

The Emergence of Written Law in Early England

The *Domboc*, Before and After: An Overview

When Alfred the Great (r.871–899) issued toward the end of his reign the compilation of laws his successors would call *seo domboc* or “the book of judgment[s],” the practice of writing legislation in English was already around three centuries old.¹ Yet its being the most ancient of the Old English prose genres did not make the place of written law as an instrument of governance more secure prior to Alfred’s accession than it had been generations before. Its adoption in England began with a lengthy assemblage of decrees authorized by the Kentish king Æthelberht (d.616), an event prompted in some fashion by the arrival of missionaries in Canterbury.² The reigns of Hloðhere and Eadric (c.679–685) and Wihtred (690–725) would likewise see the appearance of laws, also in English.³ That these compilations disturb an otherwise near-total silence of documentary

¹ On the difficulties of dating Alfred’s *domboc*, see Keynes and Lapidge 1983: 304; Frantzen 1986: 11 and n. 1; Richards 2014b: 282. William of Malmesbury held Alfred’s laws to have been composed “amid the braying of trumpets and the roar of battle” (*inter stridores lituorum, inter fremitus armorum*); Mynors, Thomson, and Winterbottom 1998: 1, 188–189 (ii.121). The view is rightly dismissed by Turk (1893: 50–51).

² On the background of Æthelberht’s laws, see 12–15 of the present chapter.

³ On the dating of these texts, see Oliver 2002: 120 and 148; Hough 2015 offers a contrasting view on the provenance of Æthelberht’s laws.

evidence for this period gives them the appearance of inaugurating some new epoch in the legal history of Britain. But to the extent that these texts reveal the intentions of the kings under whose names they circulated, there is little to warrant such a conclusion. At no point in this first unfolding of English legislation do we see any attempt to explain why an otherwise obscure tongue was here favored over Latin, the preferred language of lawmaking on the Continent. The concerns of the laws are invariably parochial and their prefatory material modest about the kind of sway legislation might be expected to have over the affairs of subject populations.⁴ The impression given by the last such compilation before Kent was absorbed into the kingdom of Mercia is that the employment of writing, rather than widening the scope of royal authority over lawmaking, had instead made legislative activity the sphere of bishops, with the king reduced almost to a spectator.⁵

As the Kentish laws do not suggest a kingdom even dimly aware of what these texts would mean to later generations, it was possible only in retrospect to see in them a foreshadowing of what Anglo-Saxon England would achieve in later centuries.⁶ (Alfred, as we will see, was probably the first to suggest as much.) Purely local circumstances were likely determinative in shaping these first works of English legislation. The presence within its borders of Britain's most powerful archiepiscopal see, and not any particular investment in the vernacular as such (or sense of its possibilities), may well have been the foremost stimulus for the production of written law in Kent.⁷

⁴ “We have spoken of Æthelberht’s ‘laws’, but it is desirable to make it clear that these laws are not legislation in a wide sense. They do not enounce general principles or new principles, such as might have followed Æthelberht’s conversion to Christianity, nor do they provide a code for every justiciable cause in the kingdom” (Richardson and Sayles 1966: 5).

⁵ See Chapter 2, 51–52. The Kentish king Eorconberht (r.640–664) also issued laws according to Bede (*Historia ecclesiastica* [henceforth *HE*] iii.8), but their language goes unremarked in his account; they do not survive into the present. Liebermann (1903–1916: 1, 9) includes Bede’s paraphrase in his edition.

⁶ See, e.g., Wormald 2005. While later legislators did make use of Kentish materials, it cannot be safely assumed that those who prepared these texts in the seventh century appreciated the full significance of what they were doing (which does not detract from its importance).

⁷ The laws of Wihtried are concerned almost exclusively with ecclesiastical matters. On the possibility that Archbishop Theodore of Tarsus “may have deliberately encouraged the use of written English,” see Brooks 1984: 95–96.

Use of the vernacular probably began as a concession to the already recondite legal vocabulary of Old English. A similar compromise between ecclesiastical learning and the practical realities of litigation is suggested by the “Malberg glosses” of the *Lex Salica* – words in the Frankish vernacular essential to the conduct of law and thus supplied where needed (and occasionally gathering themselves into fragments of near-prose) throughout an otherwise Latin text.⁸ We see something comparable in the laws of Æthelberht, where the meaning of clauses frequently depends on compound nouns (e.g., *cearwund* “grievously wounded, bedridden,” *þurhðirel* “pierced through”) enclosed within a simple “if *x* happens, then pay *y*” syntactic frame.⁹ It is probably no coincidence that a separate category of poetic compounds underlay the structure of Old English verse before it adapted itself to writing in later centuries and shed these vestiges of oral composition in favor of a more discursive style.¹⁰ In the earliest phases of both English law and verse, to learn the tradition involved committing its characteristic terms to memory.

During the reign of Ine, Wessex appears to have become the first neighboring polity to follow the Kentish example. But aside from Alfred’s assertion that his *domboc* relied in part upon materials issued by Offa of Mercia (r.757–796), we have no evidence that any other early king before Alfred issued laws in his own name.¹¹ If we take Alfred at his word that Offa’s laws were in some sense available to him, the period between the *domboc* and the last royal code to precede it may well encompass a nearly century-long void. A more skeptical response – warranted given the faint evidence for Offa’s legislative activity – suggests an even wider chasm separating Alfred’s laws from Ine’s. Most of what we know about lawmaking in Offa’s kingdom comes not from any legislation attributed to him but from a report by papal legates on the condition of Mercia. The

⁸ On the “Malberg glosses,” see Schmidt-Wiegand 1989 (who notes that these are not limited to single words or phrases but sometimes preserve vernacular legal formulae as well); also Oliver 2011: 18.

⁹ One clause characteristic of this tendency is Æthelberht §68: *Gif wælt[-]wund weorðeþ, III scillingum forgelde(n)*, (“If a ‘welt-wound’ occurs, let him pay three shillings”). Oliver 2002: 76–77.

¹⁰ See Fulk 1992: 254.

¹¹ That Alfred’s remarks are the only evidence for Offa’s legislation is made clear in Wormald 1999a: 106.

circumstances of its later transmission may, in Patrick Wormald's view, have lent it the appearance of royal law; indeed, Wormald was so taken with this conjecture that he considered the legates' report to be what Alfred had in mind when he claimed knowledge of Offa's laws.¹² Given the general scarcity of evidence for this period, the "Legatine Capitulary" is indeed a valuable witness to the state of Mercia in the eighth century, and the present edition takes note of it where necessary. But few of its statements seem to have any clear bearing on clauses of the *domboc*. The odds are therefore good that, while Alfred may have heard of laws attributed to Offa, he had in mind as concrete precedents to his own legislative undertaking primarily the laws of Ine and those earlier issued in Kent.

That the decades between Offa's reign and Alfred's involved such a lengthy silence, not only in law but in other forms of writing as well, of course had much to do with the arrival of the Vikings. The raid on Lindisfarne in 793, just as the reign of Offa neared its end, presaged decades of humiliation and loss for kingdoms whose learning had once been the envy of Western Europe. Alongside the achievements of Bede, Alcuin, and Boniface and the heyday of the Kentish church (a favorite subject of the former's *Historia*), royal legislation in English issued during the seventh century probably took on new associations during Alfred's lifetime. In a text likely composed before the *domboc*, Alfred refers to books written in England prior to the onset of Danish raiding as "tracks" to be followed.¹³ It may not be ruled out that the laws of Kent figured in his

¹² Wormald 1999a: 107: "Since the proceedings in southern England are said to have been 'read out both in Latin and in the vernacular (*theotisce*),' it is not impossible that the English version was preserved with a more or less continuous gloss, so accentuating its resemblance to the codes of seventh-century kings." For a full exposition of the possible (but unlikely) relationship between this text and the *domboc*, see our headnote to the edition of Alfred's laws in the present volume.

¹³ Alfred's Preface to the *Pastoral Care* (see also, in this chapter, 32–33) begins by imagining the clergy of his and prior generations looking back on the age of Bede and Alcuin and exclaiming, upon seeing Latin books they were unable to read, "In this we can still see their tracks, but we cannot follow them, and therefore we have lost both the wealth and the wisdom, because we would not incline our hearts after their example" (*Her mon mæg giet gesion biora swæð, ac we him ne cunnon æfter-spyrgan, forðæm we habbað nu ægðer forlæten ge þone welan ge þone wisdom, forðampe we noldon to ðæm spore mid ure mode onlutan*); Sweet 1871: 1, 4–5; cf. also Schreiber 2002: 193. Throughout the present study, *Regula pastoralis* designates Gregory's work and *Pastoral Care* the translation by Alfred and his circle.

imagination among such texts. To any king of this era with the time and wherewithal to reflect on more than survival, the early kingdom of Kent would have served as much as Northumbria as a paradigmatic example of what might be achieved through wise governance. Only the most fortunate could dream of establishing such conditions among their own people.

The final collapse of these rival powers afforded Alfred just such an opportunity to restore what they had lost, and there is every reason to think that the *domboc* was as much affected by his ambitions for the education of his people as other texts of this period. With respect to its most basic aims alone, legislation could remain in these new circumstances what it had been in Kent: as did earlier compilations, the *domboc* collects in one place, presumably for future reference, solutions to disputes earlier resolved by the king and his judges.¹⁴ (It may not be ruled out that some of the judgments enumerated therein were issued during the reigns of prior West-Saxon kings.) But Alfredian additions to this core structure effectively establish law alongside historical writing and translation from Latin as the fields in which Alfred's house of Cerdic would win fame in (relative) peace as it earlier had in war.¹⁵ The result was something much more complex than the mere "propaganda" or narrow assertion of royal "power" that some earlier commentators have seen in the *domboc*.¹⁶ As will be shown throughout the present volume, Alfred and his circle sought to alter both the relationship between writing and legal practice and the meaning of "law" itself for contemporaries and successors. They did so in part by answering the doubts and hesitations with which earlier kings had presented their laws to populations unaccustomed to writing and suspicious of norms lacking a clear basis in oral tradition. In its unapologetic treatment of laws *as texts* and its deliberate arrangement of them into a historical framework, the *domboc* is a major (and largely

¹⁴ According to Lambert (2017: 265), "Alfred's law code [...] is filled with what look very like royal judgements issued to resolve legal quandaries, which could well have come to the king's attention as appeals."

¹⁵ On the origins of the West-Saxon kingdom with Cerdic and Cynric, see the *Anglo-Saxon Chronicle* s.a. 495 and 519 (Plummer and Earle 1892: 14 and 16; Bately 1986: 19–20).

