

The *Ordinance concerning the Dunsæte* and the Anglo-Welsh frontier in the late tenth and eleventh centuries

GEORGE MOLYNEAUX

ABSTRACT

The *Ordinance concerning the Dunsæte* sets out regulations for dealings between the English and Welsh in some part of the frontier between these two peoples. The text is widely assumed to be from the second quarter of the tenth century, but this article argues for a late-tenth- or eleventh-century date. The *Ordinance* envisages trade and prescribes procedures to settle disputes: it thus reveals cordial contacts between those dwelling along the frontier. This offers an alternative perspective to the focus on kings and conflicts found in many modern accounts of relations between the English and Welsh in the early medieval period.

The *Ordinance concerning the Dunsæte* is an Old English record of procedures to regulate contact between English and Welsh people living on either side of an unnamed river.¹ The text identifies the Welsh with those on the other side of the river: if a Welsh version was written down, it has been lost.² The *Ordinance* begins ‘Ðis is seo gerædnes ðe Angelcynnes witan 7 Wealhðeode rædboran betweox Dunsetan gesetton’, which is usually translated ‘This is the ordinance that the English *witan* and the counsellors of the Welsh people have established among the *Dunsæte*’.³ From this, it is generally inferred that the term *Dunsæte*, which is attested only in this text, covered both the English and the Welsh parties to the agreement. It would, however, be possible to translate the opening sentence ‘This is the ordinance that the English *witan*

¹ *Die Gesetze der Angelsachsen*, ed. F. Liebermann, 3 vols. (Halle, 1903–16) I, 374–9. The division into clauses is editorial. For a translation, see F. Noble, *Offa’s Dyke Revisited*, ed. M. Gelling, BAR, Brit. Ser. 114 (Oxford, 1983), 105–9. Unless otherwise stated, English legal texts are cited from Liebermann’s edition, using the system of reference set out in *Gesetze*, ed. Liebermann, I, xi: the *Ordinance* is thus cited as ‘Duns’. I am deeply indebted to Liebermann’s commentaries on the *Ordinance*, even though I question his view of its date: F. Liebermann, ‘Die angelsächsische Verordnung über die Dunsæte’, *ANSL* 102 (1899), 267–96; *Gesetze*, ed. Liebermann, III, 214–19. I have also made very frequent use of the second volume of his *Gesetze (Wörterbuch und Rechts- und Sachglossar)* to identify cross-references.

² Duns 5, 8.3–8.4.

³ Duns prol.

and the counsellors of the Welsh people among the *Dunsate* have established', which would imply that the *Dunsate* were the Welsh party. The ambiguity is unfortunate, since the meanings are quite different, but my arguments are not predicated upon either interpretation. Nor would my arguments be compromised if this statement were a heading added during the *Ordinance's* transmission, rather than a part of the original text. After the introductory sentence, the *Ordinance* sets out a series of procedures for the tracking of stolen property and the settlement of disputes, including the payment of compensation in cases of theft and homicide. It also stipulates that anyone crossing from one side of the river to the other was to be accompanied by an appointed man of the land that he was entering, who was to supervise the alien. At the end of the text it is stated that the *Wentsate*, who had previously pertained to the *Dunsate*, were now required to send hostages and tribute to the West Saxons. The *Dunsate* ask the king (who is not named) that they too should receive hostages, presumably from the *Wentsate*.

The *Ordinance* survives in two medieval legal encyclopaedias, which date from around the turn of the eleventh and twelfth centuries: the sole vernacular copy is in Cambridge, Corpus Christi College 383, and there is a Latin translation in four manuscripts of *Quadripartitus*.⁴ In both the Corpus manuscript and *Quadripartitus*, the *Ordinance* follows *II Æthelred*, a treaty made by Æthelred II and certain Scandinavians, probably in 994, together with an undated 'appendix' that is unlikely to have originated as part of the treaty.⁵ The *Ordinance* as we have it is probably an accurate representation of the text as it stood at the turn of the eleventh and twelfth centuries: the differences between the *Quadripartitus* and Corpus versions do not substantially affect the content of the text, and mostly reflect minor misunderstandings on the part of the *Quadripartitus* translator.⁶ As an Old English legal text known only from post-Conquest manuscripts, the *Ordinance* is not unusual: this is true of a fair amount of tenth-century royal legislation, and of a range of undated texts which, like the *Ordinance*, are not ascribed to a named individual. Other anonymous texts preserved solely in

⁴ P. Wormald, *The Making of English Law: King Alfred to the Twelfth Century. Volume I: Legislation and its Limits* (Oxford, 1999), pp. 228–44; R. Sharpe, 'The Dating of *Quadripartitus* Again', *English Law before Magna Carta: Felix Liebermann and Die Gesetze der Angelsachsen*, ed. S. Jurasinski, L. Oliver and A. Rabin (Leiden, 2010), pp. 81–93.

⁵ On the date of *II Æthelred*, see S. Keynes, 'The Historical Context of the Battle of Maldon', *The Battle of Maldon AD 991*, ed. D. Scragg (Oxford, 1991), pp. 81–113, at 103–4. The so-called 'appendix' perhaps dates to late in Edgar's reign or early in Æthelred's: Wormald, *Making*, pp. 369–70. In the light of the argument that I advance below, it would be tempting to suggest that the juxtaposition of *II Æthelred* and the *Ordinance* is a result of their production at a similar time, but this would be a highly speculative point.

⁶ *Gesetze*, ed. Liebermann, III, 215, 218, 219. The differences in the list of agricultural values (Duns 7) probably arise from corruption in a manuscript from which both versions derive.

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

post-Conquest manuscripts include a collection of oath formulae, and provisions concerning the organisation of the hundred (an administrative unit), the holding of ordeals and the arrangement of marriages.⁷ It is interesting, although perhaps no more than coincidence, that the Corpus manuscript is our sole source of Old English treaties between peoples: besides the *Ordinance*, the only authentic vernacular treaty texts extant are the *Treaty of Alfred and Guthrum* and *II Æthelred*, both of which are preserved in the Corpus manuscript, but are otherwise only known from Latin renderings in *Quadripartitus*.⁸

Interpretation of the *Ordinance* is complicated by two fundamental uncertainties. The first concerns the location to which it relates. The word *Dunsæte*, which probably means ‘hill-dwellers’, is one of several *-sæte* names that can be associated with the frontier area between the English and the Welsh.⁹ There is general consensus that the Welsh party to the *Ordinance* should be placed in Archenfield, southwest of Hereford and on the opposite side of the river Wye, which is usually assumed to be the watercourse mentioned in the text.¹⁰ Archenfield, the former Welsh kingdom of Ergyng, may have been under at least intermittent Mercian domination in the eighth and ninth centuries, and in 914 Edward the Elder (king of both Wessex and Mercia, 899–924) ransomed Archenfield’s bishop, who bore the Welsh name Cyfeiliog and had been captured by vikings.¹¹ Even at the end of the Anglo-Saxon period, however,

⁷ Swer; Hu; Ordal; Wif. For discussion of these texts, see Wormald, *Making*, pp. 373–4, 378–9, 383–4, 385–7; below, p. 257 n. 39.

⁸ Wormald, *Making*, pp. 235–6. There are two vernacular versions of *Alfred and Guthrum*, both known only from the Corpus manuscript. The so-called *Treaty of Edward and Guthrum*, a confection now attributed to Archbishop Wulfstan, is also preserved in both the Corpus manuscript and *Quadripartitus*, but appears in the *Textus Roffensis* too: Wormald, *Making*, pp. 389–91.

⁹ M. Gelling, *The West Midlands in the Early Middle Ages* (Leicester, 1992), pp. 118–19; C. P. Lewis, ‘Welsh Territories and Welsh Identities in Late Anglo-Saxon England’, *Britons in Anglo-Saxon England*, ed. N. Higham (Woodbridge, 2007), pp. 130–43, at 140–2. Lewis suggests that the *dun* in question might have been Dinedor Hill, across the Wye from Hereford.

¹⁰ Liebermann, ‘Verordnung’, pp. 289–94; *Gesetze*, ed. Liebermann, III, 216; F. M. Stenton, ‘Pre-Conquest Herefordshire’, *Preparatory to Anglo-Saxon England, being the Collected Papers of Frank Merry Stenton*, ed. D. M. Stenton (Oxford, 1970), pp. 193–202, at 198; Noble, *Offa’s Dyke Revisited*, pp. 9–18; Gelling, *West Midlands*, p. 114; M. Fordham, ‘Peacekeeping and Order on the Anglo-Welsh Frontier in the Early Tenth Century’, *Midland Hist.* 32 (2007), 1–18, at 6–7; D. Pratt, ‘Written Law and the Communication of Authority in Tenth-Century England’, *England and the Continent in the Tenth Century: Studies in honour of Wilhelm Levison (1876–1947)* (Turnhout, 2010), pp. 331–50, at 345–6. For the possibility that the river might have been either the Wye or another watercourse in the area, see P. Sims-Williams, *Religion and Literature in Western England, 600–800* (Cambridge, 1990), p. 9, n. 30; Wormald, *Making*, p. 381.

¹¹ Gelling, *West Midlands*, pp. 114–16; *Anglo-Saxon Chronicle*, s.a. 914 A. Hereafter, the *Anglo-Saxon Chronicle* is abbreviated to *ASC*. It is cited by year and manuscript from *The Anglo-Saxon Chronicle: a Collaborative Edition*, ed. S. Keynes, D. N. Dumville et al., 9 vols. so far (Cambridge, 1983–). Where appropriate, a ‘corrected year’ is indicated, as per *The Anglo-Saxon Chronicle: a Revised Translation*, ed. D. Whitelock, with D. C. Douglas and S. I. Tucker (London, 1961).

