SYMPOSIUM

Forgers of Law and Their Readers: The Crafting of English Political Identities between the Norman Conquest and the Magna Carta

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A short time after 1206 and before 1215, a Londoner assembled a massive collection of older and near contemporary English laws, called the *Leges Anglorum* by historians, and inserted long interpolations and spurious codes that enunciated many of the principles that guided the baronial opposition to King John and later became part of the Magna Carta. To those familiar with the struggle leading up to the creation of the Magna Carta, these principles should cause no surprise. These ancient laws were made to proclaim that "in the kingdom right and justice ought to reign more than perverse will" (ECf4, 11.1.A.6; Liebermann 1903, 635).[1] In another part of the collection, King Arthur, making his first appearance in English law, is credited with establishing as law the requirement that all nobles, knights, and freemen of the whole kingdom of Britain swear "to defend the kingdom against foreigners and enemies" (ECf4, 32.A.5–7; Liebermann 1903, 655). More surprising is the attribution of the regularly assembled Hustings court in London to the Trojans (who became the Britons). The seventh-century West Saxon king, Ine, suddenly looms large in the ranks of Britain's lawmakers; he not only reigns for the good of all, but is also given the lordly virtues of twelfth-century chivalric romance: he is "generous, wise, prudent, moderate, strong, just, spirited, and warlike" (as was appropriate for the time and place) (ECf4, 32.C.2, 32.C.8; Liebermann 1903, 658–59). A confection of bits of other law, attributed here to King Alfred, orders an end to vice, national education for freemen, and unity for all "as if sworn brothers for the utility of the kingdom" (Leges Angl, Pseudo-Alfred 1–6; Liebermann 1894, 19–20). Finally, in the grandest statement of English political ambition, Arthur appears again as the great conqueror, whose spirit was not satisfied by Britain alone: "Courageously and speedily he subjugated all Scandinavia, which is now called Norway, and all the islands beyond, namely Iceland and Greenland, which belong to Norway, Sweden, Ireland, Gotland, Denmark, Samland, Vinland, Curland, Runoe, Finland, Wirland, Estland, Karelien,Lapland, and all other lands and islands of the eastern Ocean as far as Russia" (ECf4, 32.E; Liebermann 1903, 659).

These statements about justice and injustice, the evil of unchecked royal will, and the value of unity in defense of the land have long been associated with the opponents of King John in the decade leading up to the writing of the Magna Carta (1215). Their political implications have been considered thoughtfully by many, most importantly by Felix Liebermann (1894), Walter Ullmann (1965), J. C. Holt (1985; 1992), and Ralph Turner (1994). However, these studies have been deficient on two counts: first, on the tradition of legal writing in England before 1215, and second, on the matter of Arthur. The text of the *Leges Anglorum*, with its Arthurian interlude, has always been treated as distinct from the older legal treatises that form its base. These treatises are in fact linked with the late Anglo-Saxon and Anglo-Norman world, whose legal thought and practices they are said to describe. The *Leges Anglorum*, however, is firmly tied not to these treatises, from which it derives the vast majority of its content, but to opposition to Angevin rule, and it therefore remains principally a political rather than a legal document.

A consideration of these older treatises highlights the London editor's singular choice of genre for a mode of political complaint in early-thirteenth-century Europe. Why did he decide that old treatises purporting to record the law under Cnut (1016–35), Edward the Confessor (1042–66), William I (1066–87), and Henry I (1100–35) were the appropriate canvas for his criticism of Angevin rule? This question is more ours than his; I do not doubt that he would locate the novelty of his interventions in their content, rather than in the genre chosen as their vehicle. Nevertheless, his decision to use old law was not arbitrary and only makes sense when set within the context of the development of legal literature in England, starting long before the Norman Conquest and extending into the twelfth century. The continuous creation, use, and reimagination of legal literature as a vehicle for political dissent had a significant impact on the development of English political thought throughout the medieval and early modern periods.