¹⁶ See, in the present chapter, 31–32; also Chapter 3, 79–80.

unrecognized) step along the path from law as we find it in the early Kentish materials to the fully “bureaucratic” institution realized in England during the reign of Henry II (1154–1189), the foundations of which, as has long been acknowledged, lay deep in the pre-Conquest past.¹⁷ It is the first English legislative statement to present law as primarily something to be learned from books and to suggest that it may not be adequately grasped without some depth of historical knowledge. And there is every reason to think that the kings who succeeded Alfred not only made further use of the *domboc* but accepted its premises. Though records of litigation from the Anglo-Saxon period offer no citations of royal law – a circumstance that has long suggested the inefficacy of the latter – the reception of the *domboc* indicates that Alfred succeeded to a modest extent in making his ordinances binding on his successors. Quotations of its contents and assertions of its authority persist from the earlier tenth century until the end of the Anglo-Saxon period.¹⁸ No legislating king seems to have felt free to disregard it in formulating his own laws. Thus much commentary of the past two centuries, emphasizing as it has the basis of the *domboc* in orally transmitted custom, has proceeded from a sense of its significance somewhat at odds with what is known of how it was used in the generation immediately following Alfred’s death. And this, in turn, has implications (to be explored in subsequent chapters) for the much-disputed question of whether legislation of this period was in any sense efficacious or even useful.¹⁹

Alfred’s aspirations for the text necessitated many departures from convention. While some prior legislation in English had begun by naming the bishops and magnates consulted and the circumstances to which the provisions respond, the *domboc* commences with the extraordinary “Mosaic Prologue” (henceforth *MP*), a loose

¹⁷ A point often made, the classic demonstration being Maitland 1897. An essential later exposition of such ideas is Campbell 2000 (particularly its first chapter, “The Late Anglo-Saxon State: A Maximum View”). See also Wormald 1998.

¹⁸ Its influence on subsequent legislation is considered in Chapter 5.

¹⁹ On the apparent indifference of Anglo-Saxon litigation to royal law, see Wormald 1999a: 148 and 264. Yet Wormald occasionally urges a more qualified view, as in Wormald 1997b: 348 (“[T]here are ample indicators that cases were run roughly as laid down by royal authority”). See also Chapter 3, 78–81.

and at times remarkably unfaithful translation of the laws of Moses (as given in Exod. 20–23) and the Apostolic “Council of Jerusalem” (Acts 15: 22–29).²⁰ Another short chronology of royal legislation in England – effectively, a second prologue – precedes Alfred’s own laws (*MP* §49.7–8). Here he traces English legislation to a series of unnamed synods before offering assurances that his own ordinances will diverge little from the prior compilations of Ine, Æthelberht, and Offa. The compilation concludes with the laws of Ine, which are nowhere attested independent of the *domboc*. In effect, at least half of the *domboc* – more, if we include in our calculation the laws of Ine – constitutes a sustained meditation on the nature and history of written law in England.²¹ While deference to earlier legislation was customary in royal lawbooks of the early Middle Ages, no prior or subsequent king went to such lengths to represent his laws as the mere ripening of tradition.

Whether Alfred employed or even had access to the books of laws claimed in the “second” prologue as the basis of his own is uncertain. While there may be traces of Æthelberht’s code toward the conclusion of Alfred’s, the only prior English legislation that indisputably survives in the *domboc* is Ine’s.²² What Alfred’s laws themselves owe to written and unwritten traditions is a complex question, to be explored from different angles throughout this book. No such inquiries will be possible, however, without first establishing the broader historical background that underlay the West-Saxon achievement in lawmaking. Accordingly, the present chapter narrates the steps by which Wessex emerged from inauspicious beginnings to become, by the late ninth century, the center of English political life

²⁰ Cf. the short prefaces attached to the laws of Hloðhere and Eadric, Wihtred, and Ine. Of the three, the first is the most self-conscious rhetorical performance. The convention seems to have undergone developments of which Alfred was probably mindful (see Chapter 2, 57–59). On biblical introductions in other works of Germanic legislation that may shed light on Alfred’s, see Chapter 2, 64–66.

²¹ King Alfred’s will (Harmer 1914: 15–19) bears comparison with the *domboc* given the substantial historical prologue (again, nearly as long as the will itself) preceding its provisions, an unusual feature of such documents at this time.

²² For evidence that Alfred or members of his circle had at least read the laws of Æthelberht, see Oliver 2015. Knowledge of at least the preface to the laws of Hloðhere and Eadric is suggested by evidence discussed in Chapter 2, 57–59.

and custodian of earlier kingdoms' achievements. Particular attention will be given to the development of written law and its movement from an uncertain to a major feature of governance. Intertwined with its emergence in England is the somewhat anomalous use of the vernacular for such purposes, a feature of these texts on which the following pages will shed some new light as well.

None of these subjects may be considered apart from the rapidly changing situation of the West-Saxon church and its institutions, which enjoyed sudden prosperity during the reign of Ine and renewal through Alfred's efforts. Conventionally, the church is referred to in historiography as introducing literacy to the English kingdoms who welcomed it. But such generalizations risk concealing the particulars of what it offered to early English polities as they struggled with neighboring kingdoms, their own sometimes-restive nobility, and (ultimately) the Vikings.

Here it helps to have a clear sense of what "the church" was to those who encountered it. The notion of Christianity as a "religion of the book" may not be invoked to explain its role in encouraging literacy (as is sometimes done) without distorting some crucial realities of the earlier Middle Ages. In all likelihood, Christianity would have struck laity and clergy alike as a religion of *books*. This was the case in part because manuscripts containing the entirety of the Bible were exceedingly rare. While an oath sworn on the Gospels was a potent way of visualizing the litigant's putting his or her salvation at risk, we may not doubt that the custom arose in part because these were the portions of the Bible likeliest to be on hand in a church.²³

It is the content of these books, however, that points us to what may have stimulated the kinds of reflections culminating in the *dom-boc*. Anyone attentive to the readings during Mass would have been struck by their fundamentally legal concerns, a quality by no means diminished in the pages of the New Testament.²⁴ (We have seen that

²³ See, e.g., Marsden 2004: 72.

²⁴ See L'Huillier 1997: "All attempts to identify a precise moment to indicate a turning point in the transformation of the primitive Church from a purely charismatic movement to a structured institution fall short under rigorous examination" (119). According to Hough (2018), it cannot be ruled out that the laws of the Old Testament played some role in shaping even the earliest Kentish laws.

Acts 15 is reworked in the opening passages of the *domboc*; reference to the event described therein as a “council” had been the norm as early as the lifetime of St. Jerome, which may itself have suggested its relevance to the historical narrative sketched in the Prologue.²⁵) Though a system of canon law as later generations would know it did not emerge until the twelfth century, churchmen nonetheless came to early Kent and Northumbria bearing with them an already formidable and subtle tradition of written law at times reliant upon the language of the Bible.²⁶ It would be a mistake to suppose that these texts did not shape in some fashion Ine’s and Alfred’s reflections on the forms that secular legislation might assume, particularly when the latter makes so clear his fascination with them at the outset of the *domboc*. Accordingly, the fortunes of the church play a prominent role in the narrative that follows – probably more than was typical in commentary of the nineteenth and even twentieth century, which laid at times excessive emphasis on Alfred’s debts to ancestral Germanic traditions.²⁷ That the importance of specifically clerical learning in the formation of the *domboc* should have been so little emphasized is surprising given the role of sustained reflection on passages of Scripture in Alfred’s own piety (as described by Asser).²⁸ Though Alfred’s collection of these passages into a personal “enchriridion” or *handboc* is now lost, the king’s involvement in a partial translation of the Psalter adds credibility to Asser’s account.²⁹ As Alfred is shown in Asser’s biography earnestly seeking the assistance of clerical advisors in his own devotional life as well as more public endeavors (such as the translation of the *Regula pastoralis*), it

²⁵ Plumer 2003: 107 n. 85; see also Chapter 2, 59–60.

²⁶ Regarding the close dependence upon Scripture in some canonical materials antedating the reign of Alfred and coeval with Ine’s, see, e.g., Flechner 2009: 25, where it is noted that the A-recension of the *Collectio canonum hibernensis* gives “approximately five hundred citations from the bible”; “[t]wo-thirds of the biblical citations were derived from the Old Testament.”

²⁷ See Chapter 5, 168–172.

²⁸ For Asser’s account of the formation of the *handboc*, see Stevenson 1959: 73–74 (§88–89).

²⁹ William of Malmesbury gives a brief account of the “enchriridion” in his *Gesta Regum Anglorum* (Mynors, Thomson, and Winterbottom 1998: 1, 192 [ii.123]). According to Toswell (2014: 69–70), “Alfred styled his personal behavior on the daily round of the Office that a monk would live.” Pratt (2007: 243) notes parallel developments in the life of Charles the Bald.

seems probable that their help was also sought as the king set about assembling the *domboc* and that we should expect to find in it traces of their influence.

Beginnings

It will be impossible to give a proper account of the *domboc* without first considering the laws from which it purports to derive. Even if Alfred's use of them remains a matter of debate, there is no doubt that they formed in some fashion a part of the intellectual background of his achievement. As was the case with most other polities of its time, Wessex, prior to its first encounters with the Roman church, was governed by an oral legal tradition whose claims to authority did not cease with the arrival of writing. While some residue of this tradition may well survive in the *domboc*, tracing its influence is not as easy as scholars once assumed. It is true that this body of unwritten law must have had features in common with what was observed at this time in other parts of western and central Europe. The shared legal vocabulary of the Germanic-speaking peoples, giving us words such as *murder* (a term whose Old English cognate is strangely absent from the *domboc* where we would most expect it) and alliterative tautologies such as *to have and to hold*, is the strongest evidence in favor of such a tradition.³⁰ These and other terms attest to beliefs that survived independent of writing and had spread themselves by the late ninth century from Iceland to the Italian Peninsula.³¹ That scholars of the nineteenth century became giddy at the possibilities such terms afforded for reconstructing vanished institutions should not dissuade us from accepting that there was such a thing as "Germanic" law.³² But this body of norms

³⁰ On *murder* and the seeming omission of the concept in an instance of concealed homicide, see *Ine* §35 and n. On *to have and to hold*, see *Beowulf* l. 658 (Fulk, Bjork, and Niles 2008: 24), viewed by Day (1999: 314) as referring to the transfer of Hrothgar's "power of possession and protection over both the persons of his household and its physical space."