Archenfield seems to have been only loosely subordinated to the English king: it appears in Domesday, but in 1066 it retained distinctive customs, was not hidated and paid no geld.¹² It is described within the Herefordshire folios, but Domesday presents it as part of neither Herefordshire nor Wales, listing those who held land ‘in Herefordscire 7 in Arcenefelde 7 in Walis’.¹³ The strongest reason for associating the *Ordinance* with this approximate area is that the *Dunsæte* sought hostages from the *Wentsæte*, who are most plausibly identified as the inhabitants of Gwent or a territory adjoining Gwent.¹⁴ The Domesday account of the ‘customs of the Welsh in Archenfield in the time of King Edward’ may support the hypothesis that the *Ordinance* concerns the Archenfield area: Domesday refers to an obligation for six or seven of the *meliores* (‘better men’ – or perhaps ‘best men’, with the comparative where we would use a superlative) to go to the shire meeting if called, which may echo the *Ordinance*’s provision that six Welsh and six English *lahmen* (‘lawmen’) should pronounce what was just to Welsh and English.¹⁵ The traditional association of the *Ordinance* with Archenfield is very plausible, but far from conclusive. It therefore seems best not to rely upon it, and to treat the text as concerning an unidentified stretch of the southern part of the Anglo-Welsh frontier, somewhere close to Gwent.

The second major uncertainty is the date of the *Ordinance*. Over a century ago, in what remains the most detailed analysis of the text, Felix Liebermann argued that it was most likely written during the reign of Æthelstan (924–39), although he was willing to entertain the possibility of a date as late as the reign of Edgar (957/9–75).¹⁶ Frank Stenton accepted the conclusion that the *Ordinance* probably dates from Æthelstan’s reign ‘or the time immediately following’.¹⁷ Almost all subsequent writers who have cited the text have adopted this position, and the two most recent extended treatments of the *Ordinance* (by Michael Fordham

¹² *Domesday Book*, 179b, 181a. Domesday is cited from *Domesday Book*, ed. J. Morris *et al.*, 35 vols. (Chichester, 1975–86). On the account of Archenfield, see C. P. Lewis, ‘English and Norman Government and Lordship in the Welsh Borders, 1039–1087’ (unpubl. D.Phil. thesis, Univ. of Oxford, 1985), pp. 158–62.

¹³ *Domesday Book*, 179b.

¹⁴ Duns 9–9.1; Sims-Williams, *Religion*, p. 45, n. 148; Gelling, *West Midlands*, p. 118.

¹⁵ *Domesday Book*, 179b; Duns 3.2; Liebermann, ‘Verordnung’, p. 280; *Gesetze*, ed. Liebermann, III, 216; below, pp. 262–5. The twelfth-century *Leges Edwardi Confessoris* refers to enquiries being made ‘per lagahemannos et per meliores homines’, which suggests some degree of equivalence between the two terms: *Leges Edwardi Confessoris*, xxxviii.2, ed. and trans. B. R. O’Brien, *God’s Peace and King’s Peace: the Laws of Edward the Confessor* (Philadelphia, PA, 1999), pp. 158–203, at 200.

¹⁶ Liebermann, ‘Verordnung’, esp. pp. 289, 294–6, summarized at *Gesetze*, ed. Liebermann, III, 215–16.

¹⁷ Stenton, ‘Pre-Conquest Herefordshire’, p. 198; F. M. Stenton, *Anglo-Saxon England*, 3rd ed. (Oxford, 1971), p. 341 n. 1.

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

and David Pratt) deploy it as evidence of conditions in Æthelstan's reign.¹⁸ My objective in what follows is to re-examine the conventional date. I cannot disprove the theory that the text was written while Æthelstan was king, but I seek to demonstrate that the rationale for associating it with his reign is weak, and that there are strong grounds for postulating a late-tenth- or eleventh-century date.¹⁹

Two principal arguments have been made by those who link the *Ordinance* with Æthelstan's reign. The first is that Æthelstan is known to have had fairly extensive dealings with several Welsh kings, who appear to have recognized his superiority: the *Anglo-Saxon Chronicle* records that Æthelstan met the king of the 'west Welsh' and the king of Gwent at Eamont (near Penrith) in 927, and various Welsh kings attested his charters, often at locations deep within the West Saxon heartlands.²⁰ Specifically, it has sometimes been suggested that the *Ordinance* might have been established when, according to William of

¹⁸ H. R. Loyn, 'Gesiths and Thegns in Anglo-Saxon England from the Seventh to the Tenth Century', *EHR* 70 (1955), 529–49, at 542; W. Davies, *Wales in the Early Middle Ages* (Leicester, 1982), pp. 204–5; Wormald, *Making*, p. 382; Fordham, 'Peacekeeping'; J. R. Maddicott, *The Origins of the English Parliament, 924–1327* (Oxford, 2010), p. 51; Pratt, 'Written Law', pp. 345–8, 350. Frank Noble suggested that the *Ordinance* might have been based on a much earlier treaty, although he did not challenge the view that it was written down in its current form in the second quarter of the tenth century. While it is very plausible that analogous agreements might have been reached in earlier periods, there is no evidence that any part of the *Ordinance* itself had a pre-tenth-century basis. See F. Noble, 'Offa's Dyke Re-viewed: a Critical Re-assessment of Published Work and Accepted Opinions; with Detailed Consideration of the Course of the Dyke through the Diocese of Hereford' (unpubl. M.Phil. thesis, Open Univ., 1977), Appendix 2. This appendix incorporates Noble's correspondence with Dorothy Whitelock, who pointed out to him (in increasingly robust terms) that his theory was entirely speculative. In view of the argument that I develop below, it is interesting to note that the reference to *labmen* prompted Whitelock to express scepticism about whether the *Ordinance* was as early as Æthelstan's reign (p. 54), although she had previously endorsed the views of Liebermann and Stenton (p. 47). For a sympathetic summary of Noble's position, see Gelling, *West Midlands*, pp. 113–19. Both Noble and Gelling started from the assumption (derived ultimately from Asser, who wrote almost a century after Offa's death) that Offa's frontier with the Welsh stretched from the Bristol Channel to the Irish Sea. They were concerned with the problem of why archaeologists had been unable to find any dyke in the Archenfield area. It has since been argued that Asser's statement is inaccurate, that there was no connection between 'Offa's Dyke' (the earthwork in the central part of the Anglo-Welsh frontier) and the dyke near the Bristol Channel, that Offa's frontier was with Powys (not all Wales) and that consequently the supposed 'gap' in his dyke is not a gap at all: D. Hill, 'Offa's Dyke: Pattern and Purpose', *AntJ* 80 (2000), 195–206.

¹⁹ The arguments of an early version of this article (to which I would no longer fully subscribe) are adopted by S. Foot, *Æthelstan: the First King of England* (New Haven, CT, 2011), pp. 163–4. For suggestive comments about the possibility of a late date, see Lewis, 'Welsh Territories', pp. 141–2.

²⁰ *ASC* 926 D (= 927). The charter attestations are summarised by S. D. Keynes, *An Atlas of Attestations in Anglo-Saxon Charters, c. 670–1066* (Cambridge, 2002), table XXXVI. The Eamont

Malmesbury, Æthelstan compelled the Welsh rulers to meet him at Hereford, fixed the river Wye as a frontier and imposed a vast annual tribute.²¹ It is, however, unlikely that any king was involved in the making of the *Ordinance*, since the king is mentioned only as an external party to whom the *Dunsæte* appeal for hostages: this is in marked contrast to *Alfred and Guthrum* and *II Æthelred*, both of which begin by naming the kings or leaders who were contracting the agreement.²² Nor need the *Ordinance's* reference to *witan* indicate a royal assembly: the basic meaning of *witan* is 'wise men' and the word could be used in non-royal contexts.²³ It should also be noted that nothing in the *Ordinance* implies that the Welsh would be treated disadvantageously in disputes: indeed, it is repeatedly stressed that procedures were to apply equally to the English and the Welsh.²⁴ On the face of it, this does not seem like the kind of treaty that one would expect Æthelstan to establish while simultaneously extorting tribute from the Welsh and requiring their kings to attend his court. Admittedly, it was possible for an even-handed agreement to follow a submission: Alfred and Guthrum made a treaty as ostensible equals, most probably between 880 and 890, despite Guthrum's having accepted baptism from Alfred in 878.²⁵ There is, however, no sign that Guthrum's baptism led to any lasting subordination to Alfred, comparable to Æthelstan's sustained dominance over the Welsh kings. The hypothesis that Æthelstan established the *Ordinance* cannot be disproved, but it does not rest on any sound basis.

While it is perhaps unlikely that the *Ordinance* was personally established by any English actor who had a significant measure of dominance in the part of Wales to which it pertains, the text does date from a time when at least a portion of southeast Wales was subordinate to either the West Saxon king or some other West Saxon power. This is clear from the statement that the

meeting was also attended by the Scottish king, the ruler of Bamburgh and possibly the Cumbrian king.

²¹ William of Malmesbury, *Gesta Regum Anglorum*, II.cxxxiv.5–6, ed. and trans. R. A. B. Mynors, R. M. Thomson and M. Winterbottom, 2 vols. (Oxford, 1998–9) I, 214–16. For a summary of the debate about the reliability of William's account of Æthelstan's reign, see Foot, *Æthelstan*, pp. 251–8.

²² Duns 9.1; AGu prol; II Atr prol. *Edward and Guthrum* likewise begins by naming the kings supposedly responsible for it: EGu prol.

²³ J. Bosworth and T. N. Toller, *An Anglo-Saxon Dictionary* (Oxford, 1898), with supplement by T. N. Toller (Oxford, 1921), *s.v. wita*.

²⁴ See esp. Duns 3.2, 5, 6, 8.3–8.4.

²⁵ AGu prol, 2, 5. On *Alfred and Guthrum*, see P. Kershaw, 'The Alfred–Guthrum Treaty: Scripting Accommodation and Interaction in Viking Age England', *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, ed. D. M. Hadley and J. D. Richards (Turnhout, 2000), pp. 43–64, with references to earlier literature. For Guthrum's baptism, see *ASC* 878.