Second, scholars have had little to say about Arthur, as if it does not matter who made the statements on a king's duties. It has not mattered to scholars that one law was issued by Ine, another by Alfred, and others by Edward the Confessor and King Arthur. The context, spurious or not, is, however, of critical importance to our understanding of how English nobles and knights of the late twelfth and early thirteenth centuries imagined their past, since the author and readers at some level believed that other readers shared their vision. The choice of content and the employment of Arthur's name reveal the values of these people in a world transformed.

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Rather than reflecting the fancy of the editor of the *Leges Anglorum*, this newly recast past reveals a shifting sense of the origin of law, kingship, and kingdom between the Norman Conquest and the composition of the London laws in the reign of John. By the time of the reign of the later Angevins, it seems clear that the author of the *Leges Anglorum* of London believed that Edward the Confessor, for all his stature as a recently canonized king, did not supply all that was needed for the new origin myth of English law being crafted. Edward could not serve unaided as a guide for the Angevin kings. He was not replaced, but reduced, remaining still an important part of the chain of kings who preserved and confirmed the old law, or, when that law slumbered during lawless ages, awakened it.

In this article, I first take a look at several Anglo-Norman treatises that reflect this tradition or refract it in the new circumstances of post-Conquest England. I then try to answer the question of why these treatises developed a political afterlife. Last, I look at that crowning achievement of this tradition—the *Leges Anglorum*—and offer tentative thoughts on what this collection signifies.

In the wake of their conquest in 1066, the new Norman kings of England announced that the laws that had governed the kingdom under Edward the Confessor (1041–66), the *laga Edwardi*, would remain in force. Similar affirmations of old law in the aftermath of conquests had occurred in England's past, most recently in 1018, when the conquering Danish king Cnut agreed to respect the law of the tenth-century king Edgar (Whitelock 1961, 97, and note 13). When the conquerors reaffirmed the *laga Edwardi*, they were making a traditional statement about the continuity of the old laws rather than referring to a specific text of those laws. Interestingly, while this message might have been clear to the English, it was not to the Normans, who strove to satisfy their own demand for records of the actual *laga* by the production of texts. It is likely that all the post-Conquest manuscript collections of Old English laws, including the encyclopedic *Textus Roffensis* (c. 1123) and Corpus Christi College (Cambridge) MS 383 (c. 1100), the three Latin translations of some of these laws (the *Instituta Cnuti*, *Consiliatio Cnuti*, and *Quadripartitus*), and the four "original" treatises of late Anglo-Saxon and Norman law, were produced by French-speaking scribes, translators, and authors, most or all of whom were under the patronage of French-speaking clergy (O'Brien 1999a, 133–34).[2] This response by the Normans is striking but not surprising. The claim to the throne was asserted by the Normans but hardly accepted by all of the English, and although conquest settled some matters, it neither settled the question of right to the throne nor produced the political stability that William I and his heirs desired (Garnett 1986; Garnett 2007, 1–44). To stress their legitimacy and translate it into terms the English understood, Norman kings frequently confirmed the ongoing force of pre-Conquest law, which made them appear to be a neater fit for the throne, just as it had for Cnut less than a century before (O'Brien 1996). The collection known as *Textus Roffensis*, for instance, includes an early copy of the coronation charter of Henry I (1100–35), which proclaimed the authority of the *laga Edwardi*. By the reign of Stephen (1135–54), if not earlier, this fundamental *laga* was both literate and recorded principally by private individuals.

Assertions of this authority mark all post-Conquest legal literature. To review what has survived, let us first address the *Ten Articles of William I*. This small treatise lists measures primarily concerning relations between the Normans and the English. It regulates these relations in a typically English way—for example, protecting foreigners with a traditional royal suretyship and allowing each group to employ its customary mode of proof during disputes (Wormald 1999, 402–4). It was composed before 1123—the date of *Textus Roffensis*, its earliest manuscript copy—and may be from William I's reign. A second treatise—dating from the first two decades of the twelfth century—includes both a comprehensive translation of pre-Conquest Anglo-Saxon law, known as *Quadripartitus*, and a second book, the *Leges Henrici Primi* (Laws of Henry I), which provides a detailed description of the law in the time of that king (Downer 1972; Wormald 1994a, 111–47). This monumental two-volume work presented itself as the Norman king's confirmation of the *laga Edwardi*. The third treatise is the *Leis Willelme* (Laws of William); its earliest version was the first law book composed in Old French (sometime around the middle of the twelfth century). It records contemporary customs, translates some of Cnut's laws, and includes a few chapters indebted to Roman law (Wormald 1999, 407–9). Even at this early date in the life of the French language in England, English loan words are thick in the text, mostly pertaining to certain types of fines or crimes. Last, there is the *Leges Edwardi Confessoris* (Laws of Edward the Confessor), a treatise covering the kinds of law relevant to someone representing a bishop's household in local and regional courts. This document had appeared in two or three versions by the 1140s and was the most popular of the twelfth-century treatises portraying English law before and immediately after the Norman Conquest (O'Brien 1999a, 105–18).

