquest) was founded to serve Wessex west of Selwood Forest, but later came to serve Dorset; the diocese of Wells served Somerset; the diocese of Crediton (moved to Exeter after the Conquest) served Devonshire; and the Diocese of St Germans (later subsumed into the diocese of Exeter, until the founding of the see of Truro in the 19th century) served Cornwall after its conquest under King Athelstan. Other Old English words for diocese include *bisceopsir* (lit. 'bishop's scire', in other words the same word but made specific to the bishop). The other Old English words which are used to mean 'diocese' are *bisceoprice* (lit. 'the bishop's kingdom') and the modern word 'bishopsrico') and *bisceopseld* and *bisceopstol* (v.i., which also mean the bishop's seat or throne, and thus to a degree corresponds with the modern word 'see'). It is interesting to compare the modern word 'see' with the Old English ones. 'See' derives from Latin *sedes*, meaning 'seat', which refers to the Bishop's chair or *kaqvendra*. The chair in the ancient world was the symbol of authority (cf a modern professorial chair) and the modern word 'cathedral' is the church in which the bishop sets up his chair. It seems that this word developed its meaning over time from the physical chair to the area over which the person who sat in that chair exercised authority. It seems too that the Anglo-Saxons looked at the secular area, rather than at the symbol of authority. There are two words in Old English for the bishop's chair or throne, and it is *bisceopseld* (lit. the bishop's seat) and *bisceopstol* (lit. the bishop's stool). The other modern word 'diocese' is thought to derive from the Greek *dioivkhsi*, meaning housekeeping (οἰκο meaning house or home), management, government. The Latin equivalent, though (*diocesis*) was used in Cicero's letters to mean a district under a governor, which (in ecclesiastical terms) is what a diocese is. Finally it is interesting to note that in traditional legal drafting shires are referred to as, for example, 'the County of Buckingham'. This is easy where there is a county town. It is more difficult for the ancient Wessex shires. However, 'the County of Hants' appears on Jane Austen's memorial in Winchester Cathedral. 'The County of Berks' and 'the County of Wilts' appear in 19th century law reports. 'The County of Dorset' and 'the County of Devon' flow quite naturally. The Laws of King Edgar (iii. 5. 1.) ordered that the scirgemot meet twice a year and the Burhgemot three times a year.

3. **THE HUNDREDGEMOT**

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

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

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

4. **THE FOLCGEMOT**

_Folc_ means 'people'. So the _Folcgemot_ is a meeting of the people of a town or district.

The first reference to the word _folcgemot_ in the Anglo-Saxon _Laws_ is under King Alfred: see _Laws of Alfred_, cc. 22, 34, 38.1

5. **THE BURHGEMOT**

Boroughs had their own courts and assemblies. The _Laws of King Edgar_ (iii. 5. 1.) ordered that the Burhgemot meet three times a year, and the scirgemot twice a year.
Stenton (op. & ed. cit. in Appendix VI (Select Bibliography), p.532) thinks that by the early 11th century there was a distinction between *burhriht* (the specialised law of the borough) and *landriht* (the ordinary law).

**RIDERS**

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

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

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

V. LAWSUIT ABOUT WOOD-PASTURE

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| + | In nomine trino duina qui est deus benedictus in sicula amen. | + | Cynred episcop. | + | Aldred helm |
| + | *Wig* - 1.25 | + | Thorhelm prior. | + | Heahberht 3 episcop. |
| + | Oscolwald episcop. | + | Wibfred abb. | + | Wigeberht pr. |
| + |  | + | Ea.berht dux | + | Cubald pr. |

---

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

POINTS TO NOTE
1. It is odd to have a judgment recorded in a charter.

2. Who were the judges? Ll.5-7 make it clear that they were the Witen Gemot. It seems fairly clear from the words ‘Va gerhte Wilfred arcebiscep 7 alle ‘a wiutan’ (1.14) ‘Then determined Archbishop Wulfred and all the Witan’ that the decision was that of the entire Witan and thus that they were all judges. This charter is thus an example of a case being heard in the highest court in Anglo-Saxon England, the Witen Gemot.

3. Apparently the Archbishop Wulfred was presiding over the Witan, rather than the King, and thus he was the presiding judge. Yet it is clear that all the Witan participated in making the decision.

4. It is not clear why this case was heard by the Witen Gemot.

5. This charter displays a number of interesting points of legal procedure, eg how oaths were used to ensure that justice was done, and to establish bona fides.