³¹ Tiersma 1999: 10–15.

³² Legal historians have grown reluctant to credit the capacity of oral traditions to preserve bodies of knowledge over vast expanses of time and distance. But as Fulk (1992: 34) noted, such assumptions are fundamental to the study of Germanic verse: "That poets should have striven to be as conservative as possible is to be

probably lacked the uniformity assumed by even more sober scholars of this period and should not be invoked incautiously.³³ Nor was it wholly untouched by the influence of Roman law.

Amid the decline of the Roman state, Visigothic kings, preeminently Alaric II (d.507), sought to organize the remains of its legal tradition for use in territories stretching from the Iberian Peninsula to cities well north of the Pyrenees.³⁴ It was Alaric who commissioned the *Lex Romana Visigothorum* (also known as the *Breviary of Alaric*), a text that would be the principal point of access to Roman law for most literate persons in western Europe until the rediscovery of Justinian's *Digest* in the twelfth century.³⁵ Though it sheds little light on their characteristic legal behaviors when compared with subsequent texts, the story of lawmaking among the Germanic peoples is conventionally understood to begin with the *Breviary*, given its broad influence.³⁶ Not long thereafter, kings in Francia would issue a range of laws in Latin ostensibly less indebted to Roman tradition. These compilations, as we have seen, occasionally record elements of Germanic custom and legal vocabulary.³⁷

Access to the *Breviary* has seemed at least possible in England in the years after the mission organized by Gregory the Great to the people of Kent, which sought to acquaint its inhabitants with Catholic (as opposed to Arian or British) Christianity and establish

expected of a culture as saturated as this with veneration for old things and a firm belief in the degeneracy of the present age in comparison to the past. Other evidence for scop's conservatism is their ability to transmit old Germanic lore orally from one generation to another with surprising accuracy: the parallels between *Beowulf* and *Grettis Saga*, between the Hæthcyn/Herebeald story and the Baldr myth, and between the Scyld Scefing story and the Bergelmir myth, are truly remarkable examples of this sort."

³³ See Chapter 5.

³⁴ On the afterlife of Roman law in the earlier Middle Ages, see Wieacker 1944: 195–284 at 199–206. The standard edition of the *Lex Romana Visigothorum* remains Zeumer 1902; for its origins and subsequent recensions, see Zeumer 1902: xii–xiv.

³⁵ Roman law saw no sustained revival until the twelfth century, on which see Wieacker 1944: 207–228; Breen 1944–5: 244–287; Brasington 2016: 32–61.

³⁶ The legislation of Alaric's father Euric, though of less consequence for the whole of Europe, should also not be overlooked: Levy called his code, which shows greater evidence of Germanic legal practice, "the best legislative work of the fifth century" (1942: 28).

³⁷ See Ebel and Thielmann 2003: 117; Oliver 2011: 8–25.

an archiepiscopal see under Roman authority.³⁸ But any such knowledge is unlikely to have circulated prior to the establishment by Theodore and Hadrian of a famed cathedral school in Canterbury.³⁹ Nor do the earliest laws in English, issued not long after the baptism of the Kentish king Æthelberht in 597, evince awareness of Roman law in spite of Bede's somewhat cryptic assertion that they were composed *iuxta exempla Romanorum*.⁴⁰ Given the marriage of Æthelberht to the Frankish princess Bertha, the vigorous trade between Kent and West Francia, and the accompaniment of Augustine (provost of Gregory's mission to Kent, subsequently the first Archbishop of Canterbury) by Frankish translators, we would expect the prevailing influence over his lawmaking activities to be the Frankish compilations mentioned earlier, which may account in some way for Bede's seeming assumption of external sources.⁴¹

Arguable traces of Frankish legislation have indeed led many scholars to conclude that, as Wormald put it, "Bede's 'Romans' may

³⁸ See Cook 1924 and Winkler 1992. Though soundly defeated, Arianism remained a matter of concern in western Europe at least as late as the middle of the eighth century: see Krutzler 2011: 59–61.

³⁹ See *HE* iv.2 (Colgrave and Mynors 1969: 333–337); Cook 1924: 105 and *passim*; Brooks 1984: 94–95; Bischoff and Lapidge 1994: 147 (where it is implied that the Roman law curriculum of the cathedral school was not limited to the *Breviary*).

⁴⁰ Bede's description indicates at least some acquaintance with the text of Æthelberht's laws: "Among other benefits which he conferred on the race under his care, he established with the advice of his counsellors a code of laws after the Roman manner (*iuxta exempla Romanorum*). These are written in English and are still kept and observed by the people. Among these he set down first of all what restitution must be made by anyone who steals anything belonging to the church or the bishop or any other clergy; these laws were designed to give protection to those whose coming and whose teaching he had welcomed." *HE* ii.5 (Colgrave and Mynors 1969: 150–151). The editors' rendering of the problem phrase ("after the Roman manner") departs from the strict sense of the Latin; as Wallace-Hadrill (1988: 60) points out, "By *exempla* he [Bede] could have understood that exemplars of continental law had been brought to Canterbury by the missionaries or by Bertha's Frankish following; not for slavish copying but as models of codification proper to a Christian king."

⁴¹ Among Augustine's entourage were "interpreters from the Frankish race"; see *HE* i.25 (Colgrave and Mynors 1969: 73). The editors point out (n. 4) that "[t]hese would speak some form of the Franconian dialect, possibly not unlike the Kentish dialect of Old English." On the trade between Kent and West Francia in Æthelberht's time, see Gautier 2006.

actually have been Franks.”⁴² But in recent decades, closer attention to the laws themselves has yielded more compelling conclusions about their provenance. Though preserved uniquely in a manuscript of the twelfth century, the laws of Æthelberht have been shown to retain a number of lexical, morphological, and syntactic archaisms.⁴³ For this and other reasons, the text may preserve some features of oral composition and elements of native practice, leaving hypothetical Frankish *exempla* with a more limited role to play in the preparation of this text than some have assumed.⁴⁴ However warranted in light of the circumstances that brought written law to sixth-century Kent, Oliver’s work shows that speculation about Frankish sources may distract from the more important questions raised by this text about matters such as marriage and the social hierarchy, for which it furnishes some of our most important (if often ambiguous) evidence.

Whatever their backgrounds, Æthelberht’s laws are certain to have initiated the first sustained attempts by any Germanic-speaking people to record laws in their own language. By the time the kingdom of Wessex assumed more-or-less settled boundaries toward the close of the seventh century, it was positioned to benefit from established traditions of written royal legislation and even explore new possibilities for its use.

⁴² See Wormald, 1999a: 97; also 98–98, in which are tabulated the structural similarities between Æthelberht’s laws and those issued on the Continent in this period. Oliver (2002: 35) instead understands *iuxta exempla Romanorum* to refer merely to the writing of legislation, a view endorsed in some publications by Wormald as well.

⁴³ See Oliver 2002: 25–34. All Kentish royal legislation of the seventh century is found only in this witness, the *Textus Roffensis* (on which see Chapter 4, 136–142). One remarkable survival of an oral manumission formula in the laws of Wihtred (§7), its archaism demonstrated by retention of the disyllabic conjunction *ænde* (cf. Old High German *enti*) and other terms, is explored in Oliver 1998.

⁴⁴ Oliver holds that the laws of Æthelberht “stand boldly at the watershed between orality and literacy in the Anglo-Saxon legal tradition,” being “the first Germanic laws to be recorded in the vernacular” (Oliver 2002: 36). Evidence for the fundamentally oral derivation of Æthelberht’s laws comes chiefly from the organization of subject matter (36–41), which would in Oliver’s view have facilitated memorization; in contrast, as Oliver shows, earlier written legal compilations, including those as archaic as the laws of Hammurabi, show no such patterns of distribution.

The First Christian Kings of Wessex

Deliberately or not, Alfred's laws conceal somewhat just how unlikely was the ascendancy of the West-Saxon kingdom in the late ninth century. Inclusion of Ine's laws as a presumably historical appendix rather than those of Ine's Kentish contemporaries may reflect the same West-Saxon triumphalism that has been seen in the *Anglo-Saxon Chronicle*, another product of the Alfredian era.⁴⁵ If they were not still all in effect – unlikely, given that they sometimes contradict Alfred's – Ine's laws as deployed in the *domboc* seem meant, among other things, to furnish evidence of a tradition of written law in Wessex durable enough to rival Kent's.⁴⁶ (West-Saxon insecurity over the achievements of Kent has, as we will see, a long history.) In minimizing the achievements of other early kingdoms, the *domboc* thus shares some qualities of the *Chronicle*.⁴⁷ But the point should not be pressed too far. Alfred was careful to flatter those who needed flattering, or at least not to give needless offense. Such motives go some lengths to explain the deference (however specious) to Kent and Mercia in the *domboc*'s Prologue.

In comparison to Kent, which presumably benefited from its proximity to Frankish centers of learning, the early history of Wessex offers few portents of the role it would later assume in the governance of later Anglo-Saxon England. When its internal politics

⁴⁵ The classic argument in favor of this view of the *Chronicle*'s origins, contested in later years (Meaney 1986: 193–194) but still hard to gainsay, is Plummer and Earle 1899: civ–cxiv. It is significant that Alfred names only the laws of Æthelberht in the short remarks that introduce his laws, omitting to mention the laws of Hloðhere and Eadric and of Wihtried even though the *domboc* offers direct evidence that these compilations, rather than Æthelbert's, were in some fashion sources of influence (see Chapter 2, 57–59).

⁴⁶ On Alfred's several contradictions of Ine's laws, which argue for the latter's authenticity, see Wormald 1999a: 278; also Lambert 2017: 105. Such circumstances throw into confusion Alfred's statement that he ordered Ine's laws to be held "in another way," which may be a tactful way of acknowledging their (partial) abrogation; see also n. 144. As will be seen subsequently, the rubricator of Alfred's laws, whose work was undertaken at an early stage of their transmission, regarded the laws of Ine and Alfred as a continuous whole.