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

Wentsæte sent hostages and tribute to the West Saxons.²⁶ It is quite conceivable that the Welsh who subscribed to the agreement were required to do likewise, while interacting with their immediate English neighbours on terms that at least approximated to equality. West Saxon domination in southeast Wales would be consistent with Æthelstan's reign, but might well also fit pretty much any time after the late ninth century. The submissions of various Welsh kings to Alfred in the late ninth century did not inaugurate permanent uninterrupted West Saxon domination of all Wales. Alfred's successors did, however, have an at least intermittent hegemony in Wales in the tenth and subsequent centuries, and it should be noted that southeast Wales was not far from the royal heartlands in Wessex.²⁷ If one assumes that by 'West Saxons' the *Ordinance* meant the English king, this usage might appear odd in a tenth- or eleventh-century context, since the royal style *Occidentalium Saxonum rex* ('king of the West Saxons') dropped out of use during Alfred's reign.²⁸ Tenth-century kings were, however, sometimes presented as ruling a collection of peoples, of whom the West Saxons were one: thus, for example, Edgar's *obit* in the D and E texts of the *Chronicle* refers to him as 'ruler of the Angles, friend of the West Saxons [*Westseaxena wine*] and protector of the Mercians'.²⁹ We should also be open to the possibility that the *Wentsæte* were giving hostages and tribute to West Saxons other than the king. Even though it is to the king that the *Dunsæte* applied for hostages (presumably from the *Wentsæte*), this need not indicate that he was the West Saxon who had been extracting *Wentsæte* hostages: the *Dunsæte* could have been asking that the king induce some other West Saxons to part with *Wentsæte* hostages, or that he (the king) hand over hostages that other West Saxons had taken and passed to him, or that he require the *Wentsæte* to supply hostages directly to the *Dunsæte*, in addition to those already given to some West Saxon party. In the eleventh century, the family of the West Saxon earl Godwin showed interest in south Wales: Swegn Godwinson is known to have taken hostages in south Wales in 1046, and Harold Godwinson attempted some building work at Portskewett (Gwent) in 1065.³⁰ The West

²⁶ Duns 9.

²⁷ G. Molyneux, 'Why were Some Tenth-Century English Kings presented as Rulers of Britain?', *TRHS* 6th ser. 21 (2011), 59–91, at 64–77. For the submissions to Alfred, see Asser, *De rebus gestis Ælfrædi*, lxxx–lxxxi, ed. W. H. Stevenson and revised D. Whitelock, *Asser's Life of King Alfred together with the Annals of St Neots erroneously Ascribed to Asser* (Oxford, 1959), pp. 1–96, at 66–7.

²⁸ S. D. Keynes, 'The West Saxon Charters of King Æthelwulf and his Sons', *EHR* 109 (1994), 1109–49, at 1147–9.

²⁹ *ASC* 975 DE; Molyneux, 'Why were Some Tenth-Century English Kings Presented as Rulers of Britain?', pp. 63–4.

³⁰ *ASC* 1046 C, 1065 CD. That Swegn undertook the 1046 expedition with Gruffudd 'the northern king' implies that it was directed against south Wales.

Saxon domination in southeast Wales that the *Ordinance* reflects was thus in no way peculiar to Æthelstan's reign.

The second reason that has been given for treating the *Ordinance* as a product of Æthelstan's time is that some of its concerns are shared with legal texts of the period. This argument has been particularly developed by Fordham, who associates the *Ordinance* with the texts known as *III Æthelstan* and *VI Æthelstan*.³¹ These two texts refer explicitly to a royal assembly that had been held at Grately (Hampshire), the decrees of which survive and are known as *II Æthelstan*; *III Æthelstan* and *VI Æthelstan* appear to represent attempts to implement in particular localities (Kent and London respectively) the demands for the detection and punishment of theft that had been made at Grately.³² There is, however, no really close similarity between the *Ordinance* and any extant text known to date from Æthelstan's reign, which might suggest that one was drawing on the other. Fordham's case is based on a comparison of the *Ordinance* and *VI Æthelstan*, but he admits that they are 'different in structure, wording and specifics'.³³ One particularly striking difference is that *VI Æthelstan*, in broad accord with the Grately decrees, insists upon the execution of most thieves and of those complicit in theft.³⁴ By contrast, the *Ordinance* prescribes double compensation and a fine for persons involved or complicit in an offence against someone from the same side of the frontier, and the restitution demanded of those who harmed foreigners was lower still.³⁵ This does not preclude dating the *Ordinance* to Æthelstan's reign, since one could readily hypothesize that different arrangements obtained in frontier areas, even for offences where both perpetrator and victim were from the English side. It does, however, mean that one would want some compellingly close parallels (or other strong evidence) before accepting the contention that the *Ordinance* is most likely to be from Æthelstan's day.

The parallels between the *Ordinance* and texts from Æthelstan's day do not, however, add up to a cogent case for associating it with his reign, as opposed to any other time in the tenth or eleventh centuries. Perhaps the closest detailed point of comparison with a text from Æthelstan's reign is that both the *Ordinance* and *VI Æthelstan* stipulate the values (primarily for the purposes

³¹ Fordham, 'Peacekeeping'. See also Wormald, *Making*, pp. 381–2; Pratt, 'Written Law'.

³² In addition to the references given in the previous note, see S. D. Keynes, 'Royal Government and the Written Word in Late Anglo-Saxon England', *The Uses of Literacy in Early Mediaeval Europe*, ed. R. McKitterick (Cambridge, 1990), pp. 226–57, at 235–41; Wormald, *Making*, pp. 290–308.

³³ Fordham, 'Peacekeeping', p. 17.

³⁴ *II As* 1–1.2, 2.1; *VI As* 1.1–1.4, 7, 8.3, 12.1–12.3. See also *IV As* 6–6.7. Æthelstan's amnesties (*III As* 3, *V As* 3.1) applied only to past misdeeds: future wrongdoing was to be punished severely.

³⁵ *Duns* 4, 5, 6.2–6.3.

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

of compensation) of slaves and various kinds of livestock. A couple of the valuations are markedly divergent, but most are approximately equivalent.³⁶ This does not, however, prove that the two texts are contemporaneous, since there do not appear to have been significant changes in price levels in the late Anglo-Saxon period, and similar values can be found in much earlier and later sources.³⁷ There are also some resemblances between the *Ordinance's* provisions on cattle-tracking and those found in *V Æthelstan* (legislation issued by Æthelstan at Exeter, at some point after the Grately decrees) and *VI Æthelstan*. The *Ordinance* states that, when cattle are tracked from one river bank to another, tracking must be handed over to the men of the other side, or it must be shown by some mark that the track is rightfully pursued. Similarly, *V Æthelstan* and *VI Æthelstan* prescribe that when cattle are tracked to the edge of a man's land or of a reeve's district, the landholder or the reeve should take up the search and follow the trail until it reaches another point on the boundary of the estate or district.³⁸ These fairly superficial resemblances could, however, simply be similar solutions to the perennial problem of how cattle should be tracked from one territorial unit to another. Indeed, a similar issue arises in the *Hundred Ordinance*, which cannot be earlier than the reign of Edmund (939–46) and may well be somewhat later.³⁹ One could also observe that the *Ordinance concerning the Dunsæte*, like various texts from Æthelstan's reign, refers to the use of the ordeal and vouching to warranty, but none of the parallels are particularly close.⁴⁰ The points of comparison that can be identified are not peculiar to texts from Æthelstan's reign: there are many legal texts from several other tenth- and eleventh-century reigns that concern ordeal, vouching

³⁶ Duns 7–7.1; VI As 6.1–6.3, 8.5. The *Ordinance's* value for a man (i.e. slave) is twice that of *VI Æthelstan*, and its value for a cow is twenty per cent higher. Its value for a pig is twenty per cent lower than that of *VI Æthelstan*.

³⁷ For similar values in other periods, see Ine 55; II Atr 5.1, with general discussion of price stability by D. L. Farmer, 'Prices and Wages', *The Agrarian History of England and Wales. Volume II, 1042–1350*, ed. H. E. Hallam (Cambridge, 1988), pp. 715–817, at 716–17.

³⁸ Duns 1; V As 2; VI As 8.4. Note also the passing similarity between Duns 1.2 and VI As 8.8.

³⁹ Hu 5. The *Hundred Ordinance* mentions Edmund (Hu 2): it could be a piece of royal legislation by one of his successors or a non-royal composition, produced in or after his reign. It need not be earlier than *II–III Edgar*, as is often supposed. *III Edgar* declares that hundred meetings should be attended 'as previously ordained' (III Eg 5), which could be a reference to the statement in the *Hundred Ordinance* that hundred meetings were to be held every four weeks (Hu 1). *III Edgar* could, however, be referring to a now-lost decree, upon which the *Hundred Ordinance* drew independently, potentially subsequent to the issue of *II–III Edgar*.