LXVI. RECORD OF A LAWSUIT BETWEEN WYNFLAED AND LEOFWINE
Here is stated in this instrument, how Wybflaed produced her witnesses, at Woolmer, before King Aethelred, that is then Archbishop Sigeric, and Bishop Ordbriht, and Alderman Aelfric, and Aelfthyth, the King’s mother; who were all witnesses that Aelfric gave Wynflaed the land at Hagbourne, and at Bradfield, in return for the land at Datchet. Then sent the King straightaway to the Archbishop, and to those who were there witnesses with him, to Leofwine [the Archbishop], and told him about this. Then he was not willing [to agree], unless it was referred to the Shiremoot. This they thus did. Then sent the King his seal, by Abbot Aelfhere, to the moot at Cuckamsley, and greeted all the Witan who were assembled there, who were Bishop Aethelsige, and Bishop Aescwig, and Abbot Aelfric, and all the shire; and asked and ordered that they should settle the case between Wynflaed and Leofwine, as justly as they thought right. And Archbishop Sigeric sent his declaration thereto [ie to the Shire-moot], and Bishop Ordbriht [sent] his. Then they informed Wynflaed that she might prove her title. Then she produced proof of ownership, with Aelfthryth = the King’s mother, who is then first Abbot Wulfgar, and Wulfstan priest, and Aelfric, the Aetheling’s steward, and Edwin, and Eadhelm, and Aelfhelm, and Aelfwine, and Aelfweard, and Eadwold, and Eadrig, and Aelfgar, and Abbess Eadgifu, and Abbess Leofrun, and Aethelhild, and Eadgifu of Lewknor, and her sister, and her daughter, and Aelfgifu her daughter, and Wulfwin, and Aethelgifu, and Aelfwaru, and Aelfgifu, and
Aethelflaed, and many good thegns, and good women, all of whom we cannot set out, so that the full complement is forthcoming, both men and women. Then said the Witan who were there that it would be better if the oath were dispensed with rather than administered, because thereafter friendship would cease, and he [ie Leofwine] would be asked to return the plunder and pay compensation and his wergild to the King. Then he dispensed with the oath, and gave to Bishop Aethelsige the land uncontested [and said] that he would thereafter make no claim on it. Then they told her [ie Wynflaed] to bring out her father's gold and silver, all that she had. Then did she [as little] as she dared, to protect her oath. Then he was not satisfied with it, unless she should swear that all his property was there. She said that she could not do so for her part or for his. And these were the witnesses: Aelfgar, the King's reeve, and Brihtric, and Leofwine of Whitchurch, and many good men in addition to them.

POINTS TO NOTE
1. This is not a law report in the modern sense. It is a record of a case.

2. Who was the judge? It is quite clear from l.9 that the case was actually heard in the Shire-moot, though apparently from what precedes the dispute was initially brought before the Witena Gemot. Though this is not specifically stated, why else would the King be presiding, as apparently he was? Presumably this is an Anglo-Saxon instance of a case being transferred from one court of laws to another. Yet it becomes more complicated. Why does the King send his seal? Why are there three witan there? The three witan could have been there to represent the Witena Gemot to to keep and eye on what transpired. The sending of the seal, though, is likely to be more significant. It suggests that the King was delegating authority from the Witena Gemot to the Shire-moot to hear the case. Perhaps that is why three Witan were present. Also the instructions from the King for determining the case (ll.13f.) support this approach.

3. The charter gives some interesting insights into Anglo-Saxon legal proceedings. It shows how they employed a multiplicity of witnesses to prove the question at issue.

4. The use of and dispensation with the oath is interesting. It is an example of the Anglo-Saxons using oral evidence on oath in legal proceedings. More interestingly it seems to be the Witan who advocated dispensing with the oath. Was this because they were in some sense presiding judges? Apparently from what follows, they were advocating a settlement of the case between the parties and in their best interests, rather than making a legal ruling. But even so, this is entirely consonant with their being presiding judges.

5. It is also interesting that there is no mention of Aelfric, Bishop of Ramsbury, being present, as Berkshire was probably in his diocese and III Edgar 5, 2 (which is repeated in II Cnut 18, 1) requires the presence of the diocesan bishop at a shire-moot. It is also interesting that there is no mention of the presence of the local earl Aelfric, which was also required. One possible reason for this is that this shire-moot was operating under the authority of the Witena Gemot. Another (see Robertson's notes) is that Earl Aelfric was a witness and thus disbarred form presiding and that the case took place during a vacancy in the see between Sigeric's translation to Canterbury and Aelfric's enthronement at Ramsbury. Perhaps this is why delegated authority was needed from the Witena Gemot.

6. The way this material is presented is more like a modern newspaper report of the proceedings than a modern law report.

7. It is also interesting that this charter represents a report of a settling of a case, rather than a report of a judicial adjudication.
LXIX. LAWSUIT ABOUT THE ESTATE OF SNODLAND, KENT

Her cy. on ysum gewrite 3 hu Godwine bispoc on Hrofe-
castr. 3 Leofwine clfeages sumu wur. on gesrysumode ymbe
1 land. på Snoddingalonde. 3 on Cantwarabyrig.

1. a se bispoc Godwine com to am bispocstol türh hise
his cynhealforde c. edredes cynges iler clibanes for. si t
e. ya gemeli he on am munstre ya yican swatcungen te his
foregenga hire. 7 7 hrmid on 1 land spic 3 engan. a to spe-
cenne on it land. 3 7 elles for Codex ege ne dorste 3 o. it seo
spic weart. 1 am cyngc cu. 6 a. a him seo talu cu. wis 3 1a

sende he gewrit 7 his ingelse to 1 am arcebisceope clfric 3 7
bead him 7 he hy ligerex on East Cent 3 7 on West Cent 3 hy
onrith gescedmon 3 be ontle 3 7 be of thele. esa 1 se bisceop
Godwine com Cantwarabyrig to am arcebisceope 3 1a com
ider se sycyman Leofric 3 7 mid him clfric 3 7
ligeres lef. er gest on East Cent ge. of West Cent 3 eal seo
5 dugu 7 hy ir 1 a spice swa lange handledon 3 sy. on se
bispoc his swatulunge le. ge 1 spow hire. 3 1 hy ealle bidon
one bispoc ca. modlice 3 1 he gemman scoldle 1 he moste mid
blesunga 1 is landes bruan il Snoddingalonde his dig 3 7 se [p.140]

