

TRANSACTIONS OF THE
ROYAL HISTORICAL SOCIETY
PRESIDENTIAL ADDRESS

By Janet L. Nelson

ENGLAND AND THE CONTINENT IN THE NINTH
CENTURY: III, RIGHTS AND RITUALS

READ 21 NOVEMBER 2003

ABSTRACT. This essay aims to show that in England and on the Continent, ninth-century individuals and groups in a wide variety of social milieux from peasants to substantial landowners, and including women, had a strong sense of rights to status and property that were rational in something like the modern sense while surrounded by rituals that seem very un-modern. Un-modern, too, seem the terms on which rights were held, and the forms and contexts in which rights were negotiated and renegotiated between local holders, lords and kings. With reference to material from Wessex and from various parts of the Carolingian Empire, it is suggested that the linkage of rights and rituals was symptomatic of sophisticated cultures with apt ways of managing conflict and creating consensus in localities and in kingdoms. The so-called decimation of King Æthelwulf is discussed as a meaningful case in point.

‘Rights’ is not a term often used in modern discussions of earlier medieval social practice or political thought. When Latin or Old English equivalents crop up in prescriptive or descriptive sources, they seem to refer, more often than not, to authority exercised by rulers and lords, and, by an understandable transfer of meaning, to the dues owed to them by inferiors.¹ Rights are only meaningful in social reality when viewed in relation to power; and the Middle Ages was a very inegalitarian world. Yet if ideas of the natural rights of rational men took philosophical shape only in the fourteenth century, already in the ninth there were ideas of rights, individual as well as collective, pertaining to persons of relatively low status as well as to *potentes*, men of power, and relating particularly

¹ R. Van Caenegem, ‘Government, Law and Society’, in *The Cambridge History of Medieval Political Thought*, ed. J. H. Burns (Cambridge, 1988), 174–210, at 179.

to property. One aim of this third of my four lectures to the Society is to repair an omission of the previous two by saying more about the less powerful. More positively, I also want to consider some ninth-century innovations as responses less to external threats than to the challenges of managing internal change – challenges that are coming to be recognised as comparable in England and in Francia.² Finally, I hope to show that rights and rituals, subjects usually put in separate intellectual boxes and hence considered by different types of historians, were closely connected in the minds of those ninth-century people we can know of through written records.³ In insisting on this connection, I take a leaf out of Maitland's book: 'We cannot find [in Anglo-Saxon England] . . . a law which deals only with property and neglects religion.'⁴

I begin, though, with words, recalling at the outset pertinent health-warnings issued by Susan Reynolds: that the rationality we should attribute to medieval people 'can't be identified with the exact and consistent use of words which happened later to acquire peculiar legal significance'; and that 'words were used outside the law' to represent 'notions or concepts [that] may have been wider and more various than the legal records suggest'.⁵ It is wise, then, to be wary of the words used by individuals or groups, by institutions and by kings in the ninth century to express what we can, without anachronism, call rights. For Anglo-Saxons, *riht*, just like *right* in modern English, had the general sense of what is right (as in 'do right') and a secondary sense of 'justifiable claim, on legal or moral grounds, to have or obtain something, or to act in a certain way' – but the second is very much less well documented than the first in OE texts, and not at all in the ninth century. Such searches, though made very much easier nowadays by large electronic data-bases and dictionaries, are complicated by a disciplinary divide between OE scholars in English department-boxes and Latin-users in History ones. The legal term *bocriht* is a rarity in the corpus, depicted by a probably early eleventh-century author (Archbishop Wulfstan?) as the hallmark of the thegn, a property right conferred by charter (*boc*) as reward for, and conditional on, service.⁶ The consequences of, as distinct from the

² S. Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994); R. Faith, *The English Peasantry and the Growth of Lordship* (1997), 59; P. Wormald, *The Making of English Law: King Alfred to the Twelfth Century* (Oxford, 1999), 478–83, also ch. 2 *passim* (65 n. 186 has large implications).

³ Cf. M. Bloch, *The Historian's Craft* (Manchester, 1954), 151.

⁴ F. W. Maitland, *Domesday Book and Beyond* (first publ. Cambridge, 1897; repr. with introduction by E. Miller, 1965), 403.

⁵ S. Reynolds, *Kingdoms and Communities in Western Europe 900–1300*, 2nd edn (Oxford, 1997), 65.

⁶ *Rectitudines Singularum Personarum*, ed. F. Liebermann, *Die Gesetze der Angelsachsen* (3 vols., Halle, 1903–60), I, 1, 444. P. Harvey, 'Rectitudines Singularum Personarum and Gerefa', *English Historical Review*, 108 (1993), 1–22, shows that I, 1, with its distinctively Scandinavian use of

qualifications for, receiving land by charter have been inferred from the later ninth-century will of Ealdorman Alfred. The ealdorman begins by associating his inheritance (*erfe*) and *bocland*, but later, in the specific context of bequests to his son, he leaves *folcland* ‘if the king will grant him [the son] the *folcland* with the *bocland*’. The king’s approval was no foregone conclusion: ‘if he [the king] will not so allow’, the ealdorman provides for one or another of the estates already earmarked for his wife and daughter to pass instead to his son. The *boc*, hence land owned by a *boc* as distinct from *folcland*, seems to confer a rather strong form of right over property, namely the right to bequeath away from kin. Yet the will as a whole, like other wills of high-status persons, is addressed to the king for approval.⁷ The peculiarities of Ealdorman Alfred’s dispositions, indicating that the wife he names here was not his first, suggest that to generalise principles from this case would be unwise. The claims of stepmothers and half-siblings always tended to create particular tensions within families.⁸ Rights over land could in practice be qualified, not just by the formal reservation of certain royal interests but by changing conceptions of what those interests were (and it was a wise man who thought it worth saying that kings change their minds).⁹ The interests and expectations of kin could be equally constraining if a charter explicitly reserved them.¹⁰ We might call those interests and expectations ‘rights’: ninth-century OE texts, while they do not use *riht* in this context, use other expressions from which rights can (and could) be inferred.¹¹ But these Anglo-Saxon rights were less clear-cut, more conditioned by circumstance, with greater propensity to link law and religion, than people brought up on modern legal definitions tend to expect.

lagu for ‘right’ (‘Ðegenlagu is, þæt he sy his bocrihte wyrðe’) unlike the rest of this text is probably a Wulfstanian addition; cf. Wormald, *Making*, 387–9.

⁷ Will of Ealdorman Alfred, ed. W. de G. Birch, *Cartularium Anglo-Saxonicum* (4 vols., 1885–99) [hereafter cited as BJ], II (1887), no. 558, pp. 195–7, and listed by P. Sawyer, *Anglo-Saxon Charters: An Annotated List and Bibliography*, Royal Historical Society Guides and Handbooks (1968), revised S. Kelly, *The Electronic Sawyer*, <http://www.trin.cam.ac.uk/chartwww>, no. 1508 [hereafter SJ]; trans. D. Whitelock, *English Historical Documents*, 2nd edn [hereafter EHD I] (1989), no. 97, p. 538. Reynolds, *Fiefs and Vassals*, 329 n. 25, points out a charter of 946 in which an inheritance (*yrfe*) includes *laenland*, loaned or leased land, as well.

⁸ B. Kasten, ‘Stepmothers in Frankish Legal Life’, in *Law, Laity and Solidarities: Essays in Honour of Susan Reynolds*, ed. P. Stafford, J. L. Nelson and J. Martindale (Manchester, 2001), 47–67, at 49, 53; cf. J. S. Loengard, ‘English Dower in the Year 1200’, in *Women of the Medieval World: Essays in Honor of J. H. Mundy*, ed. J. Kirshner and S. F. Wemple (Oxford, 1985), 215–55, esp. 243–4.

⁹ Maitland, *Domesday Book*, 351.

¹⁰ Alfred, *Laws*, c. 41, ed. and trans. F. L. Attenborough, *The Laws of the Earliest English Kings* (Cambridge, 1922), 82–3.

¹¹ Even later as well, the word is rare in that sense: see *The Toronto Dictionary of Old English Corpus*, <http://etext.lib.virginia.edu/oc.html>.