⁴⁷ See, e.g., McKitterick 2004: "[The *Anglo-Saxon Chronicle*'s] narrative strikes the reader as a strong and very particular vision of history from the vantage of late ninth-century Wessex. It has a triumphalist agenda and a very clear political and ideological message about the pre-eminence of the kings of Wessex to communicate" (280).

first emerge in the historical record – one restricted almost entirely to Bede’s *Historia ecclesiastica* – it appears very much in subordination to Northumbria. The baptism of King Cynegisl “together with all his people” (*cum sua gente*) in 635, for whom Oswald of Northumbria stood sponsor, was probably meant above all to deepen “an alliance between the two kingdoms in the face of a common enemy, the pagan Penda of Mercia, which was later confirmed by the marriage of Oswald to Cynegisl’s daughter.”⁴⁸ Birinus, who was shortly to become the first West-Saxon bishop, had, according to Bede, found those under the rule of Cynegisl “completely heathen” (*paganissimos*) prior to the king’s baptism.⁴⁹ And Birinus’s mission seems not to have had quite the effect of Augustine’s, which saw Kent within a century of Æthelberht’s baptism become (along with Northumbria) a major center of ecclesiastical learning.⁵⁰ Instead, the royal household of the West-Saxons would revert to paganism under the rule of Cynegisl’s son Cenwealh, who upon his accession “refused to receive the faith and the mysteries of the heavenly kingdom and not long afterwards lost his earthly kingdom also,” if only for a while.⁵¹

That Cenwealh ultimately changed his mind was probably owing to the same pressures that had first brought his father to the baptismal font. An attack by Penda, the Mercian king against whom Cynegisl had sought an alliance with Oswald of Northumbria, forced Cenwealh to seek refuge at the East Anglian court where he found himself newly receptive to the faith, “for the king with whom he lived in exile was a good man and blessed with a good and saintly family.”⁵² Though Cenwealh would in time be restored to the throne, his inattention to ecclesiastical affairs deprived the West-Saxon people of a bishop for a long while (*tempore non pauco*), leaving the church in Wessex on no sound footing when compared with its

⁴⁸ *HE* III.7.vii (Colgrave and Mynors 1969: 232–233); Yorke 1995: 171.

⁴⁹ *HE* III.7.vii (Colgrave and Mynors 1969: 232–233).

⁵⁰ Of course, the structures established by Augustine had to overcome the major obstacles posed by the reign of Æthelberht’s son Eadbald, who refused entry into the church for some years after his accession.

⁵¹ *qui et fidem ac sacramenta regni caelestis suscipere rennuit, et non multo post etiam regni terrestris potentiam perdidit.* *HE* III.7.vii (Colgrave and Mynors 1969: 232–233).

⁵² *HE* III.7.vii (Colgrave and Mynors 1969: 235).

neighbor and rival to the east.⁵³ The opening sections of Ine's laws suggest that these were mistakes the king was anxious not to repeat, though it cannot be known to what extent Ine was mindful of Cenwealh's troubles as these clauses took shape.

The outline of early West-Saxon regnal history just given, which relies entirely on Bede's account in the absence of other evidence, ought to be received with some qualifications. In particular, Bede's description of the circumstances Birinus is likely to have encountered among the *Gewisse* (as they were then known) has come into doubt. The view that the West-Saxons were almost wholly unaffected by Christianity prior to his mission has found particular disfavor.⁵⁴ Indeed, it has been suggested that the rapid conversion from paganism envisaged by Bede disguises a likelier absorption of churches theretofore belonging to the British aristocracy.⁵⁵ The influence of the Irish church as well over this region is suggested by the correspondence of Aldhelm, who served as abbot of Malmesbury from 675 onward and, along with Boniface, was one of the two most celebrated ecclesiastics to emerge from early Wessex.⁵⁶ All of this renders less probable Bede's view that Cynegisl was unacquainted with Christianity prior to the arrival of Birinus.

Whatever character it may have assumed, the British presence in Wessex remains significant for the texts considered in this volume and further illustrates the peculiar position of the *Gewisse* with respect to other early kingdoms. References to the Welsh or *wealhas* (as the Anglo-Saxons called them) are nowhere as numerous in royal legislation as they are in Ine's laws, and they surely made up a large portion of those subject to the house of Cerdic, whose arrival in England commenced (according to the *Chronicle*) with warfare against them.⁵⁷ Given Alfred's eagerness to secure as a royal counselor the Welsh churchman Asser, too much should not be made of their occasionally servile aspect in Ine's legislation.⁵⁸ In

⁵³ Cenwealh established Winchester as an episcopal see, a venture that began poorly according to Bede (*HE* III.7; Colgrave and Mynors 1968: 234–235).

⁵⁴ Yorke 1995: 177.

⁵⁵ Yorke 1995: 177. On the vitality of the British church in western England see Chadwick *et al.* 1958; Bassett 1992; Pryce 1992.

⁵⁶ Yorke 1995: 162, 181.

⁵⁷ See *Ine* §§23, 32, 33, 47.1, 58, and 75.

⁵⁸ See *Asser's Life* (Stevenson 1959: 63–66 [§79]); Keynes and Lapidge 1983: 93–96.

context, Alfred's relationship with Asser, priest of St. David's and subsequently Bishop of Sherborne, seems part of a long tradition of close relations between the West-Saxon elite and what remained of the British aristocracy; relations that perhaps owe something to the mixed Celtic–Germanic ancestry of the Kingdom of Wessex itself.⁵⁹

Though the ecclesiastical history of early Wessex is more complex, and perhaps richer, than the standard histories suggest, it must be admitted that stable governance was conspicuously lacking prior to the accession of Ine in 689. West-Saxon kings' reasons for cultivating the faith seem to have developed little beyond the pragmatism that was likely manifest in Cynegisl's alliance with Oswald. The clearest case in point is Ine's immediate predecessor Cædwalla (c.659–689), whose name, "an anglicized form of the British Cadwallon," perhaps "points to a British strain in his ancestry."⁶⁰ In spite of being an eager benefactor of the church, Cædwalla waited to be baptized until he had abdicated and was a pilgrim to Rome on the verge of death.⁶¹ The manner of his baptism suggests an attempt to extract the maximum advantage from the sacrament after having led what Stenton called "a life of incessant violence."⁶² One may see in it something of the rather utilitarian understanding of baptism evidenced elsewhere in this period that the church was at pains to

⁵⁹ John 1996: 6. According to Orme (2007: 9), Alfred's appointment of Asser as Bishop of Sherborne "had the merit of placing the Cornish under a trusted royal servant, while providing for their special needs with a bishop whose language and religious traditions were similar to their own."

⁶⁰ Stenton 1947: 68; also Colgrave and Mynors (1969: 380): "His name is clearly British and points to some connection by blood with the British race."

⁶¹ Constantine and Theodosius had also waited to be baptized until they were near death. On the practice of delayed or "clinical" baptism in late antiquity, see Gaddis 2005: 63. The Northumbrian king Edwin (c.585–633) offers only a superficial parallel, as Bede (ii.9–14) narrates in some detail his training as a catechumen and the king's own reflective and cautious nature. Stenton (1947: 69–70) attributes Cædwalla's delayed baptism to "the simple reverence in which he held the Christian mysteries" but adds in a note that Cædwalla's baptism "is an illustration of the custom which in the seventh century still allowed an individual, unbaptized in infancy, to decide the circumstances of his formal admission into the church" (70 n. 1). Yet some continuity with late antique ideas seems more plausible here.

⁶² Stenton 1947: 70. The classic account of early royal abdications is Stancliffe 1983.

correct.⁶³ The penitential of Theodore, for example, establishes a three-year fast for those who seek baptism in order to expunge a particular impurity while remaining silent on the subject of “clinical” baptism.⁶⁴ In a clause concerning priests who fail to baptize the sick (§5 [L6]), the laws of Wihtred may furnish more direct evidence that some laymen were continuing to deliberately postpone baptism. But any official acceptance of “clinical” baptism in Kent seems improbable around the time of Cædwalla’s death given its status as the preeminent center of ecclesiastical life. According to Lynch, infant baptism was established in the English kingdoms at least by the 670s, years in which the “missionary phase of Christianity was coming to a close,” and one would expect the requirement to have been observed more in Kent than elsewhere.⁶⁵ The prompt baptism of newborn infants is a norm forcefully articulated at the outset of Ine’s laws (§2).

While Cædwalla’s generation was probably the last for which an adult catechumenate remained a practical reality, the gestures accompanying his baptism would continue to shape expectations during Ine’s reign. Abdication, typically followed by adoption of monastic life, was commonplace in seventh-century England; Centwine, who held the throne of Cerdic prior to Cædwalla, seems to have concluded his reign in this fashion, though the evidence is scant and ambiguous.⁶⁶ Cædwalla was thus likely following convention, though entry into Rome was probably his own spectacular addition to this practice.⁶⁷ His arrival in the city seems to have had the intended effect. Sixteen lines of Latin verse composed by Crispus, Archbishop of Milan, which were subsequently inscribed on

⁶³ See, for example, Augustine, *De civitate Dei*, wherein it is argued (xiii.7) that “[T]hose who have been baptized when they could not postpone their death and have departed from this life with all their sins wiped out (*baptizati sunt deletisque omnibus peccatis ex hac uita emigrarunt*), have won less merit than those who could have deferred their death but did not, because they chose to end their life by confessing Christ, rather than by denying him to arrive at his baptism (*quia maluerunt Christum confitendo finire uitam quam eum negando ad eius baptismum peruenire*)”; Bettenson 1984: 516; Dombart and Kalb 1955: 390.

⁶⁴ *Poenitentiale Theodori* I, x, ii (Finsterwalder 1929: 303).

⁶⁵ Lynch 1998: 70–71.

⁶⁶ See Stancliffe 1983: 154–155.

⁶⁷ He seems to have been the first English king to reach Rome: see Stancliffe 1983: 156.

Cædwalla's tomb, commemorate the event. Colgrave and Mynors relate that "[t]he sepulchral stone on which [the poem] was carved was discovered in the sixteenth century by the builders of the present St. Peter's, though it now seems to have disappeared again."⁶⁸ The verses survive, however, in Bede's account, whose own narrative of Cædwalla's baptism presents it as the mere extension into the spiritual realm of the ambitions that had consumed the king in life.⁶⁹

That Cædwalla spent his last days in Rome in the company of Pope Sergius probably forged a durable link between the house of Cerdic and the apostolic see to be exploited in later years by Ine, Æthelwulf, and Alfred. Domestically, Cædwalla's reign was a success in very narrow terms, expanding somewhat the territory over which the kingdom of the *Gewisse* held permanent control and leading it out from under the shadow of Mercian and Northumbrian power. (Efforts to subjugate Kent, however, yielded little, with the burning of Cædwalla's brother Mul in a Kentish insurrection bringing a temporary end to West-Saxon rule.)⁷⁰ The victories of Cædwalla's reign, modest though they were, may also have occasioned the first attempts to conceive in stricter terms of Wessex as a political entity. If the epitaph given in Bede's *Historia* may be trusted, it may be significant that Cædwalla is here styled "rex Saxonum" and that use of the term *Gewisse* dies out after his reign.⁷¹ As will be seen subsequently, political self-definition would remain a preoccupation during the reigns of Ine and Alfred, with the latter in particular building (perhaps unconsciously) upon Cædwalla's efforts in formulating his own more enduring solution.