bispoc 1 is geti. odc on ealra. tira witen. 1 and te ffr
gesonmode wiran 3 7 he behet 1 is bruan 1 land iler il dige
unbesacen code efl into ffr sceorce 1 he hit ul aliem wis 3 7
aefal 1 swatulung 1 he to 1 am lande hire. 1a ir of ffr
crontu. geat wis 3 7 a halgan ealle 1 he he. weslan ffr cyan 1 5
hirdo into ffr halgan stow. 3 7 tises loces fendn. racen wiran 3
clfun. abdog 7 Wulfroc. abdog 3 7 Leofric. scireman 3 7 Siward 3
7 Wulstan il Sealtwuda 3 7 clfealm Ordolmes sumu. one inn.
her see gewines 1 is 1 bysum locse wis 3 1 is reste se arcebisce
clfric 3 7 se bispoc Godwine 3 7 Wulfroc abdog. 7 clfric 3 7
7 clfric. il Orpedingtune 3 7 se hiret il Cristes cyran 3 7 se
hired il son. Augustine 3 7 so burhwaru. on Cantwarabyrig 3 7
Leofric scireman 3 7 liting il Mealligan 3 7 Siward 3 7 Sired
his. bros. 3 7 Leostan il Wirseham 3 7 Godwine Wolfeages
sumu 3 7 Wulstan il Sealtwuda 3 7 Wulstan tunga 3 7 Leoswine 1 15
it Deicuna 7 Leofric. Ealdredes sumu 3 7 Goda Wulfsges
sumu 3 7 clfealm Ordolmes sumu 3 7 Sidewone il Pealleswyr.e 3
7 Wirimg 3 7 c. elred portgerefa on byrig 7 Guwerd. Gif
iwa. is w. e. to andwenne 3 7 ffris foreword to abrerecenne
axe. tad him God fra. his ansyne on am michan dome 3 swa 1 se.
he si aseyred fram heofenarices myr.e 3 7 sy eallum
deofum betht into helle. AMEN. [p.142]

TRANSLATION

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

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

15
and his thegns in East Kent and in West Kent should resolve the dispute justly, claim and counterclaim. Then it was that Bishop Godwine came to Canterbury to the Archbishop, and then came thither the sheriff Leofric, and with him Abbot Aelfhun, and thegns, both of East Kent and West Kent, all the leading nobles, and there they dealt with the law-suit, after the Bishop had adduced his evidence, until they all asked the Bishop humbly to permit Leofwine to enjoy the land at Snodland with his blessing, during his lifetime. And the Bishop granted this to the thanks of all the Witan, who were assembled there. And he [ie Leofwine] gave his solemn assurance that after his death, the land would revert to the foundation from which it was leased. And he gave up the instruments which he had relating to the land, which had been alienated from the foundation, and all the houses which he had to the west of the church, to the holy foundation. And the negotiators of this settlement were: . . . And these are the witnesses who were present at this settlement: . . . And if anyone tries to alter or breach this agreement, may God avert his glance from him at the Great Judgment, so that he shall be cut off from the bliss of the Kingdom of Heaven, and delivered to all the devils of hell. Amen.

POINTS TO NOTE
1. Unlike the previous law-suit, this one is based on instruments of title rather than on oral evidence.

2. It seems that the presiding judge here is Archbishop Aelfric, supported by the thegns of East Kent and West Kent, and that they operate under the authority of the King. Which court the case took place in is not clear. It might have been the shire-moot, but this is nowhere stated. It seems unlikely to have been the Witena Gemot as such, but it might have been some form of sub-committee of that court.

3. It is again interesting that this charter represents a report of a settling of a case, rather than a report of a judicial adjudication.

