Translating Technical Terms in Law-Codes from Alfred to the Angevins

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There has been much new work on the fundamentals of the written word in the Middle Ages. Recent monographs, articles, and conference proceedings have approached the topic from the basic question of how medieval people read their books, to the structuring of memorized knowledge, or the imprint of the aural within the form of the written — and the most revelatory of this work describes not simply how authors shaped texts but how the written word shaped perceptions of readers, auditors, and users.[1] These studies come after a very fertile period of work on literacy and orality in medieval societies by — here a few from what could be a long list — Malcolm Parkes, Michael Clanchy, Brian Stock, and Rosamund McKitterick.[2] Some of the insights provided by this research have been startling and refreshing — Roger Wright's work, for example, has shown that until Alcuin, the Frankish world was literate in its vernacular, with no significant

[1] Mary Carruthers, *The Book of Memory: A Study of Memory in Medieval Culture* (Cambridge, 1990); Michel Banniard, *Viva voce: communication écrite et communication orale du IV^e^ au IX^e^ siècle en Occident latin* (Paris, 1992); Katherine O'Brien O'Keeffe, *Visible Song: Transitional Literacy in Old English Verse* (Cambridge, 1990); Carol Braun Pasternack, *The Textuality of Old English Poetry* (Cambridge, 1995); Utrecht Studies in Medieval Literacy, vols 1–15 (Turnhout, 1999–2006).

[2] Malcolm Parkes, 'The Literacy of the Laity', in *Literature and Western Civilization: The Medieval World*, ed. by David Daiches and A. K. Thorlby (London, 1973), pp. 555–77; M. T. Clanchy, *From Memory to Written Record: England, 1066–1307*, 2nd edn (Oxford, 1993); Brian Stock, *The Implications of Literacy: Written Language and Models of Interpretation in the Eleventh and Twelfth Centuries* (Princeton, 1983); Rosamund McKitterick, *The Carolingians and the Written Word* (Cambridge, 1989), and the collective wisdom of the contributors to *The Uses of Literacy in Early Mediaeval Europe*, ed. by Rosamund McKitterick (Cambridge, 1990).

diglossia in sight until Alcuin and Charlemagne's realignment of written Latin with classical Latin pronunciation left spoken contemporary Romance with no orthographic system to represent it.[3]

The English were faced with a different set of problems concerning language. These problems were most visibly the result of a series of invasions and settlements first by Scandinavians, beginning in the ninth century, followed in the tenth and eleventh centuries by the West Saxon and Mercian conquest of the north and east, the return of Scandinavian rule again under Cnut and his sons (1016–42), and then, in 1066, the conquest of England by Francophones (and a few Breton and Flemish speakers). However, the problems of multilingualism implied by this list of invasions were already present along western borders with Welsh-speaking peoples and in the north with Gaelic-speaking Scots.[4] This multilingualism meant that the English were always translating, whether orally between English, Welsh, Scandinavians, Scots, and Normans, or in texts between the written Latin culture of the clergy (itself in contact at times with Greek, Hebrew, and Arabic texts) and the vernaculars or, occasionally, between the written vernaculars themselves.[5]

Some aspects of this translating activity have been an object of interest with scholars for some time — from the grandest questions of the influence multilingualism and its aspects (i.e. translation, diglossia, bilingualism, etc.) had on the development of English, to issues as narrow and particular as the identification of Alfred's translations and the evaluation of their causes and effects — but this scholarship lives in many disciplinary homes.[6] Relevant research has been conducted by sociolinguists, philologists, onomasticians, toponymists, and scholars in translation studies as well as by historians and scholars of literature of all stripes.

[3] Roger Wright, *Late Latin and Early Romance in Spain and Carolingian France* (Liverpool, 1982), and now his *Sociophilological Study of Late Latin* (Turnhout, 2002).

[4] A topic covered by Michael Richter, *Sprache und Gesellschaft im Mittelalter: Untersuchungen zur mündlichen Kommunication in England von der Mitte des elften bis zum Beginn des vierzehnten Jahrhunderts* (Stuttgart, 1979), pp. 5–104, and Ian Short, 'On Bilingualism in Anglo-Norman England', *Romance Philology*, 33 (1979–80), 467–79.