⁶⁸ Colgrave and Mynors 1969: 470–471 n. 1.

⁶⁹ "He was anxious to gain the special privilege of being washed in the fountain of baptism within the threshold of the apostles; for he had learned that by the way of baptism alone can the human race attain entrance to the heavenly life; at the same time he hoped that, soon after his baptism, he might be loosed from the bonds of the flesh and pass, cleansed as he was, to eternal joy" (*[H]oc sibi gloriae singularis desiderans adipisci, ut ad limina beatorum apostolorum fonte baptismatis ablueretur, in quo solo didicerat generi humano patere uitae caelestis introitum; simul etiam sperans quia, mox baptizatus, carne solutus ad aeterna gaudia iam mundus transiret*). Bede, *HE* v.vii (Colgrave and Mynors 1969: 470–471).

⁷⁰ Stenton 1947: 69. The event and its background are recounted in the *Anglo-Saxon Chronicle* in its entries for the years 686 and 687 (Plummer and Earle 1892: 38–39; Bately 1986: 32).

⁷¹ Bede, *HE* v.7 (Colgrave and Mynors 1969: 472–473); Yorke 2004: 2.

The Reign of Ine

Ine King of the West-Saxons, the conqueror, the lawgiver, the pilgrim to the threshold of the Apostles, stands out as one of the most famous names in the early history of the English people.⁷²

Edward A. Freeman voices here (in characteristically high decibels) the favorable view of Ine's reign that has long been a stable feature of historiography. It owes much to West-Saxon tradition. Bede says remarkably little about Ine.⁷³ Much of what we know must be pieced together from scattered bits of evidence such as charters and genealogies as well as a handful of references in the *Anglo-Saxon Chronicle*. That many of the conclusions drawn by Freeman from these materials nearly a century and a half ago remain undisputed shows how little historians have to work with.⁷⁴ What follows is an outline of those facts about which there is general agreement.

At the time of Ine's accession in 688, Wessex was ruled by various sub-kings under the governance of one overking.⁷⁵ Ine was not the descendant of any of the kings who immediately preceded him, nor did he leave the throne to his own offspring.⁷⁶ Probably he "came in by that mixture of election and hereditary right" which characterized some early medieval patterns of succession.⁷⁷ His father, Cenred, was likely a sub-king of Wessex from whose territory Ine was called to the head kingship. Cenred (if the identification is correct) is named in S1164 as having granted estates to an otherwise unknown abbot

⁷² See Freeman 1872: 1.

⁷³ Bede mentions Ine's accession after Cædwalla's abdication (v.7; 1969: 473) and alludes to the former's continuation of his predecessor's harsh rule over Sussex (IV.15; Colgrave and Mynors 1969: 381). Stancliffe (1983: 154) notes that Bede was "poorly informed about Wessex."

⁷⁴ Freeman's work (1872 and 1874) remains the fullest statement on Ine's reign, though it should be read alongside Wormald 2004b.

⁷⁵ The arrangement was arrived at after the death of King Cenwealh in 672: "[S]ub-kings took upon themselves the government of the kingdom, dividing it up and ruling for about ten years" (*acceperunt subreguli regnum gentis, et diuisum inter se tenuerunt annis circiter x*); HE iv.12 (Colgrave and Mynors 1969: 368–369); see also Keynes 1993: 2–3. For charter evidence, see Edwards 1988: 13, also S1165.

⁷⁶ The future line of Wessex eventually descended from Ine's brother Ingeld, who was Alfred's direct ancestor.

⁷⁷ Freeman 1872: 9.

Bectun in the early 670s, indicating, according to Edwards, that “he was a minor ruler around 670.”⁷⁸ In S45 he attested a charter as *Rex Westsaxonum*; Ine also attests the charter but without any title. Edwards plausibly suggests that Cenred was recognized as *subregulus* of the western (as opposed to eastern) Saxon territories, and that, as “a mature man with a grown up son, [he] adopted the expedient of making his son king in the first place. During his own lifetime this probably made little difference, he and Ine working together and ruling jointly, but on his death it meant that Ine simply continued as king.”⁷⁹ Use of such a practice would explain the absence of Cenred’s name among the kings of Wessex in either Bede’s *Historia* or the *Anglo-Saxon Chronicle*.

That Ine names his father as one of his closest counselors in the preface to his laws may indicate that some provisions date from a period of joint rule. But should Cenred have retired to a monastery in his old age, as did a number of his contemporaries, we should not assume that this would have made him unavailable to Ine as a source of counsel, for abbots are named among the *Christi famulos* at a council convened by Ine.⁸⁰ Freeman supposed that Ine was suggested specifically by his predecessor Cædwalla.⁸¹ The nomination by a head-king would in any event have carried great weight with the *witan* who would have to approve the succession.

Not long before Ine’s accession, the West Saxons ceased their expansion to the north and north-west, perhaps losing some of the latter to Mercia, and shifted focus to the west. Ine himself continued to push the boundaries of the kingdom westward, bringing under his rule territory containing Welsh subjects, though some of these gains

⁷⁸ See discussion in Edwards 1988: 229–234; citation from 235. Numbers for charters are those given in “The Electronic Sawyer.”

⁷⁹ Edwards 1988: 297–299, citation at 298.

⁸⁰ Haddan and Stubbs, 1871: 295–6; see also Chapter 2, 47. Ine’s sisters, Cwenburh and Cuthburh, would be venerated as saints. The latter married Ealdfrith, king of the Northumbrians; she eventually retired to become abbess at Wimbourne, where “her head, enclosed in silver, was the great object of local reverence down to the time of Henry the Eighth” (Freeman 1872: 15).

⁸¹ Freeman 1872: 16.

may have been reversed by the 720s.⁸² In any case, the distinction between the Anglo-Saxons and the *wealhas*, so prominent a feature of Ine's laws, appears, as Freeman notes, to have lost some of its significance by the time of Alfred's.⁸³ Measures dealing with the Britons show Ine in the view of one commentator to be "striking a skillful balance": though they "were clearly given an inferior rank," the "official legal status" nonetheless granted Celtic subjects "in the form of a wergeld and the right to give a public oath" attests to a restraint uncharacteristic of Cædwalla: "[F]requent warfare on every one of his borders could have forced Ine to keep from antagonizing a numerically significant portion of his population."⁸⁴

Ine's reign, though one of the longest of the early kings of Wessex, thus had no prospect of being the most peaceful. The early years, at least, saw mostly successes for the king, chief of which was the establishment of Taunton as a border-fortress between the West Saxons and the Britons. (The subsequent demolition of Taunton by Ine's queen Æthelburh in 722 "suggest[s] a domestic crisis" in the closing years of his reign.)⁸⁵ While Ine's position with respect to rival kings remained nearly as precarious as Cædwalla's, the former effected a reconciliation with Kent that no doubt proved fruitful for both kingdoms. According to the *Anglo-Saxon Chronicle*, the people of Kent settled with Ine in the year 694 for the burning of Mul; the payment was likely the equivalent of a king's wergild.⁸⁶ To view this event as sealing the triumph of Wessex over Kent has become customary.⁸⁷ But it cannot have been lost on Ine that settling this inherited dispute would put him in close touch with England's preeminent

⁸² Wormald 2004b: 2. On the conditions of the Welsh under West-Saxon rule, see Collingwood and Myres 1937: 447.

⁸³ "A comparison of the laws of Ine with those of Ælfred shows that, in the West-Saxon kingdom at large, the distinction between Englishman and Briton, which was in full force in the days of Ine, had been quite forgotten before the days of Alfred" (Freeman 1872: 11). Such omissions in later laws may be why Freeman assigns Ine's "special value as the one authentic picture of the relations between English and Briton within the English dominion" (1872: 3).

⁸⁴ Alexander 1995: 37.

⁸⁵ Kirby 1991: 131. The event is described in the *Anglo-Saxon Chronicle* s.a. 722, narrated alongside a major battle with the kingdom of Sussex (Plummer and Earle 1892: 42–43; Bately 1986: 34). See also Wormald 2004b: 2.

⁸⁶ See *Mircna Laga* §2 (Liebermann 1903–1916: 1, 462–463); also Oliver (in press).

⁸⁷ See Charles-Edwards 1997: 175; Yorke 1999: 251.

see. Archbishop Theodore had similarly reconciled the kings of Northumbria and Mercia (*HE* iv.21), and so it is possible that the peace negotiated between Wessex and Kent was the handiwork of Theodore's successor Berhtwald, perhaps owing something to earlier efforts by Theodore.

The laws issued in Wihtréd's name date approximately to the settlement just described. Language shared by his laws and those issued by Ine suggests amicable relations between the courts of Kent and Wessex and, perhaps, an exchange of ideas unusual among kings of this period.⁸⁸ But a reference in Wihtréd's prologue to Berhtwald as "Archbishop of Britain" (*Bretone heahbiscop*) may give some sense of the attitude of the Kentish elite toward Wessex.⁸⁹ It is not the language one might expect of a kingdom brought to heel, being almost certainly based upon Theodore's prior reference to himself (in the preamble to the Council of Hatfield [679]) as "by the grace of God archbishop of the island of Britain and of the city of Canterbury" (*gratia Dei archiepiscopo Britanniae insulae et ciuitatis Doruuernis*).⁹⁰

Such an impression is borne out by what little we know of the position of Wessex with respect to Kent. Willibald's description in his *Vita Bonifatii* of a council convoked by Ine 710x716 seems particularly revealing. Here we are told that the assembled bishops and other clergy sent legates to Berhtwald informing him of their proceedings, so fearful were they that the archbishop would ascribe their having met in his absence to "presumption" or "temerity" (*ne eorum praesumptioni aut temeritati adscriberetur, si quid sine tanti pontificis agerent consilio*).⁹¹ If Ine and his bishops trembled at the possibility of offending Berhtwald in the second decade of the

⁸⁸ Liebermann 1903-1916: III, 23-24; Hough 2014a: 9. Liebermann asserts that Wihtréd had access to a text of Ine's laws perhaps more archaic than Alfred's exemplar. He notes as well that the former's use of Ine's laws is the earliest-known case in which a lawgiving English king borrowed from the legislation of a neighboring kingdom (III: 24). The evidence to this effect seems rather thin; see Chapter 2, 44-51.