LXXVIII. ACCOUNT OF A HEREFORDSHIRE LAWSUIT

Her swyptele, on tissum geiwite 3 = an scirghemot sit it
cgelnaes stanple be Courtes dige cinges tir siton Ceflstan b, 7
7 Ranig ealdormann 3 7 Edwine %is ealdormannes 7 Leofwine Wulsiges sunu 3 7 eorcill hwita 7 Tofig pruda com tir [p.150]
on tis cinges irende 3 7 tir wis Bryning scirferefa 3 7
Cgelgeard il Frome 3 7 Leofwine il Frome 3 7 Godric il
Stoce 7 ealle ta tegnas on Herefordscire 3 ta com %ir farenede
to tain gemote 3 Edwine Enneawnes sunu 7 spic %ir on his
gene moror fifer sumon dile landes 3 = wis Wedihtun 7
Crydes lih 3 ta ascodo se bisceop bwa sceolde andswarian for
his moror 3 ta 7 sceorcode eorcill hwita 7 side 3 = he sceolde
gif he a talu cu e 3 ta he a talu na ne cu e ta sceawode
man %eo tegnas of tain gemote %ir ir heo wiss 3 7 7 = wis
it Fligh 3 = wis Leofwine it Frome 3 = 7 egelsig %e reada 3 1.10
7 Wynsge scirgan 7 7 ta a heo la hire cornon ta ascodon
heo hwyccce talu heo hifde 3 ymbe ta land te hire sunu eftor
spic 3 ta side heo 3 = heo na land nifde te him ah to ge-
byrede 3 7 gebeal heo swile coricex wi hire sunu 3 7 gecelepode
a Leofllihde hire mahan to hire 3 eorcilles wif 3 7 befaran 1.15
heom to hire %uis cwit, her sit Leoflled min mage te ic geann
iger ge mines landes ge mines golde ge rigles ge reafe ge
caelis tis e ic ah fitter minon dige 3 7 heo sy an to am
tegnon cwit 3 do. tewgnclice t wel 3 abeoda. mine irende to
Here is stated in this instrument, that a Shire-moot sat at Aylton in the days of King Cnut. There sat [?were present] Bishop Aethelstan, and Alderman Ranig, and Edwin, the alderman's [son], and Thurkil the White, and Tofi the proud came there on the King's business. And there was Bryning the sheriff, and Aethelgeard of Frome, and Leofwine of Froome, and Godric of Stoke, and all the thegns of Herefordshire. Then there came travelling to the moot Edwin, Ennearwers son, and there sued his own mother for a certain piece of land, which was Wellington and Cradley. Then the Bishop asked who should answer for his mother. And Thurkil the White answered and said that he should, if he knew the case. As he did not know the case, three thegns were chosen from the moot [to go] to where she was, which was at Fawley, and they were Leofwine of Frome, and Aethelsige the Red, and Winsige the seaman. And when they came to her, they asked her what her claim was to the lands for which her son was suing her. Then she said that she had no land that in any way belonged to him, and was very irate with her son, and summoned her kinswoman Leofflaed, Thurkil's wife, to her, and in front of them said to her: 'Here sits Leofflaed, my kinswoman, to whom, after my death, I grant my land and my gold, and my clothing and my vesture and all that I have.' And then she said to the thegns: 'Act properly and like thegns. Report my testimony to the moot before all the worthy men, and tell them to whom I have granted all my land and all my property, and nothing to my own son, and ask them all to be witnesses of this.' And they did so. They rode to the moot and told all the worthy men of the charge she had laid on them. Then Thuyrkil the White rose up at the moot and asked all the thegns to give his wife all the land unreservedly, which her kinswoman granted her, and they did so. Then Thurkil rode to St Aethelbert's minster, with the consent and knowledge of the entire folk and recorded it in a gospel book.

POINTS TO NOTE
1. The first line of this charter makes it clear that this case was in the shire-moot.

2. It is also interesting that it uses the modern terminology - 'the shire-moot sat.'

3. It is worth noting that the report is not completely unbiased - 'Then there came travelling to the moot Edwin, Ennearwers son, and there sued his own mother for a certain piece of land.'

4. Bishop Aethelstan seems to have been the presiding judge, as he asked who was to speak for the mother.

5. We have here an instance of representation (presumably lay rather than professional) before the court, Thurkil the White, speaking for the mother, and then three thegns.

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

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

LXXXIII. LAWSUIT ABOUT A WORCESTERSHIRE ESTATE

[p.162]
Here is stated in this instrument, that Bishop Aethelstan bought 5 hides of land at Inkberrow from Leofric of Blackwell, with King Aethelraed's permission and the knowledge of Archbishop Aelfheah and Archbishop Wulfstan and all the Witan who were alive at the time in England, for 10 pounds of red gold and white silver, unopposed and uncontested, to give and grant them before or at his death to kinsmen or strangers, whichever he preferred. And the King ordered Archbishop Wulfstan to draft a charter to this effect, and gladly entrusted both the charter and the land to Bishop Aethelstan. Then many years after this, Wulfstan and his son Wulfric brought a claim against part of the land. The Bishop then went to the shire-moot at Worcester to present his case. Then Alderman Leofwine and Hakon and Leofric and all the shire granted him his land without any reservation, as he had bought in unopposed and uncontested, and chose a day to go to the land, and the same folk who had traced the boundaries for him [were to do so again], and it was said that if the boundaries were the same as when they were first traced, the Bishop justly owned the land. Then the Bishop and the man who sold him the land and those who were witnesses came to the due place, and Wulfstan and his son and their companions came, and they all rode round the boundaries, as they have been first marked out for the Bishop. And they all who were there said that the Bishop was the just owner of the land. And the man who sold him the land confirmed that it was so. Then both Leofric's friends and Wulfstan's said it would be better to settle than to continue the dispute between them. Then they made this agreement. Leofric should give Wulfstan and his son a pound and swear an oath along with two thegns, that he would be satisfied with this, if the case had been resolved for him as it had been for Wulfstan. This was the agreement made by Wulfstan by all of us. Wulfstan and his son then gave the land to Leofric, and Leofric and Wulfstan and Wulfric gave it without reservation of controversy to the Bishop, to be granted before or on his death to whomsoever he chose. Her are declared the witnesses and sureties who were present: . . . There are three of these documents, one in St Mary's, Worcester, to which the land belongs; and the second at St Aethelbert's in Hereford; and the third shall remain with those who possess the land. may Almighty God uphold him who is willing to keep this properly; and if there is anyone who tried to alter it, God Almighty and St Mary and all his beloved saints shall abase him both here in this life and there where he must longest live, unless he has made amends as fully as possible, as the Bishop directs him.

**POINTS TO NOTE**
1. The first line of this charter makes it clear that this case was in the shire-moot.

2. The judges seem to have been ‘Alderman Leofwine and Hakon and Leofric and all the shire’.

3. The adjudication seems to have been to send out a surveying party to check the boundaries of the estate and then to recommend a settlement of the case, which proceeded to resolve it.