[5] Robert Bartlett observes that English society from the Conquest to the fourteenth century was 'more broadly and truly multilingual [...] than it has ever been since': *England Under the Norman and Angevin Kings, 1075–1225* (Oxford, 2000), p. 483.

[6] See the relevant chapters on vocabulary or lexis in vols I and II of the *Cambridge History of the English Language* (Cambridge, 1992); Janet Bately, 'The Alfredian Canon Revisited: One Hundred Years On', in *Alfred the Great: Papers from the Eleventh-Centenary Conferences*, ed. by Timothy Reuter (Aldershot, 2003), pp. 107–20. On the issue of translation in England, see my *Reversing Babel: Translation among the English during an Age of Conquests, c. 800 to c. 1200* (Newark, 2011).

And much remains to be studied. I am only dealing with a small point about translation in this article, a point I came to consider crucial after working with the Latin and Anglo-Norman French translations of Old English law-codes after the Conquest. These legal translations are generally more recognized than known, having been branded by F. W. Maitland and Julius Goebel as mainly derivative.[7] They are *Quadripartitus*, the most compendious of the lot, translating into Latin most of the Anglo-Saxon laws that are thought to have been issued; the narrower *Instituta Cnuti* and *Consiliatio Cnuti*, which, despite their titles, do more than translate only Cnut; and finally, the last section of the *Leis Willelme*, which translates into Anglo-Norman French a selection of Cnut's 'secular' laws. I have now broadened the investigation to cover legal translations from Alfred's translation into Old English of laws from Exodus at the start of his law-code (880s–890s) to the Anglo-Norman translations of the *Articuli Willelmi* and *Leges Edwardi Confessoris* in the late twelfth century.[8]

One of my first observations was that many of the post-Conquest translations — especially the *Instituta Cnuti* and *Consiliatio Cnuti* — took liberties with their sources, and that these additions, revisions, and omissions formed a pattern that revealed in part the goals of the translators. For instance, the *Instituta* updates its translation of Alfred's tort code by refiguring the fines in terms of Norman shillings, rather than the source's West Saxon ones.[9] Such a revision only tells so much,

[7] Frederick Pollock and Frederic W. Maitland, *The History of English Law*, 2nd edn, 2 vols (Cambridge, 1898), I, 101; Julius Goebel, *Felony and Misdemeanor: A Study in the History of English Criminal Procedure* (New York, 1937), p. 380 and n. 51.

[8] All of these texts are in *Die Gesetze der Angelsachsen*, ed. by Felix Liebermann, 3 vols (Halle, 1903–16). Liebermann's standard abbreviations will be used for individual texts. *Leis Willelme* is also available, with an English translation, in *The Laws of the Kings of England from Edmund to Henry I*, ed. by A. J. Robertson (Cambridge, 1925). The Anglo-Norman version of the *Leges Edwardi* remains unedited, surviving in a single copy, now Cambridge, University Library, MS Ee.I.1, fols 3^{v}–8. On this last piece, see Felix Liebermann, 'Eine anglonormannische Übersetzung des 12. Jahrhunderts von Articuli Willelmi, Leges Edwardi und Genealogia Normannorum', *Zeitschrift für romanische Philologie*, 19 (1895), 79–83, and Bruce R. O'Brien, *God's Peace and King's Peace: The Laws of Edward the Confessor* (Philadelphia, 1999), pp. 106–07. I have not included the Latin version of Æthelred's sixth code (VI Atr) since it is uncertain whether this text is a translation of a similar Old English text (also VI Atr) or that both are drafts drawn up in preparation for Wulfstan's later legal compostions for Cnut: on this, see Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, vol. I: *Legislation and its Limits* (Oxford, 1999), pp. 190–95 and 333–35.

[9] See, e.g., In Cn at II Cn 15, but passim; cited long ago by Felix Liebermann, 'On the Instituta Cnuti aliorumque regum Anglie', *TRHS*, n.s., 7 (1893), 87–91.

however. It is unclear to what degree the post-Conquest translations are evidence of continuity of law over the Conquest. Few scholars are willing to trust them on this point, suspecting deliberate archaisms and hidden agendas behind this burst of legal writing.