⁴⁰ Ordeal: Duns 2.1, 8.3–8.4; II As 4, 5, 6.1–6.2, 7, 14.1, 19, 21, 23–23.2; IV As 6, VI As, 1.4. Vouching to warranty: Duns 8–8.2; II As 24.

to warranty and cattle-tracking, which were all important throughout these centuries.⁴¹

The arguments presented thus far do not show that the *Ordinance* is unlikely to be from Æthelstan's reign, merely that it is no more likely to have been written then than at any other time in the tenth or eleventh centuries. There are, however, three reasons for considering a date in Æthelstan's reign improbable, and a late-tenth- or eleventh-century origin more likely. Before turning to these points, we should consider Liebermann's rationale for placing the *Ordinance* before the end of Edgar's reign. His principal argument was that, if the *Ordinance* were later, it would be odd that it made no reference to the arrangements set out in *IV Edgar*, which stipulates that twelve persons were to be chosen as witnesses in each hundred and that every transaction was to take place in the presence of two or three of them.⁴² This is far from an insuperable objection to a post-Edgar date for the *Ordinance*. In the first place, the twelve *labmen* that the text mentions might have fulfilled such a role.⁴³ Even if they did not, it would hardly be surprising if Edgar's provisions were not (fully) applicable in frontier areas. This possibility, which Liebermann in fact noted, is suggested by the geographical distribution of frankpledge tithings: these collective surety groups, which may well have been established before the Norman Conquest but only become clearly visible in the twelfth century, were not found in the shires bordering Wales.⁴⁴ If Liebermann's argument about *IV Edgar* is set aside, I cannot see any impediment to the *Ordinance* being later than Edgar's reign.⁴⁵ We cannot even be sure that it predates 1066: its

⁴¹ Ordeal: I Ew 3; I Atr 1.1–1.4; III Atr 4–4.2, 6–8; IV Atr 3.3, 5.2; V Atr 18; VI Atr 25; I Cn 17; II Cn 30–30.6, 32, 35. Vouching to warranty: I Ew 1–1.5; Hu 4.1; III Atr 6.1; IV Atr 3.3; II Cn 23, 24.1–24.2. The most detailed statement about vouching to warranty is the *II Æthelred* 'appendix'. Cattle-tracking: II Ew 4; III Em 6–6.2; Hu 5. *Forfang* is also concerned with searches for stolen property. This text has some similarities to the *II Æthelred* 'appendix'. Both may once have been part of a single ordinance, perhaps dating from late in Edgar's reign or early in Æthelred's: Wormald, *Making*, pp. 369–70.

⁴² IV Eg 3–6.2. Liebermann, 'Verordnung', p. 289; *Gesetze*, ed. Liebermann, III, 216. Liebermann dated *IV Edgar* to 962/3, but there is a good case for placing it between 970 and 975: Wormald, *Making*, pp. 441–2; S. Keynes, 'Edgar, *rex admirabilis*', *Edgar, King of the English, 959–975*, ed. D. Scragg (Woodbridge, 2008), pp. 3–59, at 11 and n. 41.

⁴³ Duns 3.2.

⁴⁴ On the geographical distribution of frankpledge tithings, see W. A. Morris, *The Frankpledge System* (London, 1910), pp. 42–68. On their origins, see G. Molyneaux, 'The Formation of the English Kingdom, c.871–c.1016' (unpubl. DPhil thesis, Univ. of Oxford, 2010), pp. 171–4, with references to earlier literature. See also Pratt, 'Written Law', pp. 337–49. Note, however, that Pratt does not clearly distinguish policing tithings and surety tithings: the former could have existed without the latter.

⁴⁵ Liebermann floated various other arguments against a late date (Liebermann, 'Verordnung', pp. 268, 283, 284, 289, 294–5; *Gesetze*, ed. Liebermann, III, 215, 216), but none establishes a *terminus ante quem*. (1) The absence of homiletic language from the *Ordinance* need not preclude

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

use of the vernacular does not rule out a post-Conquest date, since William the Conqueror is known to have issued legislation in Old English, and Henry I may have done so.⁴⁶ The only really firm *terminus ante quem* for the *Ordinance* is its appearance in the Corpus manuscript and *Quadripartitus* around the turn of the eleventh and twelfth centuries.

The first reason for thinking that the *Ordinance* probably dates from the late tenth or eleventh century is that the details of some of its provisions are similar to those found in legal texts from the reigns of Æthelred II (978–1016) and Cnut (1016–35), but not in earlier legislation. These points of comparison are much more specific than the general resemblances between parts of the *Ordinance* and stipulations in texts of Æthelstan's reign, which can also be paralleled later. The most striking point of comparison is to a detail in *I Æthelred*. The *Ordinance* states that if someone failed to clear himself of complicity after an alien had harmed a native, the complicit person must 'pay double compensation and his *wite* to the lord' ('gyldre twygyldre 7 hlaforde his wite').⁴⁷ *I Æthelred* states that on the first occasion that a man was found guilty, he should 'pay

an eleventh-century date. The use of such language in eleventh-century royal legislation (and to some extent in the legislation of Edgar) reflects an increasingly exalted conception of the king's moral responsibilities, combined with the personal role of Archbishop Wulfstan in writing legal texts in the names of Æthelred and Cnut. There is no reason to expect such language in a text that did not emanate from the king's circle. (2) The lack of reference to tithings in the *Ordinance* is unsurprising, given the later absence of frankpledge in border shires. (3) The lack of reference to hundreds in the *Ordinance* need not be a relevant consideration, since the text is concerned with contacts across an external frontier, not internal English administrative divisions. (4) For the same reason, it need not be significant that there is no reference to Cnut's stipulation that justice should be demanded in the hundred and shire assemblies before resort to distraint (II Cn 19–19.2). (5) The use of the verb *badian* ('to extract security') in the *Ordinance* need not indicate a date prior to Cnut's reign, since it also appears in a statement of the dues pertaining to Taunton on the day of Edward the Confessor's death (*Anglo-Saxon Charters*, ed. A. J. Robertson, 2nd ed. (Cambridge, 1956), pp. 236–8). (6) It is not at all clear that the vouching to warranty procedures envisaged (but not described in any detail) by the *Ordinance* are 'more archaic' than those described in the *II Æthelred* 'appendix'. Even if they were, we do not know when (if ever) the procedures described in the 'appendix' were implemented in the vicinity of the Welsh frontier. (7) Harold Godwinson's subjugation of the Welsh in 1063 would not necessarily have prevented those who lived along some particular part of the frontier from establishing an agreement that treated the English and the Welsh equally.

⁴⁶ Wormald, *Making*, pp. 398–400. For the possibility that Henry I issued an Old English version of his coronation edict, see J. C. Holt, 'The Origins of the Constitutional Tradition in England', in his *Magna Carta and Medieval Government* (London, 1985), pp. 1–22, at 15–16.

⁴⁷ Duns 6.2–6.3. On the role of lords in justice, see S. Baxter, 'Lordship and Justice in Late Anglo-Saxon England: the Judicial Functions of Soke and Commendation Revisited', *Early Medieval Studies in Memory of Patrick Wormald*, ed. S. Baxter, C. E. Karkov, J. L. Nelson and D. Pelteret (Farnham, 2009), pp. 383–419; T. B. Lambert, 'Protection, Feud and Royal Power: Violence and its Regulation in English Law, c.850–c.1250' (unpubl. PhD thesis, Durham Univ., 2009), pp. 111–47; T. B. Lambert, 'Royal Protections and Private Justice: a

the accuser double compensation and his *wer* to the lord' ('bete þam teonde twygyldre 7 þam hlaforde his were').⁴⁸ *Wite* was a fine and *wer*, in this context, was a fine of a specific amount, the value of one's life, paid to avoid execution. The right to receive *wer* was bound up with the right to receive *wite*: Æthelred prescribed that a second offence be punished by execution, but if the man escaped, his surety was to pay 'his compensation to the accuser and his *wer* to the lord who is entitled to his *wite*' ('þam teonde his ceapgyld 7 þam hlaforde his were, þe his wites wyrðe sy').⁴⁹ Both of these stipulations from *I Æthelred* are echoed, with minor alterations, in *II Cnut*.⁵⁰ *II Cnut* also includes two further references to a wrongdoer being required to return stolen property, make a supplementary payment to the victim and in addition pay either *wer* or *wite* to the king or another third party.⁵¹ Two-fold payments appear in some seventh- and ninth-century legislation, often for offences that were in some way aggravated, but there is nothing that directly resembles the *Ordinance's* provision.⁵² Double compensation is, moreover, not mentioned in tenth-century legislation before Æthelred's reign: the *Ordinance* thus stipulates a combination of payments that closely resembles one found in the legislation of Æthelred and Cnut, but (to the best of my knowledge) nowhere else in the whole Old English legal corpus. In addition to the very similar detail of the payments prescribed by the *Ordinance* and *I Æthelred*, there is an important general point. With some specific exceptions, Æthelstan, Edmund and Edgar demanded the execution of thieves, but Æthelred and Cnut permitted monetary penalties for first offenders: if the *Ordinance* dates from the late tenth or eleventh century, rather than earlier in the tenth century, the absence from it of bodily punishments would be less at variance with contemporaneous royal legislation.⁵³

Reassessment of Cnut's "Reserved Pleas", *English Law before Magna Carta*, ed. Jurasinski *et al.*, pp. 157–75; Molyneaux, 'Formation', pp. 191–3.

⁴⁸ I Atr 1.5. For other references to double payments in legislation traditionally ascribed to Æthelred, see III Atr 4.2; IV Atr 3.2; VII Atr 6.2–6.3 but note that the text known as *IV Æthelred* may not have any connection to Æthelred or his reign.

⁴⁹ I Atr 1.7.

⁵⁰ II Cn 30.3b, 30.6. Cnut incorporates the statement that the *wer* should be paid to the man entitled to the *wite* in the first stipulation. In the second, he states that the *wer* should be paid to the king or to the man entitled to it. *I–II Cnut* drew extensively on earlier legal texts: Wormald, *Making*, pp. 349–66.

⁵¹ II Cn 24.1, 63. For further instances of double payment, see II Cn 47, 83.1.

⁵² Abt 1, 2, 3, 76, 85, 90; Hl 4; Ine 3.2, 9, 31, 35.1; Af El 25, 28; Af 5.5, 18, 40.1, 66.1. The closest parallels are to Abt 2 and Ine 9, 31, but even then the resemblances are loose.