The normal language of Anglo-Saxon charters was Latin, the language of law and religion. A West Saxon royal charter late in the long ninth century (actually 904) shows the importance of other kinds of rights, stakes and sets of interests. When Edward the Elder granted the *libertas* of the monastery at Taunton (Somerset) *in sempiterno graphio* ('in an eternal writing'), as the perpetual property of the bishop's church of Winchester and its community (*familia*), at the same time he reserved the army-service, fortress-work and bridge-work owed to the king, and also 'conceded to Christ that the bishop's men, noble and non-noble, resident in that countryside (*in praefato rure degentes*), should have in all dignity the very same right (*hoc idem ius*) that the men of the king have who live on royal estates'.¹² Here, at last, we find a word that looks as if it corresponds to a more or less familiar notion of right. But what was this *ius*, or these *iura*? The next passage in the charter explains: 'all judgements (*judicia*) of secular matters are to be exercised for the use of the bishops in just the same way that judgements about matters of royal business are dealt with'. *Judicia* means regular court-meetings, thrice a year, with the profits of justice going to the court-holder, in this case henceforth to be the bishop. *Libertas* meant immunity, that is, freedom at the king's command from all royal demands for dues and hospitality, except for the three reserved services.¹³ The bishop's *homines*, those *in rure degentes*, will henceforward owe attendance at his court to participate in delivering justice, but their own cases will also be judged there. Local expertise conferred special qualifications to judge and special expectations of being judged justly. Customary knowledge was intimately linked with residence and with property in ways that transcended, at Taunton anyway, differences of social status (though the distinction between noble and non-noble may be formulaic). Shared judicial experience as well as participation, no doubt often burdensome, in the court's procedures and findings had symbolic value. In its local social setting – *in rure* – a court was a major public event. The bishop's royally delegated authority was on display, and so too were the identity and status of attenders. At court, the relationship between the bishop and 'his' *homines* was ritually re-enacted and reinforced. The bishop

¹² S 373, B 612.

¹³ See for England, N. P. Brooks, 'The Development of Military Obligations in Eighth- and Ninth-Century England', in *England before the Conquest: Studies in Primary Sources Presented to Dorothy Whitelock*, ed. P. Clemoes and K. Hughes (Cambridge, 1971), 69–84; and Wormald, *Making*, 108; and for Francia, J. L. Nelson, 'Dispute Settlement in Carolingian West Francia', in *The Settlement of Disputes in Early Medieval Europe*, ed. W. Davies and P. Fouracre (Cambridge, 1986), 45–64, at 56, 62 (repr. in Nelson, *The Frankish World* (1995), 51–74, at 62, 69); P. Fouracre, 'Eternal Light and Earthly Needs: Practical Aspects of the Development of Frankish Immunities', in *Property and Power in the Early Middle Ages*, ed. W. Davies and P. Fouracre (Cambridge, 1995), 53–81; and B. Rosenwein, *Negotiating Space: Power, Restraint, and Privileges of Immunity in Early Medieval Europe* (Ithaca, NY, 1999), 99–134.

was now their lord, not just a collector of judicial profits but responsible for supporting and defending his men and their property-rights against any challenger. Though lordship might involve tenurial dependence, at Taunton later tenth-century evidence suggests that the bond between bishop and men was the more flexible one of patronage and protection, and that if the bishop turned exploiter rather than protector, his men looked to the king.¹⁴ In King Edward's charter, Christ had been named as recipient, hence guarantor, of terms that cut two ways. *Iura* therefore had an experiential dimension for the charter's indirect beneficiaries. As for us, these rights lead beyond etymology to rituals of power and faith.

On the ninth-century Continent, some vernacular words for 'right' were derived from late Roman Latin *directum*, 'straight', used of a line, or a road (cf. Vulgate, *directio*, Ps. 44: 6, 118: 7, *directe* Sap. 5: 22), thence early medieval *directum*, *drectum*, *dricum*, meaning 'the law', 'what is lawful'. In ninth-century Frankish usage, *dricum* could refer generally to rights of lordship, as, famously, in Charlemagne's requirement following his coronation as emperor that all men over the age of twelve should swear a new oath of fidelity: 'I shall henceforth be faithful to my lord Charles the pious emperor . . . as a man ought to be to his lord *per dricum*.'¹⁵ This was not to say that fidelity to lord and emperor were the same, but it was to clarify by way of analogy. In 841, the Strasbourg oaths bilingually invoke a brother's obligation 'to help his brother as a man ought in right' (*si cum om per dreit son fradra salvar dist, and so haldih tesan minan bruoðher, soso man mit rehtu sinan bruoðher scal*).¹⁶ In a court-case at Autun in 819, nine 'true witnesses' swore that a man claiming to be legally free was *lege et dricto* in fact a *servus*.¹⁷ *Dricum* and *dreit*, like *rehtu* (compare OE *riht*), seem more often to have the very broad sense of rightfulness than the more particular sense of right.

Iustitia gets us further than *dricum*. The standard medieval Latin dictionary distinguishes twenty-four distinct meanings of *iustitia*, most of them to be encountered in the ninth century.¹⁸ It was commonly used in narrative sources and in capitularies to denote 'the whole of a person's or a corporate body's rights, his or her right' (meaning 14), also 'a particular right' (meaning 15), also 'a particular property right' (meaning 16). True,

¹⁴ S 806. See B. Yorke, *Wessex in the Early Middle Ages* (1995), 213–14.

¹⁵ *Monumenta Germaniae Historica Capitularia regum Francorum* [hereafter MGH Capit.], ed. A. Boretius and V. Krause (2 vols., Hannover, 1883–97), I, no. 34, c. 19, p. 101.

¹⁶ Nithard, *Historiarum Libri IV*, ed. E. Müller, *Monumenta Germaniae Historica Scriptorum rerum Germanicarum in usum scholarum* [hereafter MGH SRG] (Hannover, 1907), III, 5, p. 36.

¹⁷ *Recueil des Chartes de l'Abbaye de Saint-Benoît-sur-Loire*, ed. M. Prou and A. Vidier (2 vols., Paris and Orleans 1900–32), I, no. 16, p. 37. For the context, see Wormald, *Making*, 76–9; and cf. Nelson, 'Dispute Settlement', 47.

¹⁸ J. F. Niermeyer, *Mediae Latinitatis Lexicon Minus* (Leiden, 1997), s.v., 569–73.

it also meant ‘the Augustinian idea of order and harmony’, ‘the Law’, ‘a particular body of law’, ‘the administration of justice’, ‘a law-suit’, ‘a judgement’, ‘the actualisation of Law as viewed from the standpoint of the individual’ (meanings 1–6, 9). Other meanings have more to do with ‘rights to dues’, or ‘a due’, or ‘fines’ (meanings 17, 18, 19). Obviously the linkages between these senses were significant in referring the particular to the general, the concrete to the abstract and most important of all, the practical to the ethical. The twenty-four distinct meanings are the work of the modern lexicographer. In ninth-century usage, there was much overlap. Still, it is worth stressing that *iustitia* did sometimes have the sense of individual or institutional right. To the author(s) of the Royal Frankish Annals, a literary production of the only slightly elongated ninth century, the Franks’ attacks on Italy in 755 and 756, and on Aquitaine in 760 were driven by pursuit of ‘the *iustitia* of St Peter’, of ‘the *iustitiae* of the churches’.¹⁹ Tassilo of Bavaria in 794 renounced *omnis iustitia et res proprietatis* in the duchy of Bavaria for himself and for his children.²⁰ Other capitularies require that royal officers (*missi*) hold enquiries ‘concerning our [i.e. Charlemagne’s] *iustitiae*, and the *iustitiae* of churches, widows, orphans, wards and others’, and, shifting from meaning 1, 2 or 3 to meaning 14 or perhaps 15 in a single clause, that ‘*iustitia* be done concerning the *iustitiae* of churches, widows and orphans’.²¹ Confirming the implied connection between rights and property is a grant made by a Bavarian husband to his wife *ad iustitiam et proprietatem*.²² Echoing both narrower and grander meanings of *iustitia* is a charter of Charles the Fat sub-king of Alemannia to Bertheida, *fidelissima nostra*, on account of her faithfulness and the zeal of her service (*propter fidelitatem et obsequii illius instantiam*), granting lands in *proprietatem* with full powers of alienation and sale, as *lex et iustitia* allow to be held *de proprietate*.²³ *Proprietas* again is associated with *iustitia* here; and the background is of Roman legal tradition transmitted, notably, through formularies.²⁴

To be free entailed rights to the integrity of your body. In 861, Charles the Bald, king of the West Franks, decreed that a free man found guilty of rejecting the king’s coinage, if the pennies were found to be pure and

¹⁹ *Annales regni Francorum* 755, 756, 760, ed. F. Kurze, MGH SRG (Hannover, 1895), 12, 14, 18. These annals were probably compiled in the early 790s.

²⁰ MGH Capit. I, no. 28, c. 3, p. 74.

²¹ MGH Capit. I, no. 34, c. 19, p. 101 (cf. no. 35, c. 59, p. 104; no. 44, c. 2, p. 122; no. 69, c. 3, p. 158; no. 85, c. 2, p. 184; no. 90, c. 1, p. 190).

²² *Die Traditionen des Hochstifts Freising, Quellen und Erörterungen zur bayerischen Geschichte*, ed. T. Bitterauf (Munich, 1905), no. 392, p. 333.

²³ MGH Diplomata regum Germaniae ex stirpe Karolorum, Die Urkunden Karls III, ed. P. Kehr (Berlin, 1936–7), no. 2 (15 Apr. 877), p. 4.