All these codes attribute their contents to previous English kings. The *Ten Articles of William I* orders all men to observe "the law of King Edward . . . with the additions which I have decreed for the benefit of the English nation" (Liebermann 1903, 488). The *Leges Henrici Primi* and *Quadripartitus* identify their contents as the *laga Edwardi* but explain that this designation means the laws of King Cnut (1016–35). The *Leges Edwardi Confessoris* frames its contents as the laws and customs of the kingdom generated in 1070 by a great meeting of English nobles and confirmed by King William. These were not William's laws, although in the text, he is said to have authorized them, but rather the laws of Edgar, which had been revived by Edward the Confessor. The *Leis Willelme* also claims William and Edward the Confessor as its authorities (Liebermann 1903, 492). All of these assertions appear in treatises that were the work of anonymous individuals responding to authentic royal affirmations and, arguably, providing useful references to affirmed law (Green 1986, 97; Wormald 1994b, 243–66).

The confrontation between Henry II (1154–89) and Thomas Becket, archbishop of Canterbury, turned this tradition of private treatise writing and its early twelfth-century products into a vehicle for complaint by the time of the reign of John. After

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sparring with Becket over questions of jurisdiction, penalties, and claims, Henry II summoned a council of magnates to meet in January 1164 to obtain their assent to what he claimed were the laws and customs of Henry I, the *laga Henrici*, as it were (Roger of Howden 1868–71, 1:222; Barlow 1986, 88–102). In short order, the older and wiser barons to whom Henry had delegated the task of determining these laws produced a list that was read to the council. Becket wavered, accepted, and then rejected the record, which led to his exile and the most significant crisis encountered by the English Church in the twelfth century.

The story of Henry and Becket is well known, but it is useful to point out how dramatically the situation had changed for an English king. While earlier kings like Cnut, Edward, or William I had appeased their powerful subjects, including their higher clergy, by renewing the old law, Henry II seems to have excited fear and opposition. The explanation for this difference cannot be that Henry II manipulated the prior law in threatening ways while earlier kings had honestly taken the laws they found and lived with the results. It is true that earlier kings and their subjects had been less concerned with written records than their more text-trusting successors, but this also cannot be the whole explanation.

Henry's customs were arguably a close representation of the practices of his Norman predecessors. As Barlow points out, "the historicity of the customs declared was never seriously challenged by Thomas and his adherents" (Barlow 1986, 102). Instead, Thomas and his supporters equated old customs with old abuses and set this point of view against the current thinking in canon law.

Intruding into the picture of English politics between the late eleventh century and Henry II's coronation was Church reform, in which proponents sought to locate the Church's own *laga* in something older than the arrangements of the previous reign and became increasingly active in researching, identifying, and legislating this *laga* anew (Duggan 1963, 67ff; Barlow 1979, 145ff, 268ff; Duggan 1996). Even if Becket himself was not much of a canonist at the time of Clarendon, many of his *eruditi* were, and it was probably on their advice that Becket resisted Henry's legislation (Smalley 1973, 124–28). For Becket to reaffirm the king's version of the old law was now to affirm an unacceptable situation.