⁵³ For demands for the execution of thieves, see II As 1–1.2, 2.1; IV As 6–6.7; VI As 1.1–1.4, 12.1–12.3; III Em 2; III Eg 7.3; IV Eg 11; Lantfred of Winchester, *Translatio et Miracula S. Swithuni*, xxv–xxvii, ed. and trans. M. Lapidge, *The Cult of St Swithun* (Oxford, 2003), pp. 252–333, at 308–16. Exceptions were sometimes made for juveniles and those who had stolen low-value goods, and Æthelstan granted an amnesty for those who had committed theft in the

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

There are a couple of further parallels of detail between the *Ordinance* and texts of the late tenth and eleventh centuries. The *Ordinance* states that, if a track were disputed, six men, including the owner of the cattle, should swear an oath that the cattle had crossed the river. Likewise, anyone wishing to claim that goods had been stolen from him was to swear an oath as one of six men. There are several instances in *I Æthelred* and *II Cnut* of people needing to swear with five others, but this oath-swearing combination is not documented earlier.⁵⁴ A similar point can be made with regard to the *Ordinance*'s provisions on *labmen* ('lawmen'). Having declared that twelve *labmen* should pronounce what is just ('riht tæcan') to Welsh and English, the *Ordinance* states that they should forfeit all their possessions if they pronounced unjustly ('woh tæcen'), unless they exculpated themselves that they knew no better ('oððe geladian hi, þæt hi bet ne cuðon'). Punishments for giving unjust judgements are mentioned before the late tenth century, but the closest parallels to the *Ordinance*'s stipulations are in *III Edgar*, *Cnut 1018* and *II Cnut*. Edgar ordered that a judge ('dema') who judged unjustly ('woh gedeme') should pay 120 shillings to the king, unless he declared on oath that he knew not how to do it more justly ('þæt he hit na rihtor ne cuðe'), and this was repeated with minor modifications by Cnut.⁵⁵ A procedure for a judgement-giver to avoid punishment by swearing that he had not intended to give an unjust ruling is otherwise unmentioned in the extant corpus of Old English legislation.

These various parallels do not prove that the *Ordinance* is from the late tenth or eleventh century. Some similarities could simply be coincidence. Lost decrees from the first half of the tenth century might have contained precedents for the features of the *Ordinance* that are only known to have been paralleled in later legislation. Certain procedures described in late-tenth- and eleventh-century texts may have been longstanding customs, which kings had never previously felt the need to incorporate into their legislation, but which the *Ordinance* could have recorded at an earlier date.⁵⁶ It would, however, start

past (III As 3; V As 3.1). Capital punishment does appear in the legislation of Æthelred and Cnut, but these kings appear to have been more hesitant than their predecessors in imposing it: I Atr 1.5–1.6, 2–2.1, 4.1–4.2; III Atr 4–4.2, 8, 16; IV Atr 5.4, 7.1; V Atr 3, 28, 29, 30; VI Atr 10, 37; Cn 1018 5; I Cn 2.2–2.3; II Cn 2.1, 4.2, 26–26.1, 30.3b–30.5, 32–32.1, 33.1–33.1a, 43–45, 57, 59, 61, 64, 66.1, 77. Cnut's 1018 legislation (Cn 1018) is cited by clause number from A. Kennedy, 'Cnut's Law Code of 1018', *ASE* 11 (1983), 57–81, at 72–81.

⁵⁴ Duns 1.2, 8.1; I Atr 1.8, 1.12; II Cn 30.3a, 30.7, 31.1a, 44.1.

⁵⁵ Duns 3.2–3.3; III Eg 3; Cn 1018 25; II Cn 15.1. For earlier references to punishment for wrongful judgement, in both cases in the context of bribery, see II As 17; V As 1.3–1.4. See also I Ew prol for an injunction to judge justly, albeit without explicit reference to punishment for failure. For a further facet of the late-tenth- and eleventh-century parallel, note the use of *riht tæcan* in III Eg 5.2; II Cn 18.1: as far as I am aware, the expression does not appear in earlier legislation.

⁵⁶ Anyone wishing to attempt this argument with regard to the payment of double compensation plus a fine might make use of S 1447, which refers to a man returning a stolen woman,

to strain credulity if one explained away each similarity with one of these lines of unsubstantiated speculation. Another theoretical possibility is that certain features of royal legislation might have been inspired by arrangements that had already been worked out by the inhabitants of some part of the Anglo-Welsh frontier, but it is surely more likely that the *Ordinance* drew on prior royal legislation. The most economical way to explain why the *Ordinance* presents some parallels to late-tenth- and eleventh-century royal legislation, parallels which are not found in earlier texts, is to conclude that the *Ordinance* was probably written during or after the reign of Æthelred.

The second feature of the *Ordinance* that gives grounds for suspecting a date in the late tenth or eleventh century is the occurrence of the word *labmen* ('lawmen'): six English and six Welsh *labmen* were to pronounce *riht* ('what is just') to Welsh and English.⁵⁷ At least the first element of the term *labmann* is a Scandinavian loan. It is possible that the word was borrowed whole from Scandinavia, since 'lawmen' are attested in Scandinavia and other areas where Scandinavians were active, but it is also entirely conceivable that *labmann* was coined by combining *lagu* ('law') with Old English *mann*.⁵⁸ I am not aware of any other occurrence of *labmann* in the extant corpus of Old English, although there are some references in Latin texts to *lagemanni*. Domesday states that Lincoln and Stamford each had twelve *lagemanni* in 1066, and refers in passing to 'the heriot of the *lagemanni*' at Cambridge.⁵⁹ An account of an inquest held at York in 1106 names twelve men who testified, and then refers to them (or possibly just to the last man named) as 'by hereditary right *lagaman* of the *civitas*, which in Latin could be rendered *legis lator* or *iudex*'.⁶⁰ In the light of this, it is interesting to note that Domesday records twelve *indices* at Chester and four at

giving two pounds in compensation and in addition being liable to pay his *wer* during the reign of Eadred (946–55). S = P. H. Sawyer, *Anglo-Saxon Charters: an Annotated List and Bibliography*, R. Hist. Soc. Guides and Handbooks 8 (London, 1968), cited from the revised version by S. E. Kelly, accessible at <http://www.trin.cam.ac.uk/chartwww/eSawyer.99/eSawyer2.html>, followed by the number of the document. All internet addresses cited were accessed on 9 June 2011.

⁵⁷ Duns 3.2.

⁵⁸ Liebermann, 'Verordnung', pp. 275–7; *Gesetze*, ed. Liebermann, III, 215, 217. For some references to 'lawmen' in Scandinavian contexts, see P. Foote and D. M. Wilson, *The Viking Achievement: the Society and Culture of Early Medieval Scandinavia* (London, 1970), pp. 90–2; D. Ó Murchadha, 'Lagmann, Logmenn', *Ainm: Bulletin of the Ulster Place-Name Society* 2 (1987), 136–40; S. Bagge, *From Viking Stronghold to Christian Kingdom: State Formation in Norway, c. 900–1350* (Copenhagen, 2010), pp. 185–6, 188, 199–200, 218–19, 253, 270–1, 305–6, 335–6, 366.

⁵⁹ *Domesday Book*, 189a, 336a, 336d.

⁶⁰ *English Lawsuits from William I to Richard I*, ed. R. C. van Caenegem, Selden Soc. 106–7, 2 vols. (London, 1990–1), no. 172A. Cf. F. Liebermann, 'An English Document of about 1080', *Yorkshire Archaeol. Jnl*, 18 (1905), 412–16, esp. 416, n. 3.

York, and that the *Libellus Æthelwoldi* refers to *indices* and *legales viri* witnessing transactions and pronouncing upon disputes in the vicinity of Ely in the late tenth century: these terms may well have been translations of *lahmen*.⁶¹ Given that these references occur in areas where there had been Scandinavian settlement, it is tempting to infer that there was something specifically Scandinavian about lawmen. Since it is only in the early eleventh century that we find evidence of significant Scandinavian settlement in the West Midlands, one might even hypothesize that the *lahmen* of the *Ordinance* were introduced into the area at that time.⁶² This is certainly an attractive possibility, but it would perhaps be unwise to place great weight upon it. It was common in many parts of early medieval Europe for judgements in legal disputes to be given collectively (for example, by *indices*, *scabini*, *rachymburgi* or *boni homines*), so *lahmen* may well simply have been a (partially-) Scandinavian word for something that was also found in areas that did not experience Scandinavian settlement.⁶³

Likewise, a Scandinavian presence in the West Midlands would not be necessary to explain the use in the *Ordinance* of a word that contained the element *lagu*, which entered the vocabulary of people who did not live in areas of Scandinavian settlement. It appears, however, that it only did so from the late tenth century onwards: in the context of the present argument, this is highly significant. The chronology of the entry of *lagu* into the standard stock of Old English vocabulary can be traced through two corpora of evidence, namely legal texts and the writings of Ælfric.⁶⁴ Liebermann thought that the earliest occurrence of *lagu* was in the so-called *Treaty of Edward and Guthrum*, where *utlab* (outlaw) and *lahslit* (fine) appear.⁶⁵ Since Liebermann dated this text to

⁶¹ *Domesday Book*, 262d, 298a; *Liber Eliensis*, ii.8, ii.11, ii.24, ii.33, ed. E. O. Blake, Camden Soc. 3rd Ser. 92 (London, 1962), 81, 88, 97, 108. For comment, see A. Kennedy, 'Law and Litigation in the *Libellus Æthelwoldi Episcopi*', *ASE* 24 (1995), 131–83 esp. 158–60. The *Libellus* is probably a translation of a vernacular record of c. 990.

⁶² A. Williams, "'Cockles Amongst the Wheat': Danes and English in the Western Midlands in the First Half of the Eleventh Century', *Midland Hist.* 11 (1986), 1–22.

⁶³ R. Collins, P. Fouracre and C. Wickham, 'Conclusion', *The Settlement of Disputes in Early Medieval Europe*, ed. W. Davies and P. Fouracre (Cambridge, 1986), pp. 207–40, at 216–17; S. Reynolds, *Kingdoms and Communities in Western Europe, 900–1300*, 2nd ed. (Oxford, 1997), pp. 23–34. Likewise, one should keep an open mind about whether the panel of twelve senior thegns mentioned in *III Æthelred* was Scandinavian in origin.

⁶⁴ This paragraph is indebted to M. Godden, 'Ælfric's Changing Vocabulary', *ES* 61 (1980), 206–23, at 214–17; A. Fischer, 'Lexical Change in Late Old English: from *æ* to *lagu*', *The History and the Dialects of English: Festschrift für Eduard Kolb*, ed. A. Fischer (Heidelberg, 1989), pp. 103–14; E. van Houts, 'The Vocabulary of Exile and Outlawry in the North Sea Area around the First Millennium', *Exile in the Middle Ages*, ed. L. Napran and E. van Houts (Turnhout, 2004), pp. 13–28, at 14–19.