⁸⁹ Oliver 2002: 152-153.

⁹⁰ *HE* IV.17 (Colgrave and Mynors 1969: 384-385); see also Keynes 1993, where such language is held to reflect a period in which the archbishop's "aspirations soared" (3).

⁹¹ Haddan and Stubbs 1871: 295 (§4). A slightly different reading of the passage is given in Levison's edition (1905: 13-14).

eighth century, one may imagine how much authority the prelate enjoyed beyond Kent immediately after succeeding Theodore of Tarsus.

At the time of Ine's accession, only fifty-four years had passed since Christianity was first preached to the West Saxons by Birinus in 634 (notwithstanding the prior efforts of British clergy). Yet amid incessant fighting, Ine made more substantial efforts than any of his forebears to place the church in Wessex on firm foundations and make full use of its resources. The first West-Saxon synods, or at least, as Stenton says, "the first [...] of which there is definite evidence," were convoked during his reign and perhaps reflect the interest in ecclesiastical affairs that is also manifest at the outset of his laws (§§ 1–5).⁹² The new bishopric of the West Saxons was placed in Dorchester, where King Cynegisl had been baptized in 635. In the meager details of his biography, as in the opening chapters of his laws, we see a king anxious to make up for lost ground by protecting and, where possible, strengthening ecclesiastical institutions. "[Ine's] acts, then, his laws, his foundations, his pilgrimage, must all be looked on as tinged with something of the zeal of recent conversion."⁹³ So said Freeman. Yet we have seen that the desire to catch up with rivals to the east furnishes a likelier motivation than pious "zeal," Ine's conversion (he was likely baptized as an infant) being in any case hardly "recent." Nor should we attach too much importance to the pilgrimage with which he concluded his reign, a conventional gesture of the time as has already been noted.⁹⁴ Whatever his motives, however, Ine's reign did see sustained efforts to shore up the West-Saxon church, whose derelictions were probably brought into relief by the achievements of Kent:

- Under Bishop Hædde, the seat of the West Saxon see was moved from Dorchester to the royal city of Winchester; Hædde brought with him the relics of Saint Birinus.⁹⁵

⁹² Stenton 1947: 71; also Cubitt 1995: 29 and 47.

⁹³ Freeman 1872: 4.

⁹⁴ Stancliffe 1983.

⁹⁵ *HE* III.7 (Colgrave and Mynors 1968: 232–233).

- After Hædde's death in 705 – but still during Ine's reign – the diocese would be divided; Ine named Aldhelm bishop of the new see of Sherborne.⁹⁶
- Ine seems likely to have played some role in establishing – more likely, re-establishing – the minster at Glastonbury. Like Winchester, it would become a major site for royal burials by the tenth century.⁹⁷
- Foundation of the church at Wells that would later become a bishopric under Edward the Elder may be tentatively dated to Ine's reign.⁹⁸

A charter of Ine from 704 (S245) grants “freedom from all secular obligations to the churches and monasteries of his kingdom.”⁹⁹ Although its authenticity has been questioned, even a forgery might reflect in some fashion the king's reputation for ardent piety.¹⁰⁰

Ine vanishes from the historical record after his departure for Rome. Thanks to their preservation by Alfred, he leaves behind what Freeman considered the foundational text of English legislation:

The Laws of Ine, the earliest monument of West-Saxon jurisprudence, are the laws which, as Wessex grew into England, we may look on as the beginning of the Laws of England, as the ground-work of the last law which has received the assent of the sovereign who wears the crown of Ine. As such, they are among the most precious monuments of our early history.¹⁰¹

Though Freeman's works are now more often read as artifacts of Victorian historiography, his judgment of Ine's achievement has

⁹⁶ See Abrams 1991: 117 n. 88 for discussion of the date of Aldhelm's accession as Bishop of Sherborne; also Yorke 1995: 178.

⁹⁷ Freeman, 1874: 2; Marafioti 2014: 65 and n. 57. But see Wormald 2004b.

⁹⁸ Establishment of the church began as a modest undertaking. Rodwell (1982: 56) maintained that the site in question had seen earlier use as a Roman mausoleum; “[t]he mausoleum was destroyed, in the middle to late-Saxon period, to make way for the construction of a near-square mortuary chapel [...] Dating evidence for the early cemetery includes fragments of colored window and vessel glass (possibly Merovingian), and early eighth-century Frisian *sceatta* and a radio-carbon date from a skeleton of 730±70.” But cf. Blair 2005: 32 n. 93.

⁹⁹ See Edwards 1988: 107ff. for discussion of this charter.

¹⁰⁰ If authentic, the charter attests to his practical sense as well: “[I]n early Christian England, as in Ireland, minsters functioned as prototowns, focuses of settlement and economic activity sufficient to sustain increasingly permanent market sites” (Wormald 2004b: 3).

¹⁰¹ Freeman 1872: 46.

proved lasting. Stenton concluded that Ine “was a statesman with ideas beyond the grasp of any of his predecessors,” his lawbook “stand[ing] for a new conception of kingship, destined in time to replace the simple motives which had satisfied the men of an earlier age.”¹⁰² There is probably no reason to dissent from these views, though it seems fair to wonder if the laws of Ine would enjoy such a reputation were they not so closely associated with Alfred’s. Nor is the “new conception of kingship” they are held to manifest as obvious a feature of Ine’s laws as Stenton maintains. Like much legislation of its time, this text seems more plausibly understood as an assemblage of judgments issued perhaps over decades in response to varied disputes.¹⁰³ But Ine may appropriately be credited with “set[ting] the style of West-Saxon kingship before the days of its greatness” and thereby establishing patterns of royal behavior on which Alfred would draw amid more severe crises some two centuries later.¹⁰⁴

Ine’s most far-reaching achievement, like Æthelberht’s nearly a century before, was to have assembled laws in writing for a kingdom that theretofore had seen no use in employing the written medium for such purposes. His doing so brought to Wessex a tool of governance on which Kent had until then held the monopoly. That the laws of Ine were longer than anything attempted in Kent is probably no indifferent detail either. Clauses shared with the much briefer laws of Wihtred suggest that laws were written at this time at least in part to be broadcast beyond the kingdoms in which they originated, their reproduction being perhaps seen as evidence of prosperity and stability. That legislation at this point might take on an “international” aspect may help explain why Ine’s laws are the first documents in the vernacular to make reference to the English as a people (§§24, 47.1, 58, 75). In doing so, Ine’s laws favor the vernacular form of the term (*Angli*) used at roughly the same time by Bede and Boniface to refer to the post-conversion English, their usage reflecting Bede’s “concept

¹⁰² Stenton 1947: 70–71. See also Richardson and Sayles 1966: “The legislator is coming to understand his task better. Ine’s legislation strikes one as more mature, less experimental in some ways, than the surviving body of Kentish law.”

¹⁰³ See Chapter 2, 51–52.

¹⁰⁴ Wormald 2004b: 4. Of particular interest is the way in which Ine asserts royal authority over lawmaking (in contrast to Wihtred) in his Preface: see Chapter 2, 52.

of a people who were ‘Saxons’ when pagan, but English from the moment of their reception of the Gregorian mission.”¹⁰⁵ Bede’s purpose was, in part, to hint that the evangelization of England had effectively brought about at least the possibility of a new political entity in which the bonds of Christian fraternity would supersede older ethnic divisions and rivalries.¹⁰⁶ The language of Ine’s laws perhaps shows such a development unfolding some decades before the completion of Bede’s *Historia*, though the extent to which his laws reflect the intellectual atmosphere of his time is difficult to know.

The Ninth Century: Ascendancy and Near-Collapse

We have seen that, prior to the second quarter of the eighth century, a succession of West-Saxon kings had exhausted themselves in largely fruitless attempts to expand their empire eastward. That Alfred would at least not count this among his worries is owing in part to the expansion of Mercian hegemony under Offa, who managed to do what Cædwalla and Ine could not upon effecting the subjugation of Sussex and Kent.¹⁰⁷ The Battle of Ellendun in 825, which saw the defeat of Offa’s successor Beornwulf by Ecgberht, King of Wessex (r.802–839), put these territories under West-Saxon control.¹⁰⁸ A subsequent alliance between Mercia and Wessex is evidenced by a shared coinage that persisted into the reign of Alfred.¹⁰⁹ Though his reign is not well documented, it is undoubtedly under Ecgberht, grandfather of Alfred and (arguably) descendant of Ine’s brother Ingeld, that the West-Saxon kingdom began to realize its seventh-century ambitions. Ecgberht was also able to establish Frankish connections that would be drawn upon by his descendants,

¹⁰⁵ Brooks 2003: 36; see also Wormald 1994: 13.

¹⁰⁶ Brooks 2003: 36: “His [Bede’s] purpose [in once employing the term *gens Anglorum sive Saxonum*] was to prepare the reader for the fact that the pagan people that in Book 1 he had hitherto called ‘Saxons’ were to be termed ‘English’ (*Angli*) and to be regarded as one people from the moment of the arrival of the Gregorian mission.”

¹⁰⁷ Stenton 1947: 206–209.

¹⁰⁸ The event is narrated under the year 823 in the A and E versions of the *Anglo-Saxon Chronicle* (Plummer and Earle 1892: 60–61; on the erroneous date, see Plummer and Earle, 1899: 70–71; also Bately 1986: 41).

¹⁰⁹ Keynes and Lapidge 1983: 12, 37.

having spent a period of exile in Charlemagne's court in Aachen before becoming king of Wessex.¹¹⁰

That the territorial rivalries of the seventh century should begin to abate in the first half of the ninth was fortunate given the troubles to come. The fate of King Edmund of East Anglia, martyred in 869 at the hands of Ívarr the Boneless, shows how helpless Anglo-Saxon kings sometimes were to confront Viking aggression.¹¹¹ Alfred's father Æthelwulf (839–858) enjoyed better luck, defeating a large invasion at *Aclea* in 851.¹¹² But his victory also coincides, according to the *Chronicle*, with the first wintering of the Danes in England. Four years later, Æthelwulf granted a tenth of his land to the church for the good of his soul and undertook that same year a pilgrimage to Rome, acquiring along the way a daughter of Charles the Bald as a wife. He returned from Francia to a kingdom left in disarray by the rebellion of his son Æthelbald, a subject "about which the *Chronicle* is curiously silent."¹¹³ Upon Æthelwulf's death two years later, Wessex was a divided kingdom, with Æthelbald ruling Wessex and Æthelberht the people of Kent, Essex, and Sussex.