²⁴ E. Levy, *West Roman Vulgar Law: The Law of Property* (Philadelphia, 1951); Nelson, ‘Dispute Settlement’, 46, 57 with further references.

of good weight, had to pay a fine of 30 *solidi*, 'half the Frankish bann', i.e. half the normal fine for a criminal offence; as for *coloni* and *servi* found guilty of the same offence in towns or markets, the king's officer had discretion to consider the person's age, physical state and sex – *quia et feminae barcaniare solent* ('because women too are often involved in petty trading') – and to have the guilty beaten either with heavy blows, later specified as *cum grosso fuste*, 'with a big truncheon', or with *minutae virgae*, 'switches'.²⁵ The clear differentiation of legal rights was there. Bodily punishment was for the unfree, though the death penalty was prescribed in England and Francia for traitors or rebels or perpetrators of violent crime, regardless of legal status, from the late eighth century onwards.²⁶ For men who had presumed to make sworn associations and then done evil, Charlemagne prescribed that 'the ring-leaders are to be executed, while those who aided them are to be flogged, one by another, and to have their noses slit, one by another', a type of public dishonouring particularly awful for persons of free status.²⁷ Some crimes were so serious as to justify denying normal legal rights.

Rights of the free to bodily integrity were linked with their immunity from labour services. A large-scale landlord could wield the sledgehammer of public justice to secure legal confirmation of a single peasant's unfreedom. Patrick Wormald has considered a number of such cases from the early and mid-ninth century.²⁸ They show a mix of aristocratic, ecclesiastical and royal interests in asserting lordly rights to the full, and before a local constituency of those whom one capitulary calls *homines bonae generis*,²⁹ but the fact that lordly claims were contested in court shows the passion with which peasants asserted what they believed (or claimed) were *their* rights.

When peasants speak in the surviving sources, they use various terms for individual and collective rights: *ius*; *lex*; *consuetudo*. Even unfree peasants could attempt to defend such rights in courts of law. The *servi* of Berndorf in Bavaria had been transferred in an exchange by the bishop of Regensburg to the lordship of a neighbouring abbot, who treated them so badly that the *servi* appealed repeatedly to the bishop. The oppressive abbot refused to make amends; so the bishop, unable to

²⁵ MGH Capit. II, no. 271, p. 302; cf. no. 273, c. 18, p. 317. For the free man, the catch was of course, that he might well have to sell himself and or his offspring into slavery in order to clear the fine.

²⁶ Legatine Synod (786), c. xii, ed. E. Dümmler, MGH Epistolae IV, p. 24; Alfred, Laws, c. 4 (5), ed. and trans. Attenborough, *Laws*, 64–5; MGH Capit. I, no. 20, c. 23, p. 51, no. 26, cc. 11, 12, 13, p. 69; Capit. II, no. 273, c. 25, p. 321.

²⁷ Thionville, 805, MGH Capit. I, no. 44, c. 10, p. 124.

²⁸ Wormald, *Making*, 76–80 (discussing six cases from Burgundy, one from Rheims involving a little group of people, and one from St-Gall).

²⁹ MGH Capit. I, no. 77, c. 12, p. 171.

tolerate the injury done to his *servi*, finally in 829 came to Berndorf with his companions and retainers to meet the abbot, and they agreed to reverse the exchange. These peasants made their case successfully.³⁰ Only the year before, far to the west within the empire of Louis the Pious, four named peasants together with an unspecified number of their peers (*pares*) travelled some 70 km from Antoigné in Touraine to Chasseneuil in Poitou to protest before the king of Aquitaine that their lord, the monastery of Cormery, a daughter-house of St-Martin Tours, had violated the *lex* of their predecessors by imposing ‘more in rent and renders than they ought to pay *per drictum*’. The monastery’s representatives counter-claimed that the peasants had in fact been paying the same dues and renders ‘for thirty years’, and they produced a *descriptio*, an estate-survey, made ‘in the 34th year of Charlemagne’s reign’, i.e. 801–2, when Alcuin was abbot (796–804) in which the due rents and renders of each manse (peasant-holding) were specified, and some of those present had affirmed on oath (*cum iuramento*) that these were their dues. Under questioning, the peasants acknowledged that the survey was ‘true and good’ and they ‘could not deny’ that the dues they had actually paid since then had been those specified in the document. The peasants lost. But it looks if they had timed their claim to get it in before the thirty years’ rule might nullify it and before living memory lapsed: in other words, they were not only well aware of their ancestral rights and the way the monastery had tampered with them, but they had also monitored the passing of twenty-seven intervening years. As it turned out, they had left it too late.³¹

In 861, the village of Mitry not far from Paris was divided. Twenty-three *homines*, together with eighteen women, of whom ten brought their children, travelled the 60 km to the palace of Compiègne to plead before the tribunal of Charles the Bald that they were not *servi* but *coloni* of the monastery of St-Denis. They claimed that the monastery ‘wanted unjustly to bend them down into an inferior service by force (*per vim in inferiorem servitium*)’. The monks’ estate-manager and the *maior* of Mitry also presented themselves along with twenty-three *idonei coloni*, to argue that *ista familia* were indeed *servi* and had ‘done more than *coloni* would have done in right and law, as is obvious (*et plus per drictum et per legem quem coloni, sicut manifestum est, fecissent*)’.³² The tribunal found against the plaintiff *familia*:

³⁰ *Die Traditionen des Hochstifts Regensburg und des Klosters S. Emmeram: Quellen und Erörterungen zur bayerischen Geschichte*, ed. J. Widemann (Munich, 1943), no. 25, pp. 31–2. On Bavarian *servi*, I am indebted to unpublished work by Carl I. Hammer, which I gratefully acknowledge here.

³¹ L. Levillain, *Recueil des actes de Pépin I et Pépin II, rois d’Aquitaine (814–848)* (Paris, 1926), no. 12, pp. 46–7; see Nelson, ‘Dispute Settlement’, 48–51, 246–7 (repr. Nelson, *Frankish World*, 54–6, 71–2).

³² G. Tessier, *Recueil des Chartes de Charles II le Chauve* (3 vols., Paris, 1943–55), II, no. 228, pp. 8–9; see Nelson, ‘Dispute Settlement’, 51–2 (repr. Nelson, *Frankish World*, 57–9).

they were declared *servi* and ordered to perform henceforth the *servitium* required. The monastic lord had played on a rift between two groups within the village of Mitry. But at this same period, at the monastery of Cormery there were ‘male and female serfs established under the condition of *coloni*’.³³ Customary and local practice, therefore, belied any cut-and-dried distinction between free and unfree peasants.

Later in the ninth century, records concerning lands owned by Sant’Ambrogio, Milan, at Limonta in Northern Lombardy show how peasants claimed rights to status and freedom from labour-services against the monastery’s efforts to impose them (‘but neither we, nor our *parentes*, ever gathered olives, or pressed them, or transported the oil’). The issue of rights here again turned on the status of the peasants: were they *aldii* (freedmen), or did they hold their farms on freedmen’s terms (*pro aldiarica*), or were they, as the monastery claimed, *servi*? Here again, heavier labour services marked out the peasants of inferior status and fewer rights.³⁴ Other Limonta peasants had failed to withstand Sant’Ambrogio’s claims to proprietorial control just three years earlier, in 879, when a royal *vassus et ministeriale (sic)* had transferred to the abbot six *mansi* at Uccio *cum omnibus mancipiis ibidem commanentibus* hitherto held from the king as a benefice, in a series of legal forms including the showing and reading-out of royal charters and rituals enacted at ‘a column of that house and the entrance-boundary (*per columna de eadem casa et limite ostii*)’. Other documents show small lay proprietors selling bits of land which Sant’Ambrogio claimed were part of its Limonta estate.³⁵ Clearly ‘Limonta’ included a number of smaller estates, and the pattern of tenure involving great (the king; the monastery) and small (a variety of peasants) was very complicated. Yet the fact that successive generations of Limonta peasants kept on contesting the monastic lord’s reading of their position suggests that they exploited the room for manoeuvre offered by *aldiarica*-status and by residual royal rights, direct and indirect (i.e. via benefices). Earlier in the ninth century, Charlemagne had responded to a question from one of his *missi* or local governors about a contentious case involving the status of the offspring of a marriage between a *colonus* and an *ancilla*: ‘a person is either free or unfree (*non est amplius nisi liber et servus*)’. Previous interpretations, though sometimes taking account of the fact that this is a Roman law tag, have *not* taken account of the preceding sentence: ‘Think [what you would

³³ *Cartulaire de Cormery*, ed. J.-J. Bourassé (Tours, 1861), no. 19 (851), p. 40: ‘servi vel ancillae sub conditione colonorum constitute’.

³⁴ R. Balzaretti, ‘The Monastery of Sant’Ambrogio and Dispute Settlement in Early Medieval Milan’, *Early Medieval Europe*, 3 (1994), 1–18, esp. 7–8. The key document for present purposes is *Il Museo Diplomatico dell’Archivio di Stato di Milano*, ed. A. R. Natale (Milan, c. 1971), no. 146/146a (882).