While one tactic was simply to resist the king using the dictates of canon law or arguments grounded in theology, another approach was to counter the king's assertion of the authority of his collection of selected customs with evidence to the contrary. John of Salisbury, for one, doubted the veracity of Henry's claim that he was restoring the laws of his grandfather, Henry I: in his *Entheticus maior*, John refers to Henry II as Juvenal's "rope-dancer, who defends by the law of his grandfather whatever he attempts" (John of Salisbury 1987, 1: 200–01). Herbert of Bosham, one of Becket's biographers, thought that the barons had invented some of the customs (Herbert of Bosham 1875–85, 3:280). And although no one specifically mentions the need to rebut Henry II's claim that his assizes were nothing more than restatements of his grandfather's laws, the multiplication of copies of Anglo-Norman laws in ecclesiastical libraries after the 1160s is persuasive evidence of an intensification of interest that may have been driven by clerical scepticism like John's and Herbert's. Judging by the number of surviving manuscripts and the exemplars and archetypes these imply, there must have been at least two dozen manuscripts containing treatises on Anglo-Norman law and post-Conquest translations of Old English laws in circulation by the 1180s, and another dozen by the early thirteenth century. Against this array of records of older English law, Glanvill's statement that English law was unwritten can be judged disingenuous (O'Brien 1999b, 11–14). English law was written, available, and in the hands of an unhappy episcopate and clergy.

Older English law was not, moreover, uniformly supportive of the power of English monarchs—especially considering the kind of monarchs that the English kings had become by the late twelfth century. Almost all of the older treatises portray laws as the product of the older style consultative kingship that was still the standard in the twelfth century, a kingship which placed the king under the law. Henry II's courtiers, on the other hand, were inclined to think of the king's relationship to the law in Roman terms, in which the will of the king was the law (Hall 1993, 1–3). Although perhaps outside the intentions of their authors, the post-Conquest treatises' traditional consultative picture would read in Henry and Becket's world as statements about the limitations of kingship. The *Leges Edwardi*, for example, borrows from Ado of Vienne's *Chronicle* the story of how the Carolingians, "not yet kings but princes," removed the last of the Merovingians with the approval and by the authority of the pope (ECf2, 17). This story offers no support of royal absolutism, but is a firm reminder of the role that the papacy and Church had played in king-making, at least as understood by the author.

Spurred by the conflict between Becket and Henry II, as well as by the overall changes the law was undergoing, these old codes were reworked with determination during the second half of the twelfth century—mostly in its last quarter and into the first decade of the thirteenth century. The earliest code to undergo revision was the *Leges Edwardi Confessoris*. By the 1170s, but possibly as early as the 1150s, a reviser had turned the *Leges Edwardi* into a more accessible text (with rubrics) and clarified the language throughout (O'Brien 1999a, 106). Few substantive changes were made to the legal sections, but some of the narrative chapters were enlarged significantly, including one that placed greater emphasis on the accomplishment of Edward the Confessor in finding the old and forgotten laws of Edgar. Where the original announced simply, "thus the laws of King Edward were authorized," the reviser elaborates: "Furthermore, from that day, with much authority, the laws of King Edward were honored throughout England and confirmed, corroborated, and observed before all the other laws of the kingdom" (ECf3, 34.1a). Instead of portraying these laws as having been abandoned (*dimissa*) under the Danes and then restored and confirmed by Edward, the revised version has the laws sleep and be revived, using four different verbs (ECf3, 34.3). These emphases and repetitions betray a seam that was coming undone, a bond between the legal present and past that was experiencing some strain and beginning, in the second half of the twelfth century, to give way.

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The *Leges Edwardi* and the *Ten Articles of William I* were translated into French at some point during the reign of Richard I. Both texts were revised as well, and the *Leges Edwardi* was significantly rearranged and emended. The transformation, of course, concerned not only language, but also culture and probably audience. If the *Leges Edwardi* was first written for an episcopal household in the 1130s or 1140s, the later translation was intended for an audience with emended tastes. William I in the second version was only the son of Edward the Confessor's uncle, Robert (ECf2, 35.2), but in the new version, he walks out of the pages of contemporary *chansons*: he is "prudent and brave and strong and valiant and wise and courtly."[3] But, of course, translation is often a re-robing of a source. Here, the last century's conqueror models his new twelfth-century wardrobe.