⁶⁵ EGu 2, 3, 3.2, 4.1, 6, 6.1, 6.2, 6.3, 6.4, 6.6, 7.1, 7.2, 8, 9. Liebermann, 'Verordnung', pp. 275–6; *Gesetze*, ed. Liebermann, III, 215.

between 921 and 940, this posed no problem for his placing the *Ordinance* in Æthelstan's reign, but it has since been shown that *Edward and Guthrum* is an early-eleventh-century composition associated with Archbishop Wulfstan of York.⁶⁶ *Utlab* occurs in the *Hundred Ordinance*, which mentions Edmund but may date from after his reign: so far as I am aware, this is the only extant case where there is a significant possibility that *lagu* was used prior to Edgar's reign.⁶⁷ *Lagu* appears three times in *IV Edgar*, on each occasion in a statement that the 'Danes' should be permitted to determine their own *lagu*.⁶⁸ It then crops up more often in the legislation of Æthelred and Cnut, and starts to appear frequently in contexts that have no apparent Scandinavian connection. Thus, for example, the text known as *I Æthelred* states that it was enacted 'æfter Engla lage' and refers to a thief becoming an *utlab*.⁶⁹ There is no shortage of legal texts from throughout the tenth century: that *lagu* does not appear in any text that can confidently be assigned to the first half of the century, and is rare until Æthelred's reign, suggests that it was only at the end of the century that the word entered common use outside areas of Scandinavian settlement. This conclusion is strengthened by consideration of the works of Ælfric. *Lagu* occurs quite frequently in texts that Ælfric wrote in the first decade of the eleventh century, but it appears that the word had not always been part of his vocabulary: it does not occur in his *Catholic Homilies*, written in the early 990s, where he instead used Old English *æ* ('law') on no fewer than 144 occasions.⁷⁰ Comparison with Ælfric's works and with other legal texts thus suggests that

⁶⁶ *Gesetze*, ed. Liebermann, III, 87–9; D. Whitelock, 'Wulfstan and the So-Called Laws of Edward and Guthrum', *EHR* 56 (1941), 1–21; Wormald, *Making*, pp. 389–91.

⁶⁷ Hu 3.1. On the date of the *Hundred Ordinance*, see above p. 257, n. 39. In the two vernacular manuscripts of *I Æthelstan*, a quotation from Exodus about tithes is introduced by a reference to its being from 'Godes lage' (I As 2). There are, however, very strong grounds to conclude that this is an interpolation by Wulfstan. There is no equivalent phrase in *Quadripartitus*, which instead has a quotation from Matthew, unrelated to tithes and introduced 'et Dominus ipse dixit in ewangelio suo'. This suggests that the reference to 'Godes lage' may well not have been in the original. Wulfstan had the opportunity to alter the text, since both extant vernacular manuscripts are associated with him. Wulfstan also had a motive, since he was much concerned with tithe payment. See Godden, 'Ælfric's Changing Vocabulary', p. 214. Wormald hypothesized that the *Ordinance's* reference to *labmen* could be an interpolation (Wormald, *Making*, p. 381). This possibility cannot be disproved but there is nothing to commend it, unless one starts from the assumption that the core of the text is from Æthelstan's reign: unlike in *I Æthelstan*, there is no discrepancy between the vernacular and *Quadripartitus* texts, nor an obvious motive for interpolation.

⁶⁸ IV Eg 2.1, 12, 13.1. *Utlab* occurs in a Peterborough document of Edgar's reign (S 1377). *Utlage* occurs twice in another Peterborough document from Edgar's reign or soon after (S 1448a). Given that there was Scandinavian settlement in the vicinity of Peterborough, it is likely that such words had been in use in the area for some time.

⁶⁹ I Atr prol, 1.9a, 1.13.

⁷⁰ Godden, 'Ælfric's Changing Vocabulary', pp. 215–17.

the *Ordinance* is unlikely to be much earlier than Edgar's reign, and that a late-tenth- or eleventh-century date is perhaps more probable. This is entirely in accord with the conclusion drawn from the similarities between the *Ordinance* and the legislation of Æthelred and Cnut.

The third indication that the *Ordinance* may well be substantially later than Æthelstan's reign is its statement that only half the usual compensation needed to be paid if a Welsh person killed an English person (or vice versa), 'whether he be thegn-born, whether he be ceorl-born' ('sy he ðegenboren, sy he ceorlboren').⁷¹ 'Thegn' and 'ceorl' here refer to different levels of seemingly-hereditary social status, and it is probably reasonable to infer that together they make up the whole free population: one might render them 'noble' and 'non-noble' respectively. 'Ceorl' was used to designate non-noble status throughout the Anglo-Saxon period.⁷² The meaning of 'thegn', on the other hand, shifted substantially between the late ninth and early eleventh centuries: this change was elucidated by Henry Loyn, although it is unfortunate that he invoked the *Ordinance's* contrast of *ðegenboren* and *ceorlboren* without examining the assumption that the text dates from Æthelstan's reign.⁷³ Loyn showed that in the early Anglo-Saxon period 'thegn' simply meant 'a person who serves'. 'Thegn' thus designated a function, not a status: a thegn's social standing might vary considerably, depending among other things upon whom he served and the nature of the service that he performed. Until at least the reign of Alfred, it was quite possible for someone who performed menial service to be regarded as a thegn: the vernacular version of Gregory's *Dialogues* that Alfred commissioned refers to a server at a banquet as a 'pegn', translating *minister*.⁷⁴

By the early eleventh century, however, we see 'thegn' being contrasted with 'ceorl', as in the *Ordinance*, with each seemingly referring to a distinct social stratum.⁷⁵ The best-known example is the statement in a text strongly associated with Archbishop Wulfstan of York that if a ceorl prospered such that he had five hides of land, a church, a kitchen, a bellhouse and a fortified gate, plus a seat and a special office in the king's hall, then he would be entitled to the rights of a thegn ('þegenrihtes wyrðe').⁷⁶ Other texts closely linked to

⁷¹ Duns 5.

⁷² R. P. Abels, *Lordship and Military Obligation in Anglo-Saxon England* (London, 1988), pp. 37–42.

⁷³ Loyn, 'Gesiths and Thegns', pp. 540–9, with mention of the *Ordinance* at 542.

⁷⁴ *Bischofs Wærferth von Worcester Übersetzung der Dialoge Gregors des Grossen*, ed. H. Hecht, 2 vols. (Leipzig and Hamburg, 1900–7) I, 186; Grégoire le Grand, *Dialogues*, iii.5, ed. A. de Vogüé, 3 vols. (Paris, 1978–80) II, 274. That Alfred commissioned the *Old English Dialogues* is known from Asser, *De Rebus Gestis Ælfredi*, lxxvii (62).

⁷⁵ Liebermann noted the *Ordinance's* use of *ðegenboren* as a possible indication of a late date, but did not develop the point: Liebermann, 'Verordnung', p. 289, n. 2; *Gesetze*, ed. Liebermann, III, 216.

⁷⁶ Geþyncðo 2.

Wulfstan likewise pair *ceorl* and *thegn*, sometimes in the context of differential *wergelds*, which is almost certainly the sense in which the *Ordinance* was contrasting the two statuses.⁷⁷ The pairing of *thegn* and *ceorl* was not confined to Wulfstania texts, however: in his *Enchiridion* (which he was writing in 1011), Byrhtferth of Ramsey rather elliptically remarked that ‘*thegns* and *ceorls* have landmarks’, and a Kentish marriage agreement (datable to between 1016 and 1020) declared that its terms were known to every trustworthy man in Kent and Sussex, ‘*thegn* or *ceorl*’.⁷⁸ The reference to a special office in the king’s hall implies that eleventh-century *thegns* were expected to serve the king, but the primary meaning of the term ‘*thegn*’ seems to have become a designation of high social status.⁷⁹

It is not easy to track the chronology of how ‘*thegn*’ shifted in meaning between the late ninth and early eleventh centuries. When legal texts from the reigns of Alfred, Æthelstan and Edmund expressed the idea of ‘noble and non-noble’, they used *eorl ge ceorl* or *twelfhynde ge twyhynde* (that is, persons of 1200 and 200 shilling *wergelds*): that they did not say *þegen ge ceorl* is notable, although it does not prove that this pairing was as yet unknown.⁸⁰ In texts from the first half of the tenth century, *thegns* are repeatedly mentioned alongside *reeves*.⁸¹ A particularly interesting reference occurs in *III Edmund*, which is preserved only in *Quadripartitus*’s translation. It prescribes a fine for non-compliance, whether by ‘a reeve [*prepositus*] or a *tainus*, a *comes* or a *uillanus*’, the latter couplet probably translating *eorl ge ceorl*.⁸² The implication that at least some *reeves* were not *thegns* allows us to infer that ‘*thegn*’ was ceasing to be a generic term for any person who performed service. On the other hand, the use of a

⁷⁷ *Die ‘Institutes of Polity, Civil and Ecclesiastical’. Ein Werk Erzbischof Wulfstans von York*, ed. K. Jost (Bern, 1959), pp. 256–7; *Nordleod* 5, 6, 9; *Mirce* 1–1.1. See also *Gepyncðo* 1; *Að* 1–2; *Grið* 21.2; *Northu* 51–3, 60. On these texts, see Wormald, *Making*, pp. 391–7.

⁷⁸ Byrhtferth of Ramsey, *Enchiridion*, iii.2, ed. P. S. Baker and M. Lapidge, *Byrhtferth’s Enchiridion*, EETS ss 15 (Oxford, 1995), 140 (with analysis of the date of composition at pp. xxvi–xxviii); S 1461. Byrhtferth’s remark occurs in the context of a discussion of the reckoning of Easter.

⁷⁹ For *thegns*’ obligations, see also *Rect* 1.