³⁵ *Il Museo Diplomatico*, ed. Natale, no. 139, also nos. 92 and 148, cited by Balzaretti, ‘The Monastery of Sant’Ambrogio’, 5–6.

have done] if it was your *servus* who had married someone else's *ancilla*, or if it was someone else's *servus* who had married one of your *ancillae*, and who would the children have belonged to – and do likewise in the present case.' Lords would try to get away with as much as they could. The statement of the obvious here was also a brusquely ironic reprimand. Like other answers in this set of responses, it shows that Charlemagne's fuse was short when a *missus* wilfully refused to face social facts on the ground.³⁶

At Risano, Istria, in 804, 172 *homines capitanei*, spokesmen for the combined *populus* of nine cities on the north-eastern Adriatic coast, presented their grievances to Charlemagne's *missi*. They claimed against the local bishops that their own *consuetudines* had not been observed, that written agreements had been 'corrupted', that 'on the public sea where everyone can fish together, we no longer dare to fish, because [their men] beat us up and break our nets'.³⁷ Against the local duke they complained that their woods and houses had been seized, that immigrant Slavs had been allowed to settle on their lands, that the duke had exerted violent acts (*forcia*) upon them and that he had collected the gifts, including horses, that they planned to take to Charlemagne and then told them all, "You need not come: I shall be your intercessor with the emperor;" and then [these men continued] he goes to the emperor with our gifts and negotiates an *honor* for himself or his son, while we are in great oppression and grief.' Confronted with a lengthy list of breaches of the locals' customary rights ('we never provided fodder, we never worked on the home farm, we never provided labour for public buildings, we never built ovens, we never fed dogs'), the duke climbed down, and a *convenientia* was drawn up affirming the Istrians' rights. Eleven years later (815), still in place, this formal agreement was confirmed by Charlemagne's son.³⁸ These people, several cuts above *coloni* or *aldii*, had won their case, thanks to the intervention of imperial *missi* backed by Charlemagne himself. Situated in a frontier region, and with living memories of rights maintained under Byzantine rule, these provincials had a faith in Charlemagne's power to help them that turned out to be justified. If the arrival of *missi* could have the impact

³⁶ MGH Capit. I, no. 58, c. 1, p. 145. For comment see T. Reuter, 'The Medieval Nobility in Twentieth-Century Historiography', in *Companion to Historiography*, ed. M. Bentley (1997), 177–202, at 180, and n. 13.

³⁷ *Placitum* of Risano, ed. C. Manaresi, *I Placiti del 'regnum Italiae'*, I (Rome, 1955), no. 17, pp. 48–55. See S. Esders, 'Regionale Selbstbehauptung zwischen Byzanz und dem Frankenreich: Der Inquisitio der Rechtsgewohnheiten Istriens durch die Sendboten Karls des Grossen und Pippin von Italien', in *Eid und Wahrheitsuche: Studien zur rechtlichen Befragungspraktiken in Mittelalter und früher Neuzeit*, ed. S. Esders and T. Scharpff (Frankfurt, 1999), 49–112.

³⁸ *Codice diplomatico Istriano*, ed. P. Kandler, I (Trieste, 1862), no. 56, p. 128.

of the governor's in *Fidelio*, participants' memories of a *placitum* no doubt retained the drama of cathartic ritual.

Ninth-century rights were not eighteenth-century-style rights of man, universal and egalitarian, though gendered men-only. Medieval rights were specific to particular persons and particular ranks, hence, as you will have observed, including some women. They were concrete, firmly linked with personal status, with property and inheritance, and with specific acts of recognition by the powerful. And yet, as Alain Boureau recently wrote à propos the thirteenth century: 'arguments over privilege played an important role [in developing the idea of a law that was common] for it was through [these arguments] that ideas of . . . liberty and equality came to be clarified – ideas too often falsely alleged to have been unthinkable in the Middle Ages'.³⁹ Privileges were rights confined to the individual or institutional recipient. But they could be extended.

Lawyers created an age of privilege in the thirteenth century that ended only with the end of the ancien regime. Creating new rights was nothing new. Innovation after all is a Gospel message. Christianisation extended in the long ninth century both into new territories, Saxony for instance, and within its old heartlands into new social areas through the application of the law of Christian marriage. Not only did the parity of the marriage-bond transcend the difference between slave and free, but once the bond was tied, separation was canonically impossible. True, lords might try to prevent serfs from marrying outside the lordship, or to charge them for so doing. But that backhandedly shows lords' respect for the solidity of marriage once made. J.-P. Devroey has persuasively argued that ecclesiastical reinforcement of married relationships among the peasantry was a major factor in bringing about a significant decline in slavery in the ninth century.⁴⁰ These new rights were in principle universal and for both women and men. In practice lordly interests intruded. Presumably it was the fact that marriages made by peasant migrants inland from the lower Seine valley in the early 860s lacked lords' permission that made the West Frankish king Charles the Bald and assembled aristocrats at Pitres in 864 declare such unions null and void.⁴¹ That nobles prized the right to inherit

³⁹ A. Boureau, 'Privilege in Medieval Societies from the Twelfth to the Fourteenth Centuries, or: How the Exception Proves the Rule', in *The Medieval World*, ed. P. Linehan and J. L. Nelson (2001), 621–34, at 623.

⁴⁰ J.-P. Devroey, 'Men and Women in Early Medieval Serfdom: The Ninth-Century North Frankish Evidence', *Past and Present*, 166 (2000), 3–30, and *idem*, 'Femmes au miroir des polyptyques: une approche aux rapports du couple dans l'exploitation rurale dépendante entre Seine et Rhin au IX^e siècle', in *Femmes et pouvoirs des femmes à Byzance et en occident (VIIe–XIe siècles)*, ed. S. Lebecqz, A. Dierkens, R. Le Jan and J.-M. Sansterre (Lille, 1999), 227–49. See further the key contribution of P. Toubert, 'La théorie du mariage chez les moralistes carolingiens', in *Il matrimonio nella società altomedievale*, Settimane di Studio del Centro di Studi sull'Alto Medioevo (2 vols., Spoleto, 1977), I, 233–82.

⁴¹ Edict of Pitres c. 31, MGH Capit. II, p. 324.

and to transmit inheritances is too obvious a point to need stressing. But peasants could have these rights too; and this was explicitly stated in West Frankish capitularies of the 860s, as in a reference to ‘inheritances, that is, the holdings that the *coloni* hold’.⁴² By the names they chose for their children, peasant parents expressed their strong consciousness of all that was entailed in inheritance, including rights.⁴³ Social status at all levels was hereditary. Legal status, for free and unfree, passed from mother to offspring, and it looks as if some unfree men took opportunities for social advancement by peasant hypergamy; but maternal descent could be important at higher social levels too.⁴⁴

In ninth-century Wessex, King Alfred created new rights at least in theory (though their effectiveness in practice is impossible to assess) when he gave all free men but not *esne* and *esnewyrhtan* (these sound a bit like Italian *aldii*) thirty-six days’ holiday a year at a series of great Christian festivals. *Esne* and *esnewyrhtan* (‘slaves’ and ‘unfree workers’ in the standard translation) instead were to get four days a years (the four Wednesdays in the Ember Weeks) ‘to sell to whomsoever they pleased anything of what anyone has given them in God’s name [that is, alms], or of what they can earn in any of their spare time’.⁴⁵ Were all of these workers men? Or could we guess that in England as in Francia women too often traded *in civitatibus et mercatis*? In the countryside, peasants’ rights were limited and bound by customary dues, but those dues were not static. Though southern England is poorly documented by comparison with the Francia of the polyptychs, there is some evidence that the extensive lordships of the pre-ninth-century period were starting to be split into small estates, while lordly alterations to the distribution of peasant labour on those small estates show ‘a spectrum of [peasant] dependence and independence’.⁴⁶ Boon works, etymologically derived from OE *ben*, prayer, and for which later arrangements are very detailed and varied, could have arisen, Ros Faith suggests, out of circumstances ‘in which lords had had to bargain

⁴² Edict of Pitres (864), c. 30, MGH Capit. II, p. 323: ‘hereditates, id est mansa quae [coloni] tenent’; cf. ‘mansii hereditarii’, Capitulary of Pitres (869), c. 12, MGH Capit. II, p. 337. In the 864 reference, the object was to reduce the difficulties caused to landlords (including the king and churches) caused by peasant sales of their land, ‘et hac occasione sic destructae fiunt villae’.

⁴³ H.-W. Goetz, ‘Zur Namengebung bäuerlicher Schichten im Frühmittelalter: Untersuchungen und Berechnungen anhand des Polyptychon von Saint-Germain-des-Prés’, *Francia*, 15 (1987), 852–77.

⁴⁴ Peasants: see E. Coleman, ‘Medieval Marriage Characteristics: A Neglected Factor in the History of Medieval Serfdom’, *Journal of Interdisciplinary History*, 2 (1971/2), 205–19; nobles: K. Leyser, ‘Maternal Kin in Medieval Germany’, *Past and Present*, 49 (1970), 126–32.

⁴⁵ Alfred, *Laws*, c. 43, ed. and trans. Attenborough, *Laws*, 84–7; see *Alfred the Great: Asser’s Life of King Alfred and Other Contemporary Sources*, ed. and trans. S. Keynes and M. Lapidge (Harmondsworth, 1983), 170, with nn. 31, 32 at p. 310.