The grandest revision of older legal treatises and codes was done sometime in the early years of the thirteenth century, probably in London. This is the *Leges Anglorum*. There is a coeval manuscript—now in the John Rylands Library at the University of Manchester—which by script and contents comes from the first decade of the thirteenth century (Liebermann 1913, 732–45). Its latest texts date from 1197 and were the products of Richard I's chancery. After 1215, a new hand added the Magna Carta and a host of later texts. The author-compiler of the original collection, a Francophone with limited knowledge of English, appears to have written the *Leges Anglorum* for the London Guildhall. The collection is impressive for its sheer scale, regardless of the revisions the author made to the older treatises. It includes all of the Latin translations of Anglo-Saxon laws from *Quadripartitus*, almost all of the Norman era treatises and texts (*Leges Henrici Primi*, *Leges Edwardi Confessoris*, the *Ten Articles of William I*), and copies of London charters issued by kings (Liebermann 1894, v–viii). For the rulers after Stephen, it includes, interestingly, none of the controversial assizes of Henry II (let alone the Constitutions of Clarendon that so upset Becket and his clergy)—but instead coronation charters, other London charters, and the apocryphal treatise *Libertates civitatis Londoniarum* (Liberties of the City of London). This material is knit together by biography and chronology through its arrangement by king. Many kings receive short entries covering the dates or accomplishments of their reigns, which follow the laws they supposedly issued. The whole, then, takes on the appearance of a grand chronicle of laws.

The author-compiler was not content, however, with merely ordering his treatises by reign: he also edited them in striking ways. To get a sense of the extent of his revisions, it is useful to look at the *Leges Edwardi*, for which his interventions were the most frequent and radical. The revisions double the size of the original treatise. In the original, chapter 17 retold the story of how the pope authorized the deposition of the Merovingians and the succession of Pippin and Charles—that is, the founding of a new dynasty, the Carolingians. The original author deployed this familiar story to explain how even though kings were supposed to be vicars of God and ought to eradicate evildoers, they nevertheless had the power to pardon these evildoers (chapter 18). This story changes dramatically in the *Leges Anglorum*. Here, the author places the story earlier in the treatise to fall between chapters on the Danegeld and the king's peace, and joins it to the account in Bede of how Pope Eleutherius laid down rules for good behavior in a letter to Lucius, king of the Britons. The new rubrics read "the law and related matters of the crown" and "the duty of the king," and the text articulates the principles that govern the behavior of kings:

> The king by right ought to observe without diminution and defend completely and with all purity all lands and honors and all dignities and rights and liberties of the crown of this kingdom, and to recall into their former state and in the obligation of all men what rights of the kingdom have been scattered and torn down and lost … [The king] ought to preserve, nurture, maintain, and rule with all integrity and liberty the holy church of his kingdom according to the establishments of his ancestors and predecessors … [and] he ought to establish good laws and approved customs [and] eliminate wicked ones and abolish them wholly from the kingdom … The king ought to have three slaves: luxury, avarice, and desire; if he holds them enslaved, he shall rule well and famously in his kingdom. (ECf4 11.1 A7, 11.1 A8; Liebermann 1903, 635–36).

And so on. Not all of the third version of the *Leges Edwardi* attracted the editor's emending imagination; nevertheless, the revised *Leges Edwardi* became in this author-compiler's hands a treatise unmistakably, explicitly, and implicitly critical of the behavior of kings—and most likely one king in particular, King John, whom Gerald of Wales compared to "a robber permanently on the prowl, always probing, always searching for the weak spot where there is something for him to steal" (Gerald of Wales 1861–91, 8:316). The *Leges Edwardi* became, along with the revised form of the *Ten Articles* and various pieces of legal apocrypha, a vehicle for complaint and criticism of the monarch and a mirror of good behavior and bad, with law as the reflective material.