FIGURE 1 Rings given by Alfred's father Æthelwulf (right) and sister Æthelswith (left), probably as tokens of fidelity to the royal household. Photograph © Trustees of the British Museum.

¹¹⁰ Yorke 1995: 94.

¹¹¹ The king's martyrdom is memorialized in Ælfric's "Passion of St. Edmund," Skeat 1890–1900: II, 314–335.

¹¹² *Anglo-Saxon Chronicle* (MS A), s.a.

¹¹³ Smith 1935 [repr. 1966: 21 and n.]. The rebellion, as Smith notes, is discussed only in Asser's biography of Alfred.

In the *Anglo-Saxon Chronicle*, the years between Æthelwulf's demise and the accession of Alfred are a bleak litany of catastrophes wrought by the Vikings that the now bicephalous kingdom of Wessex sought ineffectually to contain. The first seven years of Alfred's reign likewise saw unrelenting crises occasioned by the arrival of Viking armies. Having already seized Northumbria, they began to control much of Mercia as well, even taking what was then the Mercian city of London.¹¹⁴ Viking dominance of Mercia allowed their forces to move deep into Wessex and ultimately render Alfred a fugitive. It was at Athelney (to become later in Alfred's reign the site of one of two monasteries established by the king) that Alfred seems to have hit his lowest point; accounts of his experiences there bear likely signs of imaginative embellishment.¹¹⁵ Shortly thereafter, in 878, he assembled forces to confront the Vikings at Edington (*Eþan dune*). His victory marks one of the most dramatic turning points in the history of English relations with the Vikings, and the treaty subsequently established with the Danish king Guthrum is Alfred's earliest known work of written legislation.¹¹⁶ Less than a decade later, in 886, Alfred took London from the Vikings, a victory of such magnitude that it caused "all the English people that were not under subjection to the Danes" to submit to his rule.¹¹⁷ In sentiment, if not in actuality, Alfred had become the first king of all the English-speaking peoples.

The aftermath of these triumphs occasioned a sudden profusion of documentary evidence, much of it in the vernacular, and much of it, as R. H. C. Davis pointed out, probably "originat[ing] with Alfred himself or his immediate entourage."¹¹⁸ As we have seen, this evidence includes sources as fundamental to our knowledge of the pre-Conquest period as the *Anglo-Saxon Chronicle*.¹¹⁹ Given the descent of these materials from the royal court, commentators have urged

¹¹⁴ Keynes and Lapidge 1983: 20.

¹¹⁵ Yorke 1995: 111.

¹¹⁶ The event is the subject of a long entry for the year 878 (Plummer and Earle 1892: 75–77; Bately 1986: 50–51).

¹¹⁷ Plummer and Earle 1892: 80 (MS A): *Py ilcan geare gesette Ælfred cyning Lunden burg, 7 him all Angel cyn to cirde, þæt buton Deniscra monna hæftniede was*. Also Bately 1986: 53.

¹¹⁸ Davis 1971: 169 [repr. 1991: 33].

¹¹⁹ Yorke 1995: 104.

caution in making use of them: in J. M. Wallace-Hadrill's judgment, "We hold that Alfred was a great and glorious king in part because he tells us he was."¹²⁰ Such suspicions did not always accompany the reception of these texts. Like Cædmon, Alfred was once assumed a more prolific author than seems possible now, being credited with translations and original prose works whose composition required an advanced knowledge of Latin as well as considerable literary skill. The mood of scholarship is, at present, such that few will risk being too precise about the nature of his involvement in any of the texts attributed to him.¹²¹ For some time, it has been customary to refer instead to an Alfredian "revival" of learning traceable in some fashion to one of the few texts now securely attributed to the king. That this text – the Preface to the Alfredian *Pastoral Care* – has enjoyed such success into the present, sharing with Wulfstan's *Sermo Lupi ad Anglos* a place in the textbooks from which generations of students have learned Old English, shows just how successful were Alfred's efforts to establish the terms on which he would be judged by history. Here Alfred laments the degradation of English learning prior to his reign, claiming, among other things, that he was not aware upon his accession of a single person south of the Thames able to understand the liturgy or translate from Latin into English.¹²²

¹²⁰ Wallace-Hadrill 1950: 216–217. Pratt (2007: 2) notes that Wallace-Hadrill used more qualified language in a subsequent reissue of this essay.

¹²¹ On this question, see especially Godden 2007: "[T]here have to be reservations about the proposition that Alfred had the time or the linguistic and intellectual skills required for such ambitious tasks of translation, adaptation, and expansion, an Alfred who spent much of his life in desperate warfare against invaders, who claimed that knowledge of Latin was non-existent in his kingdom when he became king at the age of 22, who did not learn Latin himself until he was 39 [...] and who apparently crammed his translation programme into the last six years or less of his life, of which the first three were dominated by extensive warfare against Viking armies" (2). But cf. Discenza 2005: 1 n. 1 and Chapter 4, who supports forcefully Alfred's role as author of texts now attributed to him; also Bately 2009, which asks penetrating methodological questions about some studies that argue against the integrity of the Alfredian corpus. Mediating this dispute is well beyond the ambit of the present volume. Subsequent references, explicit and implicit, to Alfred as the "author" of the *domboc* and other texts, should be understood as a matter of expediency, implying nothing about the author's sense of his own role in their composition.

¹²² "There were so few of them that I cannot remember a single one south of the Thames when I came to the throne" (*Swæ feawa hiora wæron ðæt ic furðum anne*

Studies by Lapidge and Brooks show this judgment to be not far from the mark, though others urge a more qualified view.¹²³

Whether the Preface may be used as a source of broader historical knowledge is a matter for separate consideration. Though replete with the sorts of details about life in ninth-century Wessex eagerly seized on given their scarcity for this period, its observations about the state of learning seem meant above all to lay the groundwork for the programme of education devised by Alfred, which would have as many free-born men as were willing receive instruction from clergy on how to read in their own language.¹²⁴ Such measures were intended ostensibly to ensure that the Latin works that had accumulated in Northumbrian monasteries during the seventh and eighth centuries had some audience among the elite members of late-ninth-century English society, even if not in their original language.¹²⁵ It should not be overlooked, however, that concerns extraneous to the situation of ninth-century Wessex may also have contributed to Alfred's ambitions. An attempt by the Frankish king Chilperic I (r.561–584) to add characters to the Latin alphabet, “presumably to facilitate the writing of Germanic words,” suggests that cultivation of the vernacular had been a goal long sought by kings in western Europe.¹²⁶ According to Gregory of Tours, Chilperic “sent instructions to all the cities in his kingdom, saying that these letters should be taught to boys in school, and that books using the old characters should have them erased with pumice-stone and the new ones written in.”¹²⁷ Though the significance of the reforms sought by

ánlepne ne mæg gedencean besuðan Temese ða ða ic to rice feng); Sweet 1871: I, 3; Schreiber 2002: 191.

¹²³ See Lapidge 1996: 409–454; Brooks 1984: 164–174 at 171–172: “By the 870s it is clear that the decline of learning in the Canterbury community had produced a crisis. [...] The truth, as far as the metropolitan see is concerned, of Alfred’s assertion that he could remember no-one at his accession (871) who could comprehend their services or even translate a letter from Latin is witnessed by a number of Canterbury charters.” For an attempted refinement of these views, see Snook 2015: 38–41.

¹²⁴ Sweet 1871: I, 6.

¹²⁵ On the state of literacy in Alfredian England, see Morrish 1986; Thijs 2005.

¹²⁶ Murdoch 1983: 9.

¹²⁷ Krusch and Levison 1937–1951: 254 (v.44): “Et misit epistulas in universis civitatibus regni sui, ut sic pueri docerentur ac libri antiquitus scripti, planati pomice, rescriberentur”; Thorpe 1974: 312. Thorpe observes (n. 94) that “[n]one of the

Chilperic, which in any event came to nothing, has long been a matter of debate, it seems reasonable to agree with one commentator that the changes sought were intended to make Latin orthography more accommodating to composition in the Germanic vernaculars of Francia.¹²⁸ The letters in question, misunderstood by Gregory of Tours, may well have been drawn from the Runic alphabet. According to Nicholas Brooks, their introduction may even have been “intended for schoolbooks written in the language of the Franks but in the letters of the Roman alphabet.”¹²⁹

Though the reforms sought by Chilperic may have fallen flat, the durability of the thinking behind them is perhaps attested by the broader use of the vernacular for official purposes evident in the Carolingian era.¹³⁰ The most celebrated examples of such developments are the *Strasbourg Oaths* establishing a treaty between Charles the Bald and Louis the German in 842.¹³¹ But the partial survival of an Old High German version of the *Lex Salica Carolina* dating to the early ninth century is probably no less revealing of wider tendencies at work in these years.¹³² That the expansion of vernacular writing owed something to direct pressure from Aachen has seemed inevitable to a number of commentators. But we possess no Carolingian directives to this effect as clear as is Alfred’s for his bishops.¹³³ Instead, Einhard’s observations are the fullest witnesses to Charlemagne’s interest in such undertakings. In his *Vita* we are told that Charlemagne commanded to be written down the *barbara et antiquissima carmina* that memorialized the deeds and wars of great kings, and it was presumably in connection with such aims that Charlemagne even began a grammar of his own tongue (*inchoavit et grammaticam patrii sermonis*).¹³⁴ No such text survives, but

poems of King Chilperic has survived,” but the commentary of Krusch and Levison’s edition (254 n. 1) indicates otherwise.

¹²⁸ Sanders 1972: 83; “wollte er das lateinische Alphabet auch für die Schreibung des Fränkischen gefügiger machen.”

¹²⁹ Brooks 2015: 127.

¹³⁰ Karl Ubl (2014: 10) discerns continuities between Chilperic’s activities and Charlemagne’s.

¹³¹ For discussion of the Old High German portion, see Murdoch 1983: 18–19.

¹³² Sonderegger 1964: 114.

¹³³ See Mühlpfordt 1956: 296; McKitterick 2008: 318.

¹³⁴ Waitz 1911: 33 (Chapter 29); *barbara* is taken by the editor (n. 4) to be a synonym for “Germanic.” On the “grammar” and its disputed meaning, see Green 1994: 45.

Einhard's account of Charles's preoccupations appears trustworthy, given Chilperic's earlier dilettantism.