⁴⁶ Faith, *English Peasantry*, 173.

for labour', and evolved 'over a long period of time and as result of a long series of bargains'; the emergence of villages and common fields, whether seen in terms of communities or of 'shares', involved the creation of rights.⁴⁷ Smaller-scale lords were multiplying, and so were their needs for an increasingly abundant supply of peasant labour. Who depended on whom?

In eleventh-century Francia, the practice of self-donation by serfs, as at Marmoutier in the Touraine, was previously interpreted as evidence of rural crisis and a more violent imposition of servitude. But Dominique Barthélemy argues for *des flexibilités du droit* and notes the significance of the self-donation of serf couples, hence of serf-marriage *de plein droit* as the vehicle of presumptive inheritance-rights. The public rituals whereby serfs sustained their lords also gave the serfs themselves a way of asserting their own value.⁴⁸ Self-donation in the Touraine is attested in eighth-century formulae.⁴⁹ Polyptychs quite independently suggest something similar for the ninth century. The warm scholarly discussion over arrangements documented in the survey of the monastery of St-Bertin will be half-predictable to historians who have followed the debate in the 1990s over whether the fall of the Roman Empire should or should not be allowed to have taken place.⁵⁰ In the red corner, bloody but unbowed from earlier combats, and ably supported by Elisabeth Magnou-Nortier, is Jean Durliat, arguing that St-Bertin functioned in the ninth century as a tax-farmer on behalf of the state, that the peasant-holdings (*mansi*) in the St-Bertin survey were tax-units, and the *servi* were tax-payers.⁵¹ In the blue corner, a new contestant, Étienne Renard, suggests that some *mancipia* (usually translated 'slaves') may have been free men with military obligations, supported by the abbey but liable to royal summons.⁵² There they are, with fixed duties that give every appearance of having been recently and specifically agreed. These were not mere human tools. Other *mancipia* worked for holders of little estates within the abbey's

⁴⁷ *Ibid.*, 176, also 112, 145–7, 149–52; cf. Reynolds, *Kingdoms and Communities*, 110–11, on tenth-century Latium.

⁴⁸ D. Barthélemy, *La mutation de l'an mil* (Paris, 1997), 89–90, 135–6.

⁴⁹ *Formulae Tironenses*, no. 43, ed. K. Zeumer, MGH *Formulae Merowingici et Karolini Aevi* (Hannover, 1886), 158.

⁵⁰ C. Wickham, 'La chute de Rome n'aura pas lieu', *Le Moyen Age*, 99 (1993), 107–26 (English translation, 'The Fall of Rome Will not Take Place', in *Debating the Middle Ages*, ed. L. K. Little and B. Rosenwein (Oxford, 1998), 45–57), offers a wry, incisive critique of Durliat (see next note). Cf. E. Magnou-Nortier, 'La chute de Rome a-t-elle eu lieu?', *Bibliothèque de l'École des Chartes*, 152 (1994), 5.

⁵¹ J. Durliat, *Les finances publiques de Dioclétien aux Carolingiens (284–888)*, Beiheft der *Francia* Band 21 (Sigmaringen, 1990), esp. 198–9; Magnou-Nortier, 'Le grand domaine: des maîtres, des doctrines, des questions', *Francia*, 15 (1987), 659–700.

⁵² E. Renard, 'Lectures et relectures d'un polyptyque carolingien (Saint-Bertin, 844–859)', *Revue d'Histoire Ecclésiastique*, 94 (1999), 373–435.

big estate, originating in precarial grants (*precaria* from *preces*, prayer), and some of these *mancipia* owed very little indeed: a pennyworth of wax, six setiers of honey, two days' work a year. These could be called men with rights: men who had rather a good deal. This is truer still of *prebendarii*, who had specialist administrative jobs for the abbey. Far from antique survivals, the varied arrangements indicated in this text, and its inventive use of terminology, constitute 'un ensemble d'éléments en continuelle recomposition'. Far from static, 'la photo est floue'.⁵³ Nor is this just a matter of flexible management of the dependent workforce. The *breves* bear the imprints of renegotiations of the abbey's relationships with patrons and clients, as well as with the king. The obverse is that while giving property, even giving themselves and their families, to churches, lesser landowners at the same time kept property, adjusting the terms over time as required, and also kept, however legally labelled, a certain social status. This could form the stuff of arguments: it remained the stuff of rights, likewise 'en continuelle recomposition'.

Linking things usually kept asunder, Jesus told the parable of the unjust steward who reduced at a stroke of the pen what debtors owed to his lord. 'Make to yourselves friends of the mammon of unrighteousness that, when ye fail, they may receive you into everlasting habitations . . . If therefore ye have not been faithful in the unrighteous mammon, who will commit to your trust the true riches?' (Luke 16: 9–11). In 847, the West Saxon king Æthelwulf responded to those words, perhaps with a smile, in a charter granting lands to himself:

If a man intent on good works expends as much as he can on generosity in almsgiving and applying those aims to the needs of those who are near to him, 'let him make for himself', as the Saviour said, 'friends of the mammon of unrighteousness who will receive him into eternal dwellings'. Therefore I King Æthelwulf with the consent and leave of my bishops and great men have booked to myself twenty manses so that I may enjoy them and leave them after my death to whomsoever I please in perpetuity.

And the charter goes on: 'These are the lands which his senators conceded to Æthelwulf.'⁵⁴ King Æthelwulf of Wessex is one of the great underrated among Anglo-Saxons. To take a rather crude measure: he was allowed just 2,500 words in the *Oxford Dictionary of National Biography* compared with Edward II's 15,000 or Elizabeth's 35,000.⁵⁵ A subtler measure would be the pious guile by which the king, with his leading men's consent, made a large tract of frontier-land free of dues normally owed to the ruler and also free of the rights of kin, so that he himself could bequeath estates as

⁵³ Renard, 'Lectures et relectures', 385–404, 406–25, with the quoted phrases at 427.

⁵⁴ S 298/B 451. See Maitland, *Domesday Book*, 293. Cf. Isidore, *Synonyma*, ed. J.-P. Migne, *Patrologia Latina* 83, cols. 365–6, for gifts as the antidote to wealth, and the comments of Rosenwein, *Negotiating Space*, 150–1.

⁵⁵ See 'Æthelwulf, King of Wessex', by J. L. Nelson, *Oxford Dictionary of National Biography*, forthcoming.

gifts. Here I want to establish his credentials in the ninth-century creation of rights and deployment of rituals by looking at what historians tend to refer to as the problem of Æthelwulf's decimation.⁵⁶ This had nothing to do with punishing every tenth man, or even with tithing (though Moses' rules as in Deuteronomy 14: 22–9 might have inspired it). Here is how the *Anglo-Saxon Chronicle* describes it: 'in this year [855] . . . King Æthelwulf granted the tenth part of his land over all his kingdom by charter for the glory of God and his own eternal salvation' (*gebocude Eþelwulf cyning teoþan deþ his londes ofer al his rice*).⁵⁷ This sounds clear enough, once we discount subsequent confusion between 'his land' and 'his kingdom': he gives 'his land', that is, his personal lands, not the royal lands. He gives them so that they can be free for the beneficiaries to grant away if they so wish. He gives them, at the same time, as alms for God and for his own salvation.

And the problem? In part, it is of the sort that modernists have sometimes thought wearisomely typical of medievalists: a problem of diplomatic, in the technical sense of charter-forms and formalities. The problem has to be resolved, because charters, unlike the *Chronicle*, spell out context and meaning. The particular charters in question are mostly post-Conquest copies, and copies of Anglo-Saxon charters in monastic cartularies are often forged or interpolated. Initiates in what Nicholas Brooks calls 'the arcane mystery of charter scholarship' use mysterious S and B numbers.⁵⁸ They express their judgements on charters in special code, as on the purported records of Æthelwulf's decimation: 'these texts come from cartularies of the lowest possible character';⁵⁹ one is 'of disreputable appearance';⁶⁰ another, 'a rather pathetic example';⁶¹ yet another, 'written by a scribe who was not an Englishman'.⁶² Two are from the archives of the Old Minster Winchester, and Maitland in an inimitable footnote queried 'if anything that comes from Winchester is not suspected'.⁶³ I think Simon Keynes has cracked the decimation problem and I salute the learning he wears so lightly and dispenses so generously. Visit his anything but arcane website!⁶⁴ The decimation happened in

⁵⁶ N. P. Brooks, 'Anglo-Saxon Charters', *Anglo-Saxon England*, 3 (1974), 211–34, reprinted with a new 'Postscript', in N. P. Brooks, *Anglo-Saxon Myths* (2000), 181–202, with 'Postscript' at 202–15, discussing the decimation charters at 202–3.

⁵⁷ *The Anglo-Saxon Chronicle: A Collaborative Edition*, general eds. D. Dumville and S. D. Keynes, III: *MS A*, ed. J. M. Batley (Woodbridge, 1986), 45, trans. G. N. Garmonsway (1975), 66.