The appearance of Arthur in such a setting is unusual and new. There is no Arthurian law code; even Geoffrey of Monmouth did not fabricate one for him. Nor does Arthur make a cameo in earlier codes as one of the old kings acknowledged by current lawmakers. This absence is not surprising, given the late date at which the English and Anglo-Norman world learned about him. In the *Leges Anglorum*, he appears in three guises. First and foremost, Arthur is a conqueror. The first glimpse of this is in the narrative link with Athelstan, the tenth-century English king. The author-compiler claims that Athelstan ruled lands that Arthur had earlier established as belonging to the crown of Britain (Liebermann 1894, 22). The lands that Arthur added to his British empire are enumerated in the *Leges Anglorum*'s version of the *Leges Edwardi*. Here, the reader receives the list of countries and learns that Arthur—"a courageous knight"—had wanted more than the kingdom of Britain and therefore had "courageously subjugated with great speed" all of the lands between Spain and Russia. Next, Arthur appears as a legislator and king concerned with the administration of justice; it is Arthur's law requiring all nobles, knights, and freemen to become sworn brothers in defense of the land and their rights that lies asleep until Edgar wakens it again. Last, Arthur is a crusader long before there were any Crusades—in fact, before

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there were any Muslims. He uses the power of this sworn brotherhood to expel the Sarracens from Britain (Liebermann 1903, 655–60).

Why has Arthur appeared in these different guises? Why has this been inserted into this collection of laws? Why was this interpolation created in the early years of the thirteenth century? The answers to these questions reach back to Geoffrey of Monmouth's great achievement in shaping a new past for Britain out of pieces of legend, a few actual chronicles, and his own mischievous imagination. In Geoffrey's *History of the Kings of Britain*, composed by 1138, Arthur stands as the centerpiece of the history of Britain from the coming of the Trojans under Brutus to the reign of Athelstan. Arthur is principally a warlord, leading his men in battle, fighting in a wild frenzy against the Saxons, invading and conquering Gaul and doling it out to his vassals, and fighting the Romans. He is the kind of king who engages in single combat with giants. He does occasionally take time out to make a law or administer justice in his empire. His most significant legal pronouncement, however, comes not in a law, per se, but in response to the Roman demands that Arthur turn himself in to the Senate as a criminal for having broken Roman law. Arthur responds by decreeing that the Romans pay him tribute, rather than paying them himself. For, as he says, "nothing that is acquired by force and violence can ever be held legally by anyone," an old legal maxim stretching back to Justinian. Mostly, however, Arthur summons assemblies and reaches agreement on policy with his bishops, archbishops, and nobles in preparation for war. Geoffrey's *Historia* was received by the English with accolades, and its narrative and kings slipped into some of the chronicle histories of his own day and thereafter. What criticism there was—from William de Newburgh in the late twelfth century—was drowned out by excitement over the discovery of such a valuable tale about Arthur and the Britons.

Geoffrey set in motion an escalation of Arthuriana in the latter half of the twelfth century. His *History* was translated by 1155 by the Anglo-Norman poet Wace, while Wace's *Roman de Brut* was itself translated and considerably expanded by the English-language writer called Lawman, most likely in the reign of John (1199–1216). Arthur also appears in the background of contemporary *lais* and other chivalric tales. His court and reign often frame the events of the legends, even if he does not play an active role. Arthur's world is the world in which Chrétien de Troyes set his romances. The king holds a court of appeal in the Norman writer Beroul's *Romance of Tristran*. He fights a giant in a digression in Thomas of Britain's *Tristran*. There is no need to detail the rise of the presence and magnetism of Arthur in the imaginative and historical literature of the twelfth century, however. The peak of this mania was surely reached at Glastonbury, where the actual bones of King Arthur were "discovered" and reinterred with fanfare in the 1190s (Gransden 1976).