**APPENDIX IV - ANGLO-SAXON WRITS AND RIGHTS**
ANALYSIS OF THE ANGLO-SAXON WRITS AND THE RIGHTS THEY GRANT

No.4
GRANTOR: The King.
GRANTEE: Abbot Ordic of Abingdon.
RIGHTS: Sace 7 socne, toll 7 team 7 infangenetheof within and without the borough; and hamsocn and grithbreach and foresteall (over his own lands).

No.8
GRANTOR: The King.
GRANTEE: Abbot Ufi, of Bury St Edmund's.
RIGHTS: Sake and Soke.

No.9
GRANTOR: The King.
GRANTEE: The community of St Edmund's.
RIGHTS: Sake and Soke.

No.10
GRANTOR: The King.
GRANTEE: The community.
RIGHTS: Soke.

No.11
GRANTOR: The King.
GRANTEE: The abbot and community of St Edmund's.
RIGHTS: Sake and soke.
Over their own men within the borough and without.

No.12
GRANTOR: The King.
GRANTEE: Abbot Leofstan and community.
RIGHTS: Sake and soke.

No 17
GRANTOR: The King.
GRANTEE: The community of St Edmund's.
RIGHTS: Sake and Soke.

No.19
GRANTOR: The King.
GRANTEE: The community of St Edmund's.
RIGHTS: Soke.

No.20
GRANTOR: The King.
GRANTEE: The community of St Edmund's.
RIGHTS: Sake and soke.

No.22
GRANTOR: Aelfric Modercope with the witnessing of the King.
GRANTEE: The community of St Edmund's.
RIGHTS: Sake and soke.

No.23
GRANTOR: The King.
GRANTEE: Abbot Baldwine of St Edmund's.
RIGHTS: Sake and soke.

No.24
GRANTOR: The King.
GRANTEE: The community at Bury St Edmund's.
RIGHTS: Fyrdwite, fihtwite, aebaeretheof, grithbreach, foresteall, and hamsocn.

No.28
GRANTOR: The King.
GRANTEE: Archbishop Aethelnoth and the community at Christ Church.
RIGHTS: sake and soke, grithbreach, hamsocn, foresteall and infangenetheof (within the borough and without).

No.31
GRANTOR: The King.
GRANTEE: Archbishop Eadsige and the monks at Christ Church.
RIGHTS: Sake and soke (in stream and woodland); and grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.33
GRANTOR: The King.
GRANTEE: Archbishop Stigand and the community at Christ Church.
RIGHTS: Sake and soke (on strand, in stream and wood and field); and toll and team, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within cities and without).

No.34
GRANTOR: The King.
GRANTEE: Archbishop Stigand and the community at Christ Church.
RIGHTS: Sake and soke (on strand and in stream, in woodland and in open country); and toll, team, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.35
GRANTOR: The King.
GRANTEE: The community at Christ Church, Canterbury.
RIGHTS: Sake and soke

No.36
GRANTOR: The King.
GRANTEE: To God, St Augustine and the brethren.
RIGHTS: Sake and soke, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmth (over their own men within boroughs and without).

No.38
GRANTOR: The King.
GRANTEE: St Augustine and the brethren belonging thereto.
RIGHTS: Sake and soke, grithbreach, hamsocn, foresteall, infangenetheof, and flymenafyrmeth
(over their own men within boroughs and without).

No.40
GRANTOR: The King.
GRANTEE: Chertsey, Christ and St Peter.
RIGHTS: Sake and soke, toll, team, infangenetheof, grithbreach, foresteall, hamsocn,
flymenafyrmeth, and morthsliht (in festival time and outside it).

No.41
GRANTOR: The King.
GRANTEE: Chertsey, Christ and St Peter.
RIGHTS: Sake and soke, toll, team, infangenetheof, grithbreach, foresteall, hamsocn,
flymenafyrmeth, and morthsliht (in festival time and outside it) (and all things belonging to me in
woodland and open country).

No.42
GRANTOR: The King.
GRANTEE: Chertsey, Christ and St Pete; and Abbot Wulfwold.
RIGHTS: The Hundred of Godley; and the the abbot his sake and soke, toll, team,
infangenetheof, grithbreach, foresteall, hamsocn, flymenafyrmeth, and morthsliht (within town
and without, by land and strand, over all his men, and over his lands).

No.43
GRANTOR: The King.
GRANTEE: Abbot Wulfwold of Chertsey.
RIGHTS: Sake and soke.

No.44
GRANTOR: The King.
GRANTEE: Regenbald, my priest.
RIGHTS: Sake and soke (over his land and over his men); and toll, team, and infangenetheof
(within the borough and without).

No.45
GRANTOR: The King.
GRANTEE: Abbot Leofwine and the brethren at Coventry.
RIGHTS: Sake and soke, and toll, team, hamsocn, foresteall, blodwite, fihtwite, weardwite, and
mundbreach.

No.46
GRANTOR: The King.
GRANTEE: Abbot Leofwine.
RIGHTS: Sake and soke, and toll, team (over lands and over men, within boroughs and
without).

No.47
GRANTOR: The King.
GRANTEE: Abbot Wilfric of Ely.
RIGHTS: Toll, team, infangenetheof, fihtwite, fyrdwite, hamsocn, and grithbreach.
No.49
GRANTOR: The King.
GRANTEE: The priests in Hereford at St Ethelbert's Minster.
RIGHTS: Sake and soke (over their men and their lands, within the borough and without).

No.50
GRANTOR: The King.
GRANTEE: Bishop Walter of Hereford.
RIGHTS: Sake and soke.