⁵⁸ Brooks, *Anglo-Saxon Myths*, 203. For S and B numbers see above, p. 3 n. 7.

⁵⁹ W. H. Stevenson, *Asser's Life of King Alfred* (Oxford, 1904), 187.

⁶⁰ Keynes, 'The West Saxon Charters of King Æthelwulf and his Sons', *English Historical Review*, 109 (1994), 1109–49, at 1121 n. 3, on S 308.

⁶¹ *The Charters of Abingdon Abbey*, ed. S. Kelly, Part I (Oxford, 2000), 66, on S 302.

⁶² Stevenson, *Asser's Life of King Alfred*, 187, on B 469 (S 308).

⁶³ Maitland, *Domesday Book*, 574 n. 1.

⁶⁴ <http://www.trin.cam.ac.uk/users/sdk13/sdk13home.html>.

two distinct phases, one in Wessex in 854, the second in Kent in 855, underlining the point that these remained separate kingdoms. Yet the texts of the charters belong to a single tradition, and wherever the royal court moved to, a small group of scribes permanently or semi-permanently attached to the court produced documents with similarities of form and substance, hence within the tradition. Each charter says, roughly:

the Almighty has told us that good deeds here on earth allow us to gain heavenly reward. Therefore I, King Æthelwulf, at this holy feast of Easter, for the remedy of my soul and for the well-being of the kingdom and people assigned to me by God, have made the healthful decision together with my bishops, ealdormen and all my nobles to give a tenth part of [my] lands throughout our kingdom not only to holy churches but also to our *ministri* established in [the kingdom]. We have granted it to be held in perpetual liberty, in such a way that this gift should remain fixed and immutable and absolved from all royal service and from the servitude of all secular men.

It has been assumed that the object of giving *bocland* to laymen was to enable them to pass on the land to a church.⁶⁵ This is a reasonable enough assumption, though the timing of the future transfer was open, and it might well have involved the layman's retention of a life interest (or three lives' interest) or something resembling a benefice. There, already, are several possible scenarios. Here is another, different again: a bishop might be expected to pass on land to *advenae* and *peregrini* of suitable *dignitas*, and only in the absence of such *digni* and until such time as *advenae* again frequented *ista patria*, to use it 'for the reviving of the poor' (*ad pauperum refocillationem*).⁶⁶ Were these *advenae* foreign scholars? Or were they fighting men from kingdoms other than Wessex? These possibilities evoke Frankish parallels and a world in motion.

The following liturgical services are specified:

Every Saturday, the community shall sing fifty psalms; a priest shall say two masses for King Æthelwulf and a third for the bishops and ealdormen: for the king while he lives, 'Deus qui iustificas impium' and for the bishops and ealdormen, 'Praetende domine.' For the king when he is dead, a special mass; for bishops and ealdormen [when dead?], collectively. We have done all this that the Almighty may be kind to us and those who come after us.

Keynes thoughtfully noted parallels for the two identified votive masses in the Leofric Missal, the relevant section of which is very probably late ninth century.⁶⁷ But earlier parallels noted in Nicholas Orchard's fine new edition of the Leofric Missal are Frankish, and one of these could well point to the monastery of Corbie in the early 850s, whence monastic votive masses could readily have got into a bishop's book via Odo, successively

⁶⁵ Whitelock, *EHD* 1, no. 89, p. 525: 'it would appear that what the king did was to grant land to his thegns so that they could leave it freely to religious houses'.

⁶⁶ S 307/B 474.

⁶⁷ Keynes, 'The West Saxon Charters', 1121 n. 1. See now *The Leofric Missal*, ed. N. Orchard, Henry Bradshaw Society, vols. CXIII and CXIV (2 vols., 2002), 80, 105, 141.

abbot of Corbie (851–61/2) and bishop of Beauvais (861/2–881).⁶⁸ The opening prayer for the king is taken from a mass ‘for a faithful friend’ which indicates use for a monastic patron:

Deus qui iustificas impium . . . God, you who justify the wicked and wish not the death of sinners, we humbly pray your majesty that you will protect kindly with heavenly help, and preserve with your constant protection, this your servant [.N.] who trusts in your mercy, that he may continually serve you and be separated from you by no temptations.⁶⁹

The other prayers of this mass are also overwhelmingly concerned with purification from sin.⁷⁰ There is a striking contrast with the prayers in the mass for the bishops and ealdormen, which are conventional upbeat statements of ‘give and it shall be given’:

Praetende domine . . . Stretch forth O Lord the right hand of heavenly help to your faithful ones, all the bishops, priests, abbots, monks, canons, and kings and governors and all our kinsfolk and those who have commended themselves to our prayers and given their alms, and to all the rest of the faithful of both sexes, so that they may seek you with their whole heart and be worthy to gain what they worthily request.⁷¹

The distinctive characteristic of the mass *pro rege vivente* strengthens the idea explicit in the one surviving example of the Kentish charters⁷² that the decimation was associated with a notable act of personal and penitential devotion on Æthelwulf’s part: namely, his visit to Rome in 855. He was the first Anglo-Saxon king for well over a century to make this journey, and the last before Cnut nearly two centuries later. The association of the leading *fideles* and their alms with the projected benefits has a political dimension, clearly suggested by the context in which the charters were issued: an assembly. At the same time, the grants of *bocland* to thegns signify largesse more closely targeted at the key agents of government in the royal household and in the localities.

The proportion of grants to laymen in the decimation charters is striking, three out of seven. Hunsige and Wiferth (854), and Dunn (855).⁷³ In Dunn’s case, the giving-on of the *bocland* to a church is clear from a vernacular addition to the effect that the thegn wishes that after his death his wife should have a life interest, and that the land should then pass to St Andrew’s Rochester. The proems of all these mention gift-giving in religious terms: *bona acta* merit perpetual felicity. The dispositive clauses are even more explicit: the king grants *pro meae remedio animae* and for the prosperity of ‘the realm and people committed to me by God’. This

⁶⁸ *Leofric Missal*, ed. Orchard, I, 25–6, 57–60.

⁶⁹ *Ibid.*, II, no. 2087, pp. 347–8.

⁷⁰ *Ibid.*, nos. 2088–91, p. 348.

⁷¹ *Ibid.*, nos. 2114–17, pp. 351–2.

⁷² S 315/B 486, trans. Whitelock, *EHD* I, no. 89, p. 525; cf. Keynes, ‘The West Saxon Charters’, 1120 n. 4.

⁷³ S 304/B 468; S 308/B 469; S 315/B 486.

theme appears as early as 840 in one of Æthelwulf's charters, in which he granted a generous fifteen hides to a deacon (apparently a member of his own household) 'for the redemption of my one and only soul and for the remission of my crimes and for the stability of my kingdom' (*pro unica animae meae redemptione et criminum meorum remissione et pro stabilitate regni mei*).⁷⁴ Those first two phrases are not conventional in charters. Æthelwulf was personally devout. As significant, he was very publicly binding certain chosen thegns to himself and into this project. The decimation charters granting to churches are formally very closely similar to the grants to laymen. All this takes us to the heart of ninth-century political sociology.

There are Frankish parallels: for instance, a number of grants by Charles the Bald to faithful men who were not themselves great magnates, that is, they were equivalent to thegns rather than ealdormen. In the period of Charles's reign that coincided with Æthelwulf's, i.e. 840–58, 25 out of Charles's 199 charters were such grants. A number of them were requested by the patrons of the *fideles* thus associating magnates as objects of these royal gifts. All the grants open with praise for the royal custom (*consuetudo*) of gift-giving to *fideles*. Most of these grants ended up in the hands of churches (otherwise no record would have survived) but in some cases demonstrably, and in others very probably, the transfer of ownership to churches occurred long after the beneficiary's death. Out of the twenty-five cases, only two were grants passed on to churches by beneficiaries themselves,⁷⁵ while a third was given by the beneficiary's widow,⁷⁶ and, more speculatively, a fourth granted to a *vassallus* of the abbot of St-Denis.⁷⁷

Two other Frankish parallels are worth mentioning. Charlemagne's will made in 811 solemnly provided gifts of alms from his own resources, 'as is done among Christians', and hence clarified for his heirs what movables would come to them. Charlemagne associated the secular church, specifically the great archbishoprics, in this institutionalised charity.⁷⁸ In context, and by implication, given the representative thirty *amici et ministri*, fifteen lay as well as fifteen ecclesiastical, who attested it, the will was also an act of association and negotiation between the ruler and

⁷⁴ S 290, ed. M. O'Donovan, *The Charters of Sherborne* (Oxford, 1988), no. 3, pp. 5–8, with commentary at 8–11; see further, Keynes, 'The West Saxon Charters', 1114–15.

⁷⁵ *Recueil des Chartes de Charles II le Chauve*, ed. G. Tessier [hereafter T] (3 vols., Paris, 1943–55), I, nos. 28, 64. Cf. also T 5, 10, 11, 15, 16, 17, 19, 24, 35, 69, 84, 90, 94, 95, 96, 98, 118, 120, 145, 151, 164, 168, 185. There are very few such grants to laymen in Charles's reign from 859 onwards. For a comparative context, see Rosenwein, *Negotiating Space*, ch. 7, 'a gift-giving king'.