What is important here is the observation that over the course of this century, Arthur was transformed in many texts from a warrior king to a justice-administering monarch, from fighter to judge. Why did this transformation occur? Wasn't Arthur busy enough conquering Scandinavia, the islands of the North Atlantic, and Gaul, and fighting Saxons, giants, and Romans? Arthur, a medieval character in popular literature, served as a mirror to his readers. As Arthur aged in literary terms, however, he more and more conformed to the shape and attributes of the patrons who wanted to hear and read the legends about him. So Arthur was bound to change from a British warrior into something more. By the late twelfth century, that something more was a king who made law, settled his conquests with decrees, and worked through his court and the courts, and whose stature depended on his administration of justice. Is it all that surprising that in many ways Arthur came to resemble Henry II of England? This resemblance was not merely a reflection of the tastes of the royalty. The recognition went deeper down the ranks of society. As Bartlett recently observed, "a particular coloration borrowed from the legends and literature of Arthur and his knights had begun to tint the life of the English aristocracy" (Bartlett 2000, 251). The Arthur of the king and barons ruled a wide realm, including Britain, Gaul, Ireland, and Scotland at the core, just as Henry II and his sons ruled England, Ireland, Scotland, and a large part of the wider kingdom of France. Arthur fought his own wars; Henry II, Richard, and John knew battle. He laid down the law; the Angevins reshaped English law into what many would call the foundation of the Common Law. Their subjects thought they were too interested in the workings of justice—an especially common criticism of John.

The importance of Arthur in literature of all sorts, and even his transformation into a legislator and judge, does not fully explain his intrusion into the *Leges Anglorum*. England, after all, had law-giving kings whom it celebrated—Æthelberht, Offa, Alfred, Edgar, Cnut, but most of all Edward the Confessor, whose name became associated in the generations after 1066 with the good old law of the Anglo-Saxon state, the laws that Norman kings needed to confirm and conform to in order to assure the stability of their rule. Why did Edward the Confessor need a somewhat distant predecessor—an Arthur? Three reasons come to mind, although there are likely more. First, Edward did not match the chivalric ideal that had become the standard of the twelfth century. On the contrary, he had been promoted from his death, and fervently from the 1130s, as a saintly king, wise, celibate, peace-loving, and holy. Anything like a martial quality is only barely visible through the screen of his sainthood. With his canonization in 1161, Edward ceased in some ways to dominate the imaginative memory of England's legal past (Barlow 1970, 256–85). Second, the *Leges Anglorum* provided an opening for a new legislator to be added in order to extend the list of England's ancient legislators; the opening appeared because the *Leges Anglorum* had taken from one of its sources, the third version of the *Leges Edwardi* the strange notion that laws can fall asleep and be reawakened years afterwards by later monarchs. The *Leges Edwardi* claims that Edgar's laws slept through Æthelred's troubled reign, as well as the rule of the Danish kings, before being reawakened by Edward the Confessor and confirmed by William I (ECf3, 34.1b–34.3). How difficult was it for the author of the interpolations to make Arthur the creator of law that slept until Edgar woke it up? Through this connection, the chain of lawgivers was stretched back to incorporate the king that most late-twelfth-century aristocrats

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and kings would consider their model. Last, the use of Arthur as the mouthpiece for some of the law in the *Leges Edwardi* portion of the *Leges Anglorum* fit the audience, if it is true that the whole collection was conceived as a criticism of King John. John was a reader of Arthurian romances and, like his brother, possessed a sword hallowed by its associations with the knights of Camelot: Tristan's own, as his brother Richard carried Arthur's Excalibur (Bartlett 2000, 251). Here was a king who might value what Arthur said.

So a legal literature of complaint in England was born, a literature deriving its strength and attraction from the history of written law and the habits of royal promises, both of which the Norman Conquest and later political conflicts magnified and then calcified. Other European kingdoms at a later date returned to old law to criticize kings: the Aragonese demanded the restoration of the *Usatges*, their oldest written law-code, and the abolition of Roman law in the reign of Jaime I (Kagay 1994, 45), and the French asked for the return of the "law of St. Louis" in the crises of 1314–16 (Brown 1981). Laws that had begun their lives as authoritative pronouncements by the count-kings of Barcelona and the king of France now were handled by opponents of royal prerogative in the same way that authoritative statements of old English *laga* were wielded by both Henry II's and John's barons. But the English laws hold a different place in their polity. The law occupied a much grander place in the minds of opponents, perhaps because, as Susan Reynolds points out, tyranny seemed so much more likely to occur in England than elsewhere, and kings, like their opponents, drew from the same stream of inspiration and continued to express their own ideals in legal texts (Reynolds 1997, 51). The literature of complaint did not end with the recopying of older laws, especially the *Leges Anglorum*, during the crises of the thirteenth, fourteenth, and fifteenth centuries, but continued in new treatises that projected themselves back into the world of the *laga Edwardi* and, by so doing, gained both authority and readers: the *Modus tenendi Parliamentum* and *Mirrour of Justices* belong to this genre (Whittaker 1895; Pronay and Taylor 1980).