⁸⁰ *Af* 4.2; *VI As* prol, 8.2; *III Em* 2. One or other of these expressions is also likely to underlie the pairing of *comes* and *uillanus* in three texts that only survive in *Quadripartitus* translations: *III As* prol, 6; *IV As* 3, 6; *III Em* 7.2. Given that these three texts use *tainus* elsewhere (*III As* prol; *IV As* 6.2, 7; *III Em* 7.2), it is unlikely that any of them were using *comes* to translate *ðegn*. See also *Wer* 1–1.1. *Wergeld* is undated but may have been inspired by Edmund’s legislation: Wormald, *Making*, pp. 374–8. The pairing of *thegn* and *ceorl* in the eleventh century did not eliminate either of the other couplets: see, for example, *Gepyncðo* 1; *Grið* 21.2; *Cn* 1020 1; S 985. If genuine, S 985 would raise the possibility that in Cnut’s reign some *thegns* still had 200-shilling *wergelds*.

⁸¹ *IV As* 7; *V As* 1.3–1.4; *VI As* 11; *III Em* 7.2.

⁸² *III Em* 7.2. It is unlikely that ‘*comes uel uillanus*’ renders ‘*twelfhyndi 7 twihyndi*’ here, since the latter couplet appears untranslated in *III Em* 2.

separate couplet ('comes uel uillanus') to express social gradations suggests that 'thegn' may not yet have been widely understood as designating an elevated social rank: rather, the pairing of thegn with reeve implies that thegns were conceived primarily as people who fulfilled particular functions. The sense of 'thegn' as a designation of social status may, however, have been in common use by the reign of Edgar: this is a possible reading of Edgar's declaration that all his thegns should keep their 'scipe' ('position' or 'rank') during his times, as they had in his father's day.⁸³ Even then, however, I am not aware of any text that can be dated to before the eleventh century that contrasts thegn and ceorl. Too little is knowable about how the word 'thegn' evolved during the tenth century to say categorically that the *Ordinance's* reference to *ðegenboren* and *ceorlboren* would have been out of place in Æthelstan's reign, but the point remains that direct parallels to this pairing are only known from the reign of Æthelred onwards. Yet again, we thus have grounds to be sceptical of an early date for the *Ordinance*, and to suspect that it best fits a late-tenth- or eleventh-century context.

My case for dating the *Ordinance* substantially later than Æthelstan's reign is cumulative. None of my individual points is conclusive, and my overall argument therefore cannot be conclusive either. We have nevertheless seen that there is no particular reason to think that the *Ordinance* dates from the first half of the tenth century, and that there are a number of features that would have to be explained away if one were to place it in that period: if the *Ordinance* constituted the earliest known appearance of certain legal procedures, *and* the earliest known use of *lagu* outside an area of Scandinavian settlement, *and* the earliest known pairing of thegn and ceorl, it would be a peculiarly precocious text. It therefore seems very likely that the *Ordinance* is no earlier than the reign of Edgar, probable that it is from Æthelred's reign or after, and certain that it is no later than the turn of the eleventh and twelfth centuries.

Such wide dating parameters hamper use of the *Ordinance* as a historical source: bluntly put, we do not know about what period it tells us. Nonetheless, it provides illuminating evidence of how people living somewhere on the Anglo-Welsh frontier sometime in the late tenth or eleventh century interacted with each other. Most surveys of the dealings of the English and the Welsh in the early middle ages are based upon chronicles' terse notices of raids and

⁸³ IV Eg 2a. See also III Eg 3; V Atr 9.1; VI Atr 5.3; VIII Atr 28; Cn 1018 11.2; I Cn 6.2a; II Cn 15.1; Wal. It is interesting that Edgar presents the time of his father (Edmund) as the legal benchmark in the past, thus passing over the reigns of his uncle (Eadred) and brother (Eadwig). This is perhaps a sign that Edgar's relationship with Eadwig was not as amicable as some commentators have suggested: see, for example, S. D. Keynes, 'England, c.900–1016', *The New Cambridge Medieval History*, III: c.900–c.1024, ed. T. Reuter (Cambridge, 1999), pp. 456–84, at 477–9; F. M. Biggs, 'Edgar's Path to the Throne', *Edgar*, ed. Scragg, pp. 124–39.

battles. Depending upon the period under discussion, these are supplemented with the Pillar of Eliseg's cryptic record of Welsh gains at English expense, the dyke generally ascribed to Offa, Asser's account of Welsh kings submitting to Alfred, the attestations of Welsh rulers in tenth-century English charters, *Armes Prydein's* complaints about the exactions of an unnamed English king, and Domesday's references to 'waste' land and obligations to participate on expeditions into Wales. Studies based on these materials unsurprisingly focus mainly on the ways in which great men on either side of the frontier dealt with each other, and often characterize contacts between the English and Welsh primarily in terms of struggles, submissions and shifting military alliances.⁸⁴ Thus, for example, Kari Maund concludes that contact between the English and the Welsh in the tenth and early eleventh centuries was 'predominantly on the battlefield', and James Campbell sums up the medieval Welsh as 'fiercely dangerous, aggressive and parasitic'.⁸⁵

There is no doubt that slaughter and ravaging were significant aspects of the dealings between the English and the Welsh in the tenth and eleventh centuries, but the *Ordinance* reveals other dimensions to contacts across the frontier: it shows that at a local level a range of pragmatic measures could be agreed to underpin cordial relations between the two peoples. There is nothing to indicate that the *Ordinance* was established to end a period of conflict. It is interesting that it calls itself a 'gerædnes' ('ordinance'). The same word was used to refer to the London peace regulations of Æthelstan's reign, the *Hundred Ordinance, Edward and Guthrum* and several legal texts in the names of Edgar, Æthelred and Cnut; by contrast, *Alfred and Guthrum* and *II Æthelred*, which were both agreed in response to conflicts, call themselves 'frið' ('peace') and 'friðmal' ('agreement of peace') respectively.⁸⁶ The *Ordinance* admittedly includes some signs of mutual mistrust: persons crossing the frontier required

⁸⁴ Davies, *Wales in the Early Middle Ages*, pp. 112–16; P. Stafford, *Unification and Conquest: a Political and Social History of England in the Tenth and Eleventh Centuries* (London, 1989), pp. 119–21; W. Davies, *Patterns of Power in Early Wales* (Oxford, 1990), pp. 61–79; K. Maund, *Ireland, Wales, and England in the Eleventh Century* (Woodbridge, 1991), pp. 120–55; T. M. Charles-Edwards, 'Wales and Mercia, 613–918', *Mercia: an Anglo-Saxon Kingdom in Europe*, ed. M. P. Brown and C. A. Farr (London, 2001), pp. 89–105. In their own terms, these are all valuable studies: my point is simply that they present far from holistic accounts of the dealings that the English and Welsh had with each other. It cannot be assumed that all 'waste' land had been devastated by the Welsh, but this was at least sometimes the case: *Domesday Book*, 181a.

⁸⁵ Maund, *Ireland, Wales, and England*, p. 123; J. Campbell, 'The United Kingdom of England: the Anglo-Saxon Achievement', *Uniting the Kingdom? The Making of British History*, ed. A. Grant and K. J. Stringer (London, 1995), pp. 31–47, at 46.

⁸⁶ Duns prol; VI As prol; Hu inscr; EGU prol; II Eg prol; III Eg 1; I Atr prol; V Atr prol; VI Atr prol, 2; VIII Atr prol; IX Atr prol; Cn 1018 intr, 3, 4, 5, 6, 7, 8, 11; I Cn prol; II Cn prol. *Edward and Guthrum* does not purport to be an attempt to put an end to strife. Contrast AGU prol; II Atr prol.

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

a native to monitor their conduct, and the demand that proof be established through ordeals implies reluctance to rely upon foreigners' oaths.⁸⁷ The text also anticipates the possibility of Welsh people stealing from or killing English people, and vice versa. This need not, however, indicate any particular antagonism: similar deeds were doubtless done by both English and Welsh to their respective compatriots. The more significant point is that the *Ordinance* indicates the agreement of mechanisms to identify those who perpetrated such acts and to have them compensate their victims.

The levels at which compensation was to be paid were lower than in cases where both perpetrator and victim were from the same side of the frontier, which implies that the parties to the treaty perceived harming a foreigner as less serious than inflicting loss or injury on a compatriot. This is reminiscent of Ine's legislation, which had assigned Britons reduced *wergelds*, but contrasts with *Alfred and Guthrum* and *II Æthelred*, which prescribed full or increased payments for offences against the other side.⁸⁸ Kershaw and Fordham attempt to explain this contrast between the *Ordinance* and *Alfred and Guthrum* by suggesting that the latter's high penalties may have discouraged the payment of compensation, and that the *Ordinance's* approach was an attempt to solve this problem.⁸⁹ This would require us to suppose that Alfred and Guthrum, who were almost certainly highly familiar with the dynamics of compensation payments, set up a system that hindered settlements. One could instead explain the discrepancy by pointing to the fact that both *Alfred and Guthrum* and *II Æthelred* were agreed in the wake of major hostilities: there would be a risk that any offence could spark renewed fighting, unless full compensation was paid. In the case of the *Ordinance*, which is not known to have followed conflict, this imperative to pay full compensation to foreigners may well have been lacking. While the levels of compensation prescribed by the *Ordinance* were low, the requirement to pay any compensation at all is notable, since it signals a mutual acceptance that plundering raids were illegitimate. The *Ordinance* does not, however, merely indicate agreement that the English and Welsh should refrain from harming each other: it also envisages that people might cross the frontier and implies that members of the two groups might engage in trade. This can

⁸⁷ Duns 2.1, 6, 8.3–8.4.