Nor was an interest in the renewal of legal learning isolated to the Germanic kingdoms. A striking parallel to the career of Alfred is evident in the reign of one near-contemporary monarch, the Byzantine emperor Leo VI (r.886–912), who likewise found the time amid various crises and humiliations to “sponsor[] the *Basilica*, the greatest legislative achievement since Justinian I, and other works on law, protocol, and strategy that won him the epithet of the Wise.”¹³⁵ The ambitions of the *Basilica*, whose contents stretched back to the reign of Justinian, are perhaps paralleled by the early ninth-century collection of Carolingian capitularies by Ansegisus and analogous compilations of older legislative materials dating to this period.¹³⁶ In 895, four years before the death of Alfred, the little town of Trebur became the site of “one of the most important assemblies of the Carolingian age.”¹³⁷ The text that resulted, itself laden with biblical allusions, offers an heretofore unrecognized analogue to a peculiar clause of Alfred's laws (§15). Even if they were not available to Alfred and his circle, all of the texts just mentioned suggest the atmosphere of legislative monumentalism in which the *domboc* took shape.

Evidence in the Preface of a different crisis – the decline of monasticism itself in the years leading up to Alfred's accession – is less disputed. The problem is considered as well by Asser, though he admits uncertainty as to its causes (*nescio quare*) while describing a plurality of likely culprits, not the least of them foreign invasions (*alienigenarum infestationibus*).¹³⁸ But however much Alfred's concerns seem to anticipate those of the mid-tenth-century monastic reform movement, it now seems doubtful that Alfred had much interest in a revival of monasticism as an end in itself.¹³⁹ His establishment of a nunnery at Shaftesbury and a monastery at Athelney, though they appear to reflect the first such efforts in a century, conform to a pattern held to by earlier kings in which monastic houses

¹³⁵ Treadgold 1997: 470.

¹³⁶ For an overview, see McKitterick 2008: 264–266.

¹³⁷ Carroll 2001: 9.

¹³⁸ Stevenson 1959: 81 (cap. 93).

¹³⁹ Yorke 1995: 203.

were set up primarily to serve the interests of the royal household.¹⁴⁰ It would seem instead that the main significance of the Preface to the history of kingship in Wessex lies elsewhere. That Alfred begins the letter with a lengthy allusion to the Northumbrian golden age, when York Minster furnished the court of Charles the Great with one of its leading theologians, suggests the associations with which he hoped his audience would view his own efforts to assemble a cohort of eminent Frankish and Mercian clergy. As did Æthelberht centuries before (and on a more modest scale), Alfred drew on practices inaugurated in West Francia to establish himself as a king of international importance, perhaps even consciously modeling himself on Charlemagne.¹⁴¹ Even Alfred's self-designation as *Angulsaxonum rex* in late charters may represent a further self-conscious adoption of terms long used on the Continent (and earlier hinted at by Bede), though this resolution of long-standing terminological uncertainties probably had as much to do with religious as "national" aspirations given the manner in which this phrase unites two terms previously used to designate not distinct political entities but rather the Christian and pagan populations of England.¹⁴²

Such hinting at the significance of his reign, risible if indulged in by one of Alfred's predecessors of the seventh or eighth century,

¹⁴⁰ This is, at any rate, the conclusion of Yorke (1995: 203). But see Blair 2005: 347: "His principal religious foundations, for monks at Athelney and for nuns at Shaftesbury, were both monastic in a strict sense, and it was evidently the official stance of his court that the 'true' monastic life, as practised on the Continent and formerly in England, was more virtuous than that lived in contemporary English minsters. [...] Such views in Alfred's circle, doubtless genuinely felt, began a broadening of horizons that was to culminate in monastic reform under Eadgar." Cf. also Dumville 1992: 193.

¹⁴¹ This seems to be one of the points made in Godden 2007, who likens the Preface to Charlemagne's *Epistula de litteris colendis* (authored by Alcuin); the latter is "a personal letter to individual churchmen complaining about the low standards of Latinity among the clergy, urging their participation in reform, and proposing the establishment of schools" (4).

¹⁴² For a catalogue of such usages in Alfredian documents and discussion of their prehistory, see Brooks 2003: 47. One of several notable usages on the Continent predating Alfred's reign is found in Willibald's *Vita Bonifatii*, where it is said regarding the city of London, *usque hodie antiquo Anglorum Saxonumque vocabulo appellatur Lundenwich* (Levison 1905: 16 [§4]).

reveals the relatively secure position from which Alfred was able to envisage the reorganization of his sub-kingdoms and undertake the improvement of clerical and lay learning.¹⁴³ That the *domboc* bears so little resemblance to other legislation probably owes something to Alfred's unusual good fortune. His circumstances by the close of his reign resembled those of no prior English sovereign. The absorption of Mercia and Kent into a new West-Saxon overkingdom left in Alfred's hands the renewal of ecclesiastical institutions and of learning itself, both of which had prospered in England as in few other parts of western Europe until the close of the eighth century. It is not hard to imagine how such events might call for new approaches to the promulgation of royal law in what may have been the first such compilation since the reign of Offa (or Ine).

Yet the frames within which Alfred encloses his laws impede, perhaps deliberately, any efforts to read the *domboc* as the product of these historical circumstances. That it is in some way a response to Alfred's triumph over the Danes seems inevitable. But the latter are hardly mentioned in the *domboc*, being notably absent from the corpus of Alfredian prose as a whole with the exception of the *Anglo-Saxon Chronicle* and a few other documents. If its purpose were to administer a West-Saxon empire now encompassing the kingdoms of Kent and Mercia, it is difficult to see why so much of the *domboc* consists of materials not obviously applicable to their circumstances. The seeming deference to Mercia and Kent in its "second" Prologue was perhaps meant to ease the shock to their respective aristocracies as both kingdoms found themselves first overrun by Scandinavian armies and then, upon being rid of them, subject to the house of Cerdic.

While the *domboc* may close with the laws of Ine under the assumption that they were still in some respect binding on his

¹⁴³ And in the view of some scholars, texts appearing immediately after Alfred's reign, such as the Fonthill Letter, point to the success of his educational reform: "King Alfred's school may not have produced an Ælfric – that was to be the privilege of that other great English school almost a century later – but it certainly could provide responsive minds with a firm grounding in pragmatic literacy, if not more. The 'Fonthill Letter' attests to its efficacy in that respect" (Gretsch 1994: 98).

contemporaries, as remarks in his Prologue seem to suggest, their inclusion also allows Alfred's triumph over the Vikings (and consequent sway over most English-speaking territory) to be viewed as the fulfillment of long-cultivated West-Saxon ambitions: an impression perhaps adventitiously deepened by Ine's earlier use of the word *Englisc* when referring to those of his subjects who shared his language and his obedience to Rome in matters of doctrine.¹⁴⁴ As with



FIGURE 2 A silver penny of Alfred excavated at Winchester (CG 306, WCM C.4159; Blunt and Dolley 2012: 612 [no. 4]). Its legend (+AELFREDREXSA+, “Alfred Rex Sa[xonum]”) seems to exhibit the same search for an appropriate name for his people also evidenced in Alfredian charters and other documents. (Courtesy of the Winchester Excavations Committee.)

¹⁴⁴ Alfred's claim that he “requested [the laws of prior kings] to be held in another respect” (*on oðre wisan behead to healdanne*) should be weighed against the clauses of Alfred's laws that contradict or otherwise diverge from Ine's, on which see Wormald 1999a: 279. Wormald's suggested paraphrase is worth quoting in full: “I made a collection of ‘synod-books,’ and selected some for inclusion while rejecting what neither I nor my counsellors liked. But when I found precedents set in the reigns of Ine, Offa or Æthelberht, I allowed myself to be influenced by those with the most potential and left the others alone” (1999: 279–280). There is ground for being a little less confident than Wormald about the meaning of “synod-books” in this portion of the *domboc* (a matter to be taken up subsequently) but otherwise little here to dispute. Charles-Edwards (2013: 429) notes that Ine's British subjects “had remained faithful to the traditional Easter date followed by the Britons, the Irish and the Picts even though the West Saxon Church had long followed Roman practice.”

most Alfredian texts, it may be assumed here that rhetorical purposes were at least as important as practical concerns in determining the shape the *domboc* would assume.

Properly understood, Alfred's *domboc* may be seen as a text that begins and ends, much like the famous Preface, with retrospection. The preoccupation of the *domboc*'s Prologue in particular with historical questions was rightly identified by Liebermann as one of its chief peculiarities when compared with other legislation of the period. The Prologue perhaps reflects the thoughts of a people whose political and religious institutions had very nearly escaped annihilation by the Danes and would now have to be rebuilt in ways that shunned the errors of the past.¹⁴⁵ Of particular concern was the neglect of instruction in literacy (a great worry to Charlemagne's court as well, as evidenced by texts such as the celebrated *De litteris colendis*). That English institutions at least seemed as if they were being reconstituted almost *ex nihilo* may explain the monumental and encyclopedic character of the *domboc*. Such circumstances, which also left Alfred with a freer hand than any prior king in crafting legislation, may account as well for the many apparent innovations of his laws, which will see further discussion in later sections.

What has just been said about the *domboc* is of course at odds with its self-presentation. While departing from convention, the *domboc* simultaneously works harder than any other legislation of its time to give the impression that nothing had changed. In place of the narrative furnished by his own and his contemporaries' experience – of a disaster narrowly averted, perhaps through divine intervention – the *domboc* posits instead the largely uninterrupted development of a legal order whose stewardship Providence has now assigned to Wessex. In narrating the divine origins and subsequent development of written law, the *domboc* leaps as easily from Sinai to the apostolic era as it does from seventh-century

¹⁴⁵ To describe the condition of Wessex upon Alfred's accession in such dire terms is probably not an overstatement: see, e.g., Wormald 1994.

England to Alfred's own lifetime.¹⁴⁶ That such continuities might be possible was doubtless a source of consolation amid the crises of the ninth century. Peeling away such rhetorical embellishment from the substance of Alfred's *domboe* will be among the tasks of the following chapter.

¹⁴⁶ "That a layman sought to construct a bridge between the world of Moses and that of the Church, that a lawgiver even attempted to shed light on the legal situation of his time in a historical manner, is remarkable for the ninth century" (*Dass ein Laie den Gegensatz zwischen Mosaismus und Kirche zu überbrücken, das ein Gesetzgeber historisch den Rechtszustand zu erklären auch nur versuchte, ist fürs 9. Jh. bemerkenswert*). Liebermann 1903–1916: III, 35.