⁷⁶ T 24.

⁷⁷ T 5.

⁷⁸ Einhard, *Vita Karoli Magni* c. 33, ed. O. Holder-Egger, MGH SRG (Hannover, 1911), p. 38.

those other *christiani* who were his faithful ones. Here, as Matthew Innes put it, ‘no cleavage between the personal and the public is possible’.⁷⁹ The experience of life at Charlemagne’s court was designed to locate individual Christians’ acts within a social dimension.⁸⁰ A second parallel to Æthelwulf’s decimation plans comes in Charles the Bald’s decree in 877 that

if any one of our faithful men after our death should be inspired by love of God and of us and wish to withdraw from the world, he should be able to hand over, as he wishes, his *honores* to a son or a kinsman capable of benefiting the state, and if he wishes to live in peace on his own property let no one dare to put any obstacle in his way except that he must perform military service when summoned to the host.⁸¹

Charles apparently foresaw that some of his faithful ones, perhaps those of his own age, and men to whom he had shown generosity, might wish to live out their days praying for his soul in a quasi-monastic retirement that was not wholly removed from obligations to the state.⁸² But, unlike Æthelwulf, Charles promulgated no large-scale realm-wide donation on a single great occasion; neither did the king give lavishly himself, nor did he arrange for vicarious giving on the part of his faithful men. A collective bond between king and *ministri* is not replicated in the West Frankish (or Italian) sources.

The pendant to Susan Reynolds’s true saying that ‘no ruler who wanted to tap the resources of the Frankish kingdom effectively could afford to ignore the enormous wealth of the church’⁸³ is that relationships between ruler and aristocrats could and can only be understood in a context including churches as players, partners, stake-holders and facilitators. This is as true, though less easy to demonstrate, for ninth-century Anglo-Saxons as for their Frankish contemporaries. Institutional form and structure, and mastery of the written word, should not make us see the church in any kingdom as a monolith. Rather these traits gave churches room to manoeuvre between mammon and virtue, wealth and charity. In practice, the rights of churches were negotiable, as, I have suggested, were everyone else’s, but where churches were involved the paradoxes of this negotiability emerge with exceptional clarity, thanks to the written evidence. To say that there is no cleavage between public and private is putting it mildly: kings, bishops, monastic communities and laymen were interwoven in a web of charity and intercession for king and kingdom,

⁷⁹ M. Innes, ‘Charlemagne’s Will: Politics, Inheritance and Ideology in the Early Ninth Century’, *English Historical Review*, 112 (1997), 833–55, at 855.

⁸⁰ Nelson, ‘Was Charlemagne’s Court a Courtly Society?’, in *Court Culture in the Early Middle Ages*, ed. C. Cubitt (Turnhout, 2003), 39–57.

⁸¹ MGH Capit II, no. 281, c. 10, p. 358.

⁸² See Rosenwein, *Negotiating Space*, 149, on an Italian royal grant of immunity of 911 which ‘treated the tranquillity [of a royal *udex* and his *familia* within their castle] as an act of piety’.

⁸³ Reynolds, *Fiefs and Vassals*, 89.

for king and people, for churches' 'friends', in which church property – including churches themselves as property – was the subject and object of negotiation.

In Æthelwulf's decimation grants, exchange was not just about reciprocity: rights over land and people were given but also kept, values were metonymic (adjuncts substituted for things themselves), action was often vicarious and supernatural power was an active participant. In short, the people involved were thinking and acting not legalistically but ritualistically.⁸⁴ The king understood the difference between personal and regnal property just as his Frankish counterparts did: in his will, drawn up in 856, Æthelwulf divided his kingdom one way, his personal property in quite another.⁸⁵ Yet in giving away his personal property he sought the well-being of not just himself but of his followers, and sought, too, a dividend that was realm-wide, regnal. The thinking behind the decimation was paralleled in Francia. Nevertheless the formal documents breathed a different spirit. The Frankish ones invoked secular custom, Æthelwulf's religious duty. The context for Æthelwulf's action, decisive, and systematic, and above all public, was provided by ritual: Æthelwulf's oxygen of publicity.

The place of his 854 assembly was Wilton, identified in the decimation charters as 'our palace'. This is doubly new: new because Wilton acquired a new prominence in Æthelwulf's reign,⁸⁶ new because unprecedented in West Saxon ninth-century diplomatic, and clearly a borrowing from the standard Frankish form 'actum in X palatio nostro' ('enacted in our palace of such-and-such'). Only in the decimation charters of 854 does Wilton appear as *palatium* rather than *villa regalis*. I think it is tempting to see here the influence of a man known to have been working in Æthelwulf's writing-office in (perhaps) 843, and still influential at his court in 852, the Frankish notary Felix;⁸⁷ and tempting, further, to suggest he had some direct input into the management of the decimation project and the stage-management of its unveiling. By this date, Æthelwulf's court was in contact with Charles the Bald's; and the ground-work had been laid, knowingly or otherwise, for Æthelwulf's visit in 855.⁸⁸ Wilton was

⁸⁴ F. Theuvs, 'Introduction: Rituals in Transforming Societies', in *Rituals of Power from Late Antiquity to the Early Middle Ages*, ed. F. Theuvs and J. L. Nelson (Leiden, 2000), 1–13.

⁸⁵ Asser, *De rebus gestis Ælfredi* c. 16, ed. Stevenson, 14–15; *Alfred*, ed. and trans. Keynes and Lapidge, 72–3, 236–7.

⁸⁶ Wilton evidently gave its name to Wiltshire. In S 300 (850), Æthelwulf at Wilton granted a large estate in Kent to a Kentish *princeps* (Keynes, 'The West Saxon Charters', 125 n. 71) in the presence of a mixed assemblage of West Saxons and Kentishmen, including the king's eldest son, the sub-king of Kent.

⁸⁷ Lupus of Ferrières, *Epistolae* nos. 13, 14, ed. P. K. Marshall (Leipzig, 1984), 21–3.

⁸⁸ See Nelson, 'The Franks and the English in the Ninth Century Reconsidered', in *The Preservation and Transmission of Anglo-Saxon Culture*, ed. P. Szarmach and J. T. Rosenthal (Kalamazoo, MI, 1997), 141–58, at 143–8.

perhaps being developed as a major royal residence.⁸⁹ Like Aachen in Charlemagne's reign, it had the advantage of not being an episcopal see. It was also well inland, hence less vulnerable to raids.

The assembly at Wilton in 854 took place on a special day: Easter Sunday (22 April). This was one of the 'great feasts at which a full court would be assembled'.⁹⁰ 'Full court' is a relative term. Several hundred of the elite attended some Frankish assemblies. The '700-strong entourage worthy of a travelling medieval monarch' that accompanied G. W. Bush to London in 2003⁹¹ included people whom no Frankish or Anglo-Saxon notary would have seen fit to name. The attestors listed in the Wilton charters in 854 probably included king's thegns of the regular 'entourage' – there were fifteen of those, and one priest – but also great men who had come for the occasion: the two West Saxon bishops of Sherborne and Winchester, six ealdormen (called *duces* in Latin), including the king's two elder surviving sons and perhaps his mother's brother, two abbots and the two younger princes Æthelred and Alfred who must then have been aged perhaps seven and five.⁹² This was a royal family-gathering as well as an aristocratic assembly with the intimacy of a rather small kingdom. Æthelwulf's one surviving gift-ring, adorned with a motif of two peacocks flanking a tree of life – still to be seen in the British Museum – may stand for dozens lost. The ritual aspects of such a gathering were shared with those of other, larger, polities.

On Easter Saturdays, Louis the Pious, whom Notker praised as 'keen on alms-giving' (*elemosinis intentus*), had made a distribution of precious objects and clothes to 'all those with official posts in the palace and serving in the royal court each according to his dignity' (*cuncti in palatio ministrantes et in curte regia servientes iuxta singulorum personas*). This was the setting for one of Notker's seriously funny stories that depended on audience-recognition of a cluster of associations: Easter, baptism, renewal, royal mimesis of Christ, gift-giving, new clothes.⁹³ The model of Louis's Aachen ritual might well have been the Palm Sunday gift-giving ritual of Constantinople, though

⁸⁹ It seems no coincidence that one of the four encounters of Alfred's army with Vikings in 871 occurred at Wilton. There is no reference to Wilton in Alfred's reign, perhaps because it had suffered severely in 871? Evidence for a nunnery there that was 'not just a "royal" foundation, but one closely connected with leading aristocratic families of the shire' in the late ninth and early tenth centuries is discussed by B. Yorke, *Nunneries and the Anglo-Saxon Royal Houses* (2003), 83; cf. S. Foot, *Veiled Women* (2 vols., 2000), 221–31, esp. 226.

⁹⁰ *Charters of Sherborne*, ed. O'Donovan, 9.

⁹¹ *The Guardian*, 19 Nov. 2003.