No.51
GRANTOR: The King.
GRANTEE: The gild of English cnihtas.
RIGHTS: Sake and soke (within the borough and without, over their men and their lands).

No.52
GRANTOR: The King.
GRANTEE: The priests in St Paul's Cathedral, London.
RIGHTS: Sake and soke (within the borough and without).

No.53
GRANTOR: The King.
GRANTEE: The priests in St Paul's Cathedral, London.
RIGHTS: Sake and soke; toll and team (in festival time and outside it) (within the borough and without).

No.54
GRANTOR: The King.
GRANTEE: The priests in St Paul's Cathedral, London.
RIGHTS: Sake and soke (within the borough and without).

No.55
GRANTOR: The King.
GRANTEE: The monastery at St Denis.
RIGHTS: Sake and soke.

No.57
GRANTOR: The King and Queen.
GRANTEE: The church at Ramsey.
RIGHTS: Sake and soke.

No.59
GRANTOR: The King.
GRANTEE: The abbey at Ramsey.
RIGHTS: Sake and soke.

No.60
GRANTOR: The King.
GRANTEE: The abbey at Ramsey.
RIGHTS: Soke.
A:
GRANTOR: The King.
GRANTEE: The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.
RIGHTS: Sake and soke, and toll, team, infangenetheof, fihtwite, fyrdwite foresteall, hamsocn, shipwreck, and what is cast up by the sea.

B:
GRANTOR: The King.
GRANTEE: The abbey at Ramsey, St Mary, St. Benedict and Abbot Aelfwine.
RIGHTS: Soke.

C:
GRANTOR: The King.
GRANTEE: The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.
RIGHTS: Sake and soke, and toll, team, infangenetheof, (within the borough and without).

No.64
GRANTOR: The King.
GRANTEE: The Bishop of Wells, Bishop Giso.
RIGHTS: Sake and soke.

No.65
GRANTOR: The King.
GRANTEE: The Bishop of Wells, Bishop Giso.
RIGHTS: Sake and soke.

No.68
GRANTOR: The King.
GRANTEE: The Bishop of Wells, Bishop Giso.
RIGHTS: Sake and soke.

No.69
GRANTOR: The King.
GRANTEE: The Bishop of Wells, Bishop Giso.
RIGHTS: Sake and soke.

No.71
GRANTOR: The King.
GRANTEE: The Bishop of Wells, Bishop Giso.
RIGHTS: Sake and soke (over his lands and over his men); and toll, team, infangenetheof, (within the borough and without).

No.72
GRANTOR: The Queen.
GRANTEE: The Bishop of Wells, Bishop Giso (for the canons of St Andrew's at Wells).
RIGHTS: Sake and soke.

No.73
GRANTOR: The King.
GRANTEE: St Peter (at Westminster Abbey).
RIGHTS: Sake and soke; and toll, team, and infangenetheof.

No.74
GRANTOR: The King.
GRANTEE: St Peter (at Westminster Abbey).
RIGHTS: Sake and soke; and toll, team, infangenetheof, and all other rights belonging to the king.

No.76
GRANTOR: The King.
GRANTEE: St Peter (at Westminster Abbey).
RIGHTS: Sake and soke; and toll, team, infangenetheof, and all other rights belonging to the king.

No.77
GRANTOR: The King.
GRANTEE: St Peter and the brothers at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth and all other rights belonging to the king.

No.78
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.79
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.81
GRANTOR: The King.
GRANTEE: St Peter's at Westminster Abbey, and Abbot Edwin.
RIGHTS: Sake and soke; and toll, team, grithbreach, hamsocn, forsteall (in festive season and outside it)(within the borough and without).

No.82
GRANTOR: The King.
GRANTEE: St Peter's at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, forsteall, and all other rights (in festive season and outside it)(within the borough and without)(on street and off).

No.83
GRANTOR: The King.
GRANTEE: St Peter's at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, forsteall (in festive season and outside it)(within the borough and without)(on street and off).

No.84

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

No.85
GRANTOR: The King.
GRANTEE: St Peter's at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, miskenning, and all other rights.

No.86
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and to St Peter.
RIGHTS: Sake and soke.

No.87
GRANTOR: The King.
GRANTEE: Teinfrith, the King's ‘church-wright'.
RIGHTS: Sake and soke.

No.89
GRANTOR: The King (declaring that Ailric has permission to make this grant).
GRANTEE: Westminster Abbey, to Christ and to St Peter.
RIGHTS: Sake and soke; and toll, team, infangenetheof, and all other rights belonging to the king

No.91
GRANTOR: The King (declaring that Ailric has permission to make this grant).
GRANTEE: St Peter and the brethren at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth and miskenning, and all other rights in all matters that shall arise there.

No.92
GRANTOR: The King.
GRANTEE: St Peter and the brethren at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flymenafyrmth, and all other rights in all matters that shall arise there.

No.93
GRANTOR: The King.
GRANTEE: St Peter's Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, blodwite, weardwite, hamsocn, foresteall, and all other rights belonging to the King.

No.94
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team.

No.95
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.96
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke.

No.97
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team, infangenetheof.

No.98
GRANTOR: The King.
GRANTEE: St Peter and the brethren at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flumenafyrnmth, grithbreach, hamsocn, foresteall, miskenning and all other rights in all matters that shall arise there (in festival season and outside it)(within the borough and without)(on the street and off).

No.99
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team (on the street and off).

No.100
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team, infangenetheof (on the street and off).

No.101
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke; and toll, team (on the street and off).