But it was not just a literature of complaint that had been created. It was also a political identity derived from a new origin (Kumar 2003, 62–66). England's early legal history—so important to the first generation of Normans—had been metamorphosed by a new political context, the Angevin Empire. The late twelfth-century baronage and its kings inhabited an altered mental world, and the laws of their predecessors proved malleable for their Arthurian imaginations. The *Leges Anglorum* may tell us about the development of the ideas behind the Magna Carta, as Holt has argued, and it certainly tells us about the thought world inhabited by the barons—both John's supporters and opponents (Holt 1992, 56). What bound these groups together was more important that any mere history of English law that had been crafted.

Although the consequences of this use of old law in situations of political dissent are at times difficult to disentangle from other aspects of English political life and constitutional struggles, a few observations may at least illuminate the knot in greater detail. If a kingdom or a people was defined in the Middle Ages by its possession of a single law, then any dispute about the content of that law becomes primarily a problem of political identity. How much would Henry II have sensed this reality in his dispute with Becket over the laws? How much would the legal shapelessness of his "empire" have heightened his awareness of his need to control the law, to create a common law? That such questions about political identity and the old law might find common ground in their answers is suggested by the fact that the London creator of the *Leges Anglorum* borrowed most heavily from Geoffrey of Monmouth's *Historia regum Britannie* for his interpolations; Reynolds has suggested that one of the many reasons for the popularity of this history was "that its glorification of a British past transcended the uncomfortable division between Normans and English" (Reynolds 1997, 267). By the time of the Angevins, the *History* had erased the legal differences not only between the Normans and English, but also between Angevins, Normans, Bretons, Manceaux, Poitevins, Scots, Irish, Welsh, and English. This was a new myth for a new age.

The implications of the use of legal literature against the crown go beyond Angevin constitutional struggles. The imaginative memory of the chivalric classes may stand with the Magna Carta at the center of the development of English constitutional thought, where Common Law principles and ancient codes of law were used to manipulate and restrain sovereigns. The furious copying of the *Leges Anglorum* in fourteenth-century London may have been immediately concerned with the goal of getting the city's liberties reconfirmed by Edward II, but these texts had potency because, by then, they were accepted as defining the political relationship between ruler and ruled (Catto 1981, 370–72, 387). And, furthermore, the myth of the English constitution for seventeenth-century critics of royal absolutism was a myth deeply rooted in the old law, in Anglo-Saxon dooms, Anglo-Norman treatises, and the Magna Carta, not just because these critics recognized that the common law was in fact laden with principles that contributed to the establishment of their parliamentary government, but also because the imaginations of the English were accustomed, through generations of practice, to run along these lines and inclined to seek out the frame for complaint and identity in such older legal literature. ■

NOTES

1. ECf4 represents the last, or London, recension of the *Leges Edwardi Confessoris*, which was one of several legal texts gathered to create the *Leges Anglorum*, In this article, ECf1 refers to the earliest version of the *Leges Edwardi*; ECf2 to the second, and ECf3 to the third version, which itself became the basis for ECf4. ECf1 and ECf2 are available in O'Brien 1999a, 158–203. ECf3 and ECf4 are in Liebermann 1903, 1: 627–72. Leges Angl refers to the complete text of the *Leges Anglorum*, but will only be used for citation to texts other than ECf4. All citations are to chapters and sub-chapters as found in O'Brien 1999a and Liebermann 1903 for ECf1–4; citations to Leges Angl are to chapters and sub-chapters in Liebermann 1894.

2. The most important of these legal encyclopedias, *Textus Roffensis*, has been reproduced in black and white, edited by Peter Sawyer for the Early English Manuscripts in Facsimile. The Medway Archives Office has placed color images of all of its folios online at http://cityark.medway.gov.uk/.

3. This text is currently available only in its sole manuscript copy, a thirteenth-century Luffield priory book, now Cambridge University Library, MS Ee. 1.1.

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