⁸⁸ Duns 4, 5. On *wergeld* rates in Ine's legislation, see L. M. Alexander, 'The Legal Status of the Native Britons in Late Seventh-Century Wessex as Reflected by the Law Code of Ine', *Haskins Soc. Jnl* 7 (1995), 31–8. For compensation rates in *Alfred and Guthrum*, see AGu 2, 3, with discussion by S. Keynes and M. Lapidge, *Alfred the Great: Asser's Life of King Alfred and other Contemporary Sources* (London, 1983), p. 312. The twenty-five pound *wergeld* prescribed by *II Æthelred* (II Atr 5) is the equivalent of 1200 shillings, the *wergeld* ascribed to nobles in West Saxon legislation.

⁸⁹ Kershaw, 'Alfred–Guthrum Treaty', p. 55; Fordham, 'Peacekeeping', p. 10.

be inferred from the provision that someone from the other side of the river could be vouched as a warrantor: vouching to warranty involved the possessor of disputed goods requiring the person from whom he had bought them to swear an oath that he (the vendor) had acquired the articles in question by legal means.⁹⁰

There is no sign that the *Ordinance* represents an agreement that either side had imposed upon the other. Rather, it is emphasized that the same rights were accorded to both parties, and the two peoples were to be evenly represented among the twelve *labmen*. There are also grounds to suspect that the *Ordinance* represents a degree of fusion between English and Welsh legal practices. We have already seen that some of the provisions have close parallels in English royal legislation. It is harder to be sure about Welsh input, since the earliest Welsh lawbooks are from the twelfth century, and there is uncertainty about the antiquity of the customs that they describe.⁹¹ It is nonetheless reasonable to suspect that nine-day time limits, to which the *Ordinance* thrice refers, represent Welsh rather than English custom. The number nine is not common in Old English legal texts, and nine-day time limits are very rarely mentioned.⁹² By contrast, the frequency with which this number appears in Welsh lawbooks makes clear that it was an important figure in Welsh legal tradition, and the earliest extant redaction of Welsh laws, the *Llyfr Cyfnerth*, ends with a section on the ‘ninth days’, which includes several nine-day legal time limits.⁹³ There are thus grounds to suspect that the *Ordinance* represents a compromise, which combined Welsh and English legal customs. The Welsh who subscribed to the agreement may, like the *Wentsæte*, have had to send tribute and hostages to the English king (or to some English magnate), but their dealings with the English people dwelling in the vicinity of the frontier seem to have taken place on terms that at least approximated to equality.

There are a few other scraps of evidence that demonstrate that encounters between the English and Welsh were not confined to the battlefield in the late tenth and eleventh centuries. An Old English record of a legal dispute heard at

⁹⁰ Duns 8.

⁹¹ T. M. Charles-Edwards, *The Welsh Laws* (Cardiff, 1989), pp. 68–86; H. Pryce, ‘The Context and Purpose of the Earliest Welsh Lawbooks’, *CMCS* 39 (2000), 39–63 esp. 41–6.

⁹² For nine-day time limits, see IV As 6.1; Grið 4; Northu 10–10.1. These time limits relate to sanctuary and baptism, with which the *Ordinance* is not concerned. For other uses of the number nine in Old English legal texts, see the references at *Gesetze*, ed. Liebermann, II, 596. I owe the suggestion that the nines in the *Ordinance* represent Welsh influence to Liebermann, ‘Verordnung’, pp. 273–5.

⁹³ *Ancient Laws and Institutes of Wales*, ed. and trans. A. Owen (London, 1841), p. 388. The *Llyfr Cyfnerth* was probably written in the late twelfth century: Pryce, ‘Context and Purpose’, p. 41. For the prominence of nines in Welsh legal texts, see also Charles-Edwards, *Welsh Laws*, pp. 28–9.

The Ordinance concerning the Dunsæte and the Anglo-Welsh frontier

a *scirgemot* ('shire meeting') just outside Hereford during Cnut's reign concerns an unsuccessful attempt by one Edwin son of *Enneawn* to obtain two estates that his mother held in Herefordshire.⁹⁴ *Enneawn* corresponds to no known English personal name: it is most likely the Welsh name Einion, and the claimant may very well be Edwin ab Einion, an important member of a southern Welsh dynasty, who ravaged the territory of Maredudd ab Owain with English support in 992.⁹⁵ Edwin's mother is unnamed, but she had a kinswoman named Leofflæd. Since this name is English and Edwin's mother held land in Herefordshire, Edwin's mother was probably English: Edwin was most likely the product of a relationship between Welsh and English parents.⁹⁶ If the identification with Edwin ab Einion is correct, the case would not only indicate the possibility of sexual relations between persons from opposite sides of the frontier: it would also show a Welsh magnate attending an English shire meeting to try to obtain lands within the English kingdom. Edwin's claim failed, but it is unlikely that he would have raised it had he thought it hopeless.

There are further scraps of evidence of non-military contact across the Anglo-Welsh frontier. Finds in Wales of English coins and of pottery and metalwork of English style may well reflect trade.⁹⁷ A tenth- or eleventh-century survey of Tidenham (Gloucestershire) refers to land that had been let to Welsh sailors.⁹⁸ A Welsh bishop deputized for the bishop of Hereford when the latter

⁹⁴ S 1462.

⁹⁵ O. von Feilitzen, 'Old Welsh *Enniaun* and the Old English Personal Name Element *Wen*', *Mod. Lang. Notes* 62 (1947), 155–65, at 155–6; D. E. Thornton, 'Maredudd ab Owain (d. 999): the Most Famous King of the Welsh', *Welsh Hist. Rev.* 18 (1996–7), 567–91, at 581–5; D. E. Thornton, 'Some Welshmen in Domesday Book and Beyond: Aspects of Anglo-Welsh Relations in the Eleventh Century', *Britons*, ed. Higham, pp. 144–64, at 158.

⁹⁶ This reconstruction requires one to suppose that Edwin's mother lived until at least her sixties. The plausibility of this is demonstrated by the case of Eadgifu, one of Edward the Elder's sexual partners, who cannot have been born after 904 (her father died in 903) and was still alive in 966: P. Stafford, 'Eadgifu (*b.* in or before 904, *d.* in or after 966)', *Oxford Dictionary of National Biography*, ed. H. C. G. Matthew and B. Harrison (Oxford, 2004), consulted at <http://www.oxforddnb.com/view/article/52307>. It may be significant that Edwin's name was English, although it should be noted that at least one member of a tenth-century Welsh royal dynasty (a son of Hywel Dda) had this name: Thornton, 'Maredudd', p. 585, n. 60.

⁹⁷ M. Redknapp, *Vikings in Wales: an Archaeological Quest* (Cardiff, 2000), pp. 61–4; M. Redknapp, 'Crossing Boundaries – Stylistic Diversity and External Contacts in Early Medieval Wales and the March: Reflections on Metalwork and Sculpture', *CMCS* 53/54 (2007), 23–86, at 38–45, 49–51, 52–4, 56–60, 63–9. For coin finds in hoards, see the 'Checklist of Coin Hoards from the British Isles, c. 450–1180' at <http://www-cm.fitzmuseum.cam.ac.uk/dept/coins/projects/hoards/index.list.html>, nos. 55, 56a, 98, 106, 150, 172, 187c, 203, 207, 208, 215. Lists of single coin finds can be generated at http://www-cm.fitzmuseum.cam.ac.uk/dept/coins/emc/emc_search.php.

⁹⁸ S 1555.

lost his sight in the mid-eleventh century.⁹⁹ The *Vita Sancti Gundleii*, which was compiled around 1130 from earlier materials, has a story about English merchants who frequently came to the mouth of the Usk to trade during the time of Edward the Confessor and Gruffudd ap Llywelyn, and who once refused to pay toll. In response, Gruffudd's nephew cut the merchants' anchor and Harold Godwinson ravaged Glamorgan in revenge, but the assumption appears to have been that the merchants would usually have traded and paid toll without incident.¹⁰⁰

The *Ordinance* is thus one of several sources that show that a focus on kings and their conflicts gives a very partial impression of the forms that contact between the English and Welsh could take in the early middle ages. Modern studies of the dealings that these two peoples had with each other have perhaps relied excessively upon sparse chronicle accounts, which provide a patchy record of the often violent deeds of great men, and say nothing about the kinds of mundane contacts that were probably common at a local level along the frontier. The neglect of the *Ordinance* as evidence for the nature of contacts between the English and the Welsh is not altogether surprising, since English historians have tended to show little interest in Wales, and most Welsh historians have understandably been more familiar with Latin and Welsh texts. Some commentators may, in addition, have been deterred by uncertainty about the *Ordinance's* date, despite the readiness of various authorities to pronounce it a product of Æthelstan's reign. There is consequently a risk that my arguments (if accepted) may condemn the text to even deeper obscurity: by questioning the convenient consensus and proposing a much wider date range, I have to some extent made it harder to deploy the *Ordinance* as historical evidence. But even with neither a precise date nor a precise location, the text remains a useful and revealing source: while the specific details of the *Ordinance* pertained to a particular but uncertain locality at a particular but uncertain date, the text opens our minds to the kinds of cordial interaction that may well have been common in many parts of the Anglo-Welsh frontier at many times during the early medieval period.¹⁰¹

⁹⁹ ASC 1055 CD; John of Worcester, *Chronicle, s.a.* 1055, ed. R. R. Darlington and P. McGurk, *The Chronicle of John of Worcester*, 2 vols. so far (Oxford, 1995–) II, 578. There is some evidence of at least occasional ecclesiastical contacts between southeastern Wales and Canterbury and York in the late tenth and eleventh centuries: W. Davies, 'The Consecration of Bishops of Llandaff in the Tenth and Eleventh Centuries', *BBCS* 26 (1976), 53–73.

¹⁰⁰ *Vita Sancti Gundleii*, xiii, ed. A. W. Wade-Evans, *Vitae Sanctorum Britanniae et Genealogiae* (Cardiff, 1944), pp. 172–93, at 184–6. On the text's date, see p. xii.

¹⁰¹ I am grateful to Paul Brand, James Campbell, John Hudson, Susan Kelly, Tom Lambert, Tom Pickles, David Pratt, Alice Taylor, Chris Wickham and especially George Garnett for commenting upon drafts, and to many other people for discussion.