No.102
GRANTOR: The King.
GRANTEE: St Peter and the brethren at Westminster Abbey.
RIGHTS: Sake and soke; and toll, team, infangenetheof, flyEmenafyrnmth, grithbreach, hamsocn, foresteall, miskenning and all other rights in all matters that shall arise there (in festival season and outside it)(within the borough and without)(on the street and off).

No.103
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS: Sake and soke.

No.104
GRANTOR: The King.
GRANTEE: Westminster Abbey, to Christ and St Peter.
RIGHTS:   Sake and soke;  and toll, team, infangenetheof, blodwite, weardwite, hamsocn, foresteall, grithbreach, and mundbreach, and all the rights belonging to the King.

No.105
GRANTOR:  The King.
GRANTEE:  Westminster Abbey and St Peter.
RIGHTS:   Sake and soke;  and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, foresteall, and mundbreach (in festival season and without)(within the borough and without)(on the street and off).

No.106
GRANTOR:  The King.
GRANTEE:  Westminster Abbey and St Peter.
RIGHTS:   Sake and soke;  and toll, team, infangenetheof, flymenafyrmth, grithbreach, hamsocn, foresteall, and miskenning (in festival season and without)(within the borough and without)(on the street and off).

No.109
GRANTOR:  The King.
GRANTEE:  Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul
RIGHTS:   Sake and soke (within the town and without);  and toll, team, foresteall, infangenetheof, hamsocn, and mundbreach.

No.110
GRANTOR:  The King.
GRANTEE:  Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul
RIGHTS:   Sake and soke (within the town and without);  and toll, team, foresteall, infangenetheof, hamsocn, and mundbreach (in festival season and without).

No.114
GRANTOR:  The King.
GRANTEE:  His priests at Wolverhampton and their minster.
RIGHTS:   Sake and soke.

No.115
GRANTOR:  The King.
GRANTEE:  Wulfstan, Bishop of Worcester.
RIGHTS:   Sake and soke, and toll, team (within the borough and without).

No.116
GRANTOR:  The King.
GRANTEE:  Monk Aelfstan.
RIGHTS:   Sake and soke, and toll, team (within the town and without).

No.118
GRANTOR:  The King.
GRANTEE:  Archbishop Ealdred.
RIGHTS:   Sake and soke (over his lands and over all his men), and toll, team (within the town and without).

No.119
GRANTOR: The King.  
GRANTEE: Archbishop Ealdred.  
RIGHTS: Sake and soke, and toll, team (over his men).

No.120  
GRANTOR: The King.  
GRANTEE: Ealdred deacon of Archbishop Ealdred, on behalf of St Peter's Minster, York.  
RIGHTS: Sake and soke.

No.121  
GRANTOR: Gospatric (probably son of Uhtred, Earl of Northumbria).  
GRANTEE: Thorflyn (otherwise unknown).  
RIGHTS: Sake and soke, and toll, team.

ANALYSIS
HOW MANY GRANTS?
Of 121 writs 83 make grants of rights.

WHO IS THE GRANTOR?
The grantor is always the King, except:-
1. No.22 GRANTOR: Aelfric Modercope with the witnessing of the King.
2. No.57 GRANTOR: The King and Queen.
3. No.72 GRANTOR: The Queen.
4. No.91 GRANTOR: The King (declaring Ailric has permission to make this grant).
5. No.121 GRANTOR: Gospatric (probably son of Uhtred, Earl of Northumbria).
Of these 5 exceptions the King is involved in three of them. This is thus good evidence for the King being the found of justice.

WHO IS THE GRANTEE?
The grantees are:-
1. MONASTIC GRANTS:
   A. TO THE ABBOT ALONE [6 grants]
   No.4 Abbot Ordic of Abingdon.
   No.8 Abbot Ufi, of Bury St Edmund's.
   No.23 Abbot Baldwine of St Edmund's.
   No.43 Abbot Wulfwold of Chertsey.
   No.46 Abbot Leofwine.
   No.47 Abbot Wilfric of Ely.

   B. TO THE COMMUNITY ALONE [16 grants]
   No.9 The community of St Edmund's.
   No.10 The community.
   No 17 The community of St Edmund's.
   No.19 The community of St Edmund's.
   No.20 The community of St Edmund's.
   No.22 The community of St Edmund's.
   No.24 The community at Bury St Edmund's.
   No.35 The community at Christ Church, Canterbury.
   No.55 The monastery at St Denis.
   No.59 The abbey at Ramsey.
No.60 The abbey at Ramsey.
No.82 St Peter's at Westminster Abbey.
No.83 St Peter's at Westminster Abbey.
No.84 St Peter's at Westminster Abbey.
No.85 St Peter's at Westminster Abbey.
No.93 St Peter's Westminster Abbey.