⁹² Nelson, 'Reconstructing a Royal Family: Reflections on Alfred from Asser Chapter 2', in *People and Places in Northern Europe, 500–1600: Essays in Honour of Peter Hayes Sawyer*, ed. I. Wood and N. Lund (Woodbridge, 1991), 47–66, at 57–8.

⁹³ Notker, *Gesta Karoli* II, 21, ed. H. F. Haefele, MGH SRG (Munich, 1980), 91–2. See Nelson, *The Frankish World*, 85–6, and M. Innes, '“He Never Allowed his White Teeth to be Bared in Laughter”: The Politics of Humour in the Carolingian Renaissance', in *Humour*,

the earliest description is Liutprand's tenth-century one.⁹⁴ But it may not be too far-fetched to surmise Easter gift-giving already practised by ninth-century West Saxon kings. In Alfred's reign, Eastertide was the appropriate time for an annual ritual of gift-giving to 'the men who serve me (*þam mannum þe me folgað*) . . . 200 lb to be given and divided between them'.⁹⁵ Why should this not have begun in his father's reign? If it had, at Æthelwulf's Easter-court in 854, the instruments of the king's charitable giving included a further addition: the decimation charters themselves, not brought by beneficiaries for royal approval, but produced, as Simon Keynes persuasively argues, by royal notaries in the king's household – his *hired*.

Rituals, then, helped constitute rights, and so complemented them, as the decimation charters turn out to show. Rituals are well documented in the ninth century: indeed many of the most interesting are *first* documented then in any detail. Royal gift-giving in institutionalised form is a case in point. I briefly touched on oath-swearings and marriage. Had time allowed, I would have said more about them, especially about marriage, for the first recorded full marriage-rite is that of Æthelwulf and his Carolingian bride Judith in 856: a rite which was also the first queenly consecration.⁹⁶ I would have said more about royal consecrations in both Francia and England: for the ninth century is the period of their liturgical formation, with continuities from 856 to 1953. I would have said more about assembly-rituals, for Tim Reuter's model of assembly politics, formed of ninth-century materials, includes rituals as critical working parts. You could also say such politics were oiled by rituals, ranging from formal reception and permission to depart, to reciprocity and submission, and punishment: Charles the Bald's assembly at Pitres in 864 has examples of all these,⁹⁷ and his and Æthelwulf's reigns have much more evidence than modern historians of ritual have recognised, partly because Germans tend to make tenth-century Germany a starting-point as well as a focus.⁹⁸

History and Politics in Late Antiquity and the Early Middle Ages, ed. G. Halsall (Cambridge, 2002), 131–56, at 149–50.

⁹⁴ Liudprand, *Antapodosis* VI, 10, ed. J. Becker, *Liudprandi Opera*, MGH SRG (Hannover, 1915), 157–8.

⁹⁵ Will of Alfred, S 1507/B 553, in *Alfred*, ed. and trans. Keynes and Lapidge, 177.

⁹⁶ Nelson, 'Early Medieval Rites of Queen-Making and the Making of Medieval Queenship,' in *Queens and Queenship in Medieval Europe*, ed. A. Duggan (Woodbridge, 1997), 301–15.

⁹⁷ Edict of Pitres (864), MGH Capit. II, no. 273, pp. 310–28; *Annales Bertiniani* 864, ed. F. Grat, J. Vielliard and S. Clémencet (Paris, 1964), 113–14; *The Annals of St-Bertin*, trans. J. L. Nelson (Manchester, 1991), 118–19.

⁹⁸ G. Althoff, *Spielregeln der Politik im Mittelalter: Kommunikation in Frieden und Fehde* (Darmstadt, 1997). On this and earlier German scholarship on royal ritual, see the appreciative, judicious critique of J. Barrow, 'Playing by the Rules: Conflict-Management in Tenth- and Eleventh-Century Germany', *Early Medieval Europe*, 11 (2002), 389–96. It is perhaps only partly fair to

But I want to use my remaining time to defend rituals as invaluable sources for historians of the ninth century. Defence has to be undertaken because a young French, now American, historian, Philippe Buc, has recently argued that earlier medievalists' enthusiasm for rituals has got out of hand, betrays methodological naivety and has entrenched serious misunderstandings. He has highlighted three dangers: one, rituals were manipulated in performance, subverted in contemporary interpretation, so that the question of what they meant at the time becomes meaningless; second, accounts of rituals were authorial constructs in clever narratives so that they are decontextualised from a world of 'more prosaic components'; third, rituals risk being misread by us historians in functionalist terms prescribed by social scientific models derived from medieval theology: 'the social-scientific "reading" of texts [is] generated by a culture from which the social sciences themselves descend'.⁹⁹ 'Is [that] reading... *eo ipso* invalid?' Buc asks, in what medievalists are trained to recognise as a question expecting the answer yes. Circular arguments are never good. But *is* this argument circular? Must we stop thinking we can think about rituals? Have modern medievalists misread medieval writers as functionalists *avant la lettre*? I think not. And actually, I have come to the conclusion that Buc thinks not. Intent on jolting us out of imbibing anthropological texts of a certain vintage, and into more careful and critical readings of medieval texts, Buc admits in the end that 'ceremonial practices' (shall we just call them rituals?) were 'extremely important in reality'.¹⁰⁰

In pursuit of reality, let us return, just for a moment, to Wilton 22 April 854. We did not get there by way of clever authorial constructs. We risked no postmodernist Black Hole. Simply, there were those charters, and those prayer-texts to be read in the context of very prosaic writings about rights. The sense of an ambient culture was not superimposed but arose out of that material. The event at Wilton was an assembly, its purpose to hold together groupings that were still fragile: the two kingdoms and two elites of Kent and Wessex, the ecclesiastical and secular powers of those

include within the German historiographical tradition Karl Leyser's illuminating 'Ritual, Ceremony, and Gesture: Ottonian Germany', in Leyser, *Communication and Power in Medieval Europe: The Carolingian and Ottonian Centuries*, ed. T. Reuter (2 vols., 1994), 181–213.

⁹⁹ P. Buc, *The Dangers of Ritual: Between Early Medieval Texts and Social Scientific Theory* (Princeton, NJ, 2002), where the first two criticisms are well represented in Part 1, ch. 2, on the ninth century, pp. 51–87. The first quoted phrase comes from p. 9, the second from p. 237. For perceptive critiques of Buc's book which nevertheless acknowledge its interest and timeliness, see G. Koziol, 'The Dangers of Polemic: Is Ritual still an Interesting Topic of Historical Study?', *Early Medieval Europe*, 11 (2002), 367–88, and A. Walsham, 'The Dangers of Ritual', *Past and Present*, 180 (2003), 277–87 (dealing especially with the third of Buc's criticisms). Cf. also the review by Nelson in *Speculum*, 78 (2003), 847–51.

¹⁰⁰ Buc, *Dangers*, 256.

kingdoms, the shire leaders and their followings in what had, not long ago, been politically distinct regions, the king and his thegns in the various localities, last but not least the members of the royal family. The culture that bound was one of cult, the celebration of Easter and its associated gift-giving, gift-keeping and giving while keeping – and gifts that included prayer along with property.¹⁰¹ The bonds that held were personal: between the king, his kin and those who served them. In the circumstances of 854, the king needed to reinforce loyalties that his imminent departure for Rome would put to the test and which would, in the event, be tested to near-destruction, but in the end prove the strengths of the arrangements Æthelwulf put together for his kingdom. Without Æthelwulf, no Alfred.

Assemblies were always more than ritual events: but they were important political institutions because they were *also* ritual events. Rooted in the prosaic, but linking it with the transcendent, rituals stuck in hearts and minds and memories. They turned political experiments into political habits, individual hopes into collective expectations. They provided a context for political negotiation to replace confrontation, allowing fences to be mended even after violent struggles. They provided the public stage on which kings and faithful men interacted and agendas were articulated, and recorded. Establishing common behavioural forms, they linked the regnal with the local. Because Anglo-Saxons and Franks shared far more than divided them, and, crucially, had religious and political cultures in common, the ninth-century narratives and capitularies that preserve so much about Frankish assemblies at local as well as regnal levels can be used as magnifying-glasses for Anglo-Saxon materials, allowing us to see Wilton as Aachen or Pitres writ small. And small is where I began, in another sense, with peasant negotiators and individual battles for status. A continuum makes an ugly plural; but plural continuums are what we get by working sideways as well as back. If rights can be inferred from rituals, rights certainly need to be *referred to* rituals, and vice versa. The ending affirms the beginning.

¹⁰¹ A mobile court could have a degree of stability of personnel across space as well as time: the same group that had been at Wilton on 22 April was apparently still together some days later at the royal residence of Edington, some 30 km north; *Charters of Sherborne*, ed. O'Donovan, 9; Keynes, 'The West Saxon Charters', 1122–3. As Hincmar of Rheims said in a letter (November 858) intended for two Carolingian kings and their courts, MGH *Concilia III*, ed. W. Hartmann (Hanover 1984), no. 41, c. v, p. 412: 'The palace of the king is so called on account of the rational human beings who dwell therein, not on account of walls or courtyards that are insensible things.'