C. TO GOD AND/OR THE SAINT AND THE COMMUNITY  [27 grants]
No.36 To God, St Augustine and the brethren.
No.38 St Augustine and the brethren belonging thereto.
No.40 Chertsey, Christ and St Peter.
No.41 Chertsey, Christ and St Peter.
No.73 St Peter (at Westminster Abbey).
No.74 St Peter (at Westminster Abbey).
No.76 St Peter (at Westminster Abbey).
No.77 St Peter and the brothers at Westminster Abbey.
No.78 Westminster Abbey, to Christ and St Peter.
No.79 Westminster Abbey, to Christ and St Peter.
No.86 Westminster Abbey, to Christ and to St Peter.
No.89 Westminster Abbey, to Christ and to St Peter.
No.91 St Peter and the brethren at Westminster Abbey.
No.92 St Peter and the brethren at Westminster Abbey.
No.94 Westminster Abbey, to Christ and St Peter.
No.95 Westminster Abbey, to Christ and St Peter.
No.96 Westminster Abbey, to Christ and St Peter.
No.97 Westminster Abbey, to Christ and St Peter.
No.98 St Peter and the brethren at Westminster Abbey.
No.99 Westminster Abbey, to Christ and St Peter.
No.100 Westminster Abbey, to Christ and St Peter.
No.101 Westminster Abbey, to Christ and St Peter.
No.102 St Peter and the brethren at Westminster Abbey.
No.103 Westminster Abbey, to Christ and St Peter.
No.104 Westminster Abbey, to Christ and St Peter.
No.105 Westminster Abbey and St Peter.
No.106 Westminster Abbey and St Peter.

D. TO THE ABBOT AND COMMUNITY  (with or without the saint)  [6 grants]
No.11 The abbot and community of St Edmund's.
No.12 Abbot Leofstan and community.
No.42 Chertsey, Christ and St Pete; and Abbot Wulfwold.
No.45 Abbot Leofwine and the brethren at Coventry.
No.61
A: The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.
B: The abbey at Ramsey, St Mary, St. Benedict and Abbot Aelfwine.
C The abbey at Ramsey, to Christ, St Mary, St. Benedict and Abbot Aelfwine.
No.81 St Peter's at Westminster Abbey, and Abbot Edwin.

E. TO THE BISHOP AND COMMUNITY  [6 grants]
No.28 Archbishop Aethelnoth and the community at Christ Church.
No.31 Archbishop Eadsige and the monks at Christ Church.
No.33 Archbishop Stigand and the community at Christ Church.
No.34 Archbishop Stigand and the community at Christ Church.
No.109 Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul
No.110 Bishop Aelfwine of Winchester, and to Christ, St Peter & St Paul

2. GRANTS TO SECULAR CLERGY [4 grants]
No.52 The priests in St Paul's Cathedral, London.
No.53 The priests in St Paul's Cathedral, London.
No.54 The priests in St Paul's Cathedral, London.
No.114 His priests at Wolverhampton and their minster.

3. GRANTS TO BISHOPS ALONE [10 grants]
No.50 Bishop Walter of Hereford.
No.64 The Bishop of Wells, Bishop Giso.
No.65 The Bishop of Wells, Bishop Giso.
No.68 The Bishop of Wells, Bishop Giso.
No.69 The Bishop of Wells, Bishop Giso.
No.71 The Bishop of Wells, Bishop Giso.
No.72 The Bishop of Wells, Bishop Giso (for the canons of St Andrew's at Wells).
No.115 Wulfstan, Bishop of Worcester.
No.118 Archbishop Ealdred.
No.119 Archbishop Ealdred.

F. MISCELLANEOUS [8 grants]
No.44 Regenbald, my priest.
No.49 The priests in Hereford at St Ethelbert's Minster.
No.51 The gild of English cnihtas.
No.57 The church at Ramsey.
No.87 Teinfrith, the King's 'church-wright'.
No.116 Monk Aelfstan.
No.120 Ealdred deacon of Archbishop Ealdred, on behalf of St Peter's Minster, York.
No.121 Thorflynn (otherwise unknown).

These figures paint a very clear picture:-
61 monastic grants
4 grants to secular clergy
10 grants to Bishops alone
8 miscellaneous grants.
= 83 in total.
Of the grants to a community, only 6 out of 61 are to the abbot alone. The rest are to the community with or without the abbot, bishop, or archbishop. This has implications for the delicate question as to what these grants carried with them. Were the simply the profits of justice (eg fines)? This is entirely consonant with these figures. Or did they include the right to hold a court of trial (presumably including a tribunal of fact) to determine legal disputes. A preponderance of grants to those fitted to conduct such a trial (eg bishops and abbots) would have supported such a view. It is, of course, possible that monastic brethren could sit as some from of jury, but it seems a little unlikely. Perhaps, though, they could have arranged a private court to transact the business on their behalf.

WHAT RIGHTS ARE GRANTED?
The rights granted were as follows:-
SINGLY


9. Fihtwite: 24, 45, 47, & 61A.


11. Fyrdwite: 24, 47, & 61A.


14. Blodwite: 45, 93, & 104.

15. Weardwite: 45, 93, & 104.


17. Shipwreck: 61A.

18. What is cast up by the sea: 61A.


IN COMBINATION


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


NB: Toll and team never occur separately.


D. Sake and Soke, and infangenetheof: 28, 31, 36, & 38.
WHAT DO THESE RIGHTS MEAN?
It is difficult to be completely certain as to what these rights mean, but the following are likely solutions:

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

APPENDIX V - MISCELLANEOUS POINTS

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

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

APPENDIX VI - SELECT BIBLIOGRAPHY
ANGLO-SAXON LEGAL TEXTS
Select English Historical Documents of the Ninth and Tenth Centuries ed. F.E. Harmer, Cambridge 1914.

DICTIONARIES

Chambers of Martin Burr, First Floor, Temple Chambers, Temple Avenue, LONDON. E.C.4Y 0DA. M.J.BURR Monday, 2nd July 2007
The Visitation of the BVM (BCP) Sanctorum Processi et Martiniani (Leofric Missal) St Swithun's Day