The authority of these legal texts as evidence, however, might be tested by studying their treatment of the technical vocabulary of Anglo-Saxon law. Technical terms are a conservative part of a language.[10] Replacing the technical terms of law may be among the last linguistic changes a people experience as a result of conquest or colonization or immigration. Where poets lead, courts have to be dragged.

By the end of the ninth century, the Old English legal vocabulary was already well established in written form, presumably reflecting a similar consensus in oral usage.[11] Of course there continued to be movement at the edges, which is not surprising given the link between lordship and jurisdiction in a world where the king's lordship was increasing its power in leaps. Cnut, for instance, according to Florence Harmer, may have added to the long list of regalian rights by creating *flymenafyrmth* ('the harbouring of fugitives'), and Wulfstan, Cnut's legal amanuensis, may have put — I have argued elsewhere — legal technicality to *morðor* ('murder involving betrayal').[12] But the technical words for rights and wrongs were mostly stable. The rhythm and subsequent consistency of Anglo-Saxon writs listing *sac and socn* ('basic jurisdiction'), *tol and team* ('right to take tolls' and 'vouching to warranty'), and *infangentheof* ('right to try a thief taken with the stolen property'), and, in others, *hamsocn* ('assault on a person or house'), *grithbryce* ('breach of peace'), *mundbryce* ('breach of protection'), *foresteall* ('obstruction or waylaying'), *fihtwite* ('fine on fighting'), and *fyrdwite* ('fine for neglect of military service'), reveal a long oral history for some and a technicality for all as judicial and financial rights and royal dues before 1066.[13] Here, but also generally, translators were faced

[10] Consider, for example, the long life of Law French in England: William Rothwell, 'The Problem of Law French', *French Studies*, 46 (1992), 257–71, and Paul Brand, 'The Languages of the Law in Later Medieval England', in *Multilingualism in Later Medieval Britain*, ed. by D. A. Trotter (Cambridge, 2000), pp. 63–76.

[11] *Anglo-Saxon Writs*, ed. by F. E. Harmer, 2nd edn (Manchester, 1989), pp. 73–82.

[12] *Anglo-Saxon Writs*, ed. by Harmer, pp. 81–92; Bruce R. O'Brien, 'From *Morþor* to *Murdrum*: The Preconquest Origin and Norman Revival of the Murder Fine', *Speculum*, 71 (1996), pages (pp. 336–37, 349).

[13] *Anglo-Saxon Writs*, ed. by Harmer, pp. 73–85. This consistency is in part explained by Richard Sharpe, 'The Use of Writ-Charters in the Eleventh Century', *ASE*, 32 (2003), 247–91, as a product of the process whereby writs were drafted either by their recipients or by royal scribes on the basis of previous writs on the same subject to the same beneficiary.

with problems when they chose to work with legal texts, regardless of the language of the source text or translation. How does one translate technical jargon?

One fairly common method used by translators, including this body of English translators of legal sources, ignores the goal of lexical equivalence (strictly speaking) and expands the source through the incorporation of expository commentary. The principle is simple. Instead of worrying overly about producing any lexical equivalence between the source text and the translation, the translator aimed at creating a text that could be clearly understood in the target language, where ambiguities were resolved and, at times, implications laid out. This was certainly done to select passages in, for example, the works of Alfred. In the preface to his law book, where he translates select passages from Exodus, Alfred took the source's commandment 'maleficos non patieris vivere', and expanded it, probably to eliminate the ambiguity of *maleficus*, which could mean either a criminal, an evil-doer, or a wizard: 'Ða fæmnan þe gewuniað onfon gealdorcræftigan 7 scinlæcan 7 wiccan, ne læt þu ða libban.'[14] Some of the post-Conquest translators performed this same task. As

[14] Exodus 22. 18: 'Do not suffer wizards to live.' Unless otherwise noted, all translations are my own. Af El. 30: 'Women who want to undertake spell-craft and wizards and witches, do not allow them to live.' On the identification of Alfred's source for the translated portions of Exodus there is still disagreement. His selection of chapters and verses are all included in an older collection of biblical laws called the *Liber ex lege Moysi*, which remains unedited, though two scholars have either promised an edition or made it an object of special study over the last few decades (Raymund Kottje, *Studien zum Einfluss des alten Testamentes auf Recht und Liturgie des frühen Mittelalters (6.–8. Jahrhundert)* (Bonn, 1964), p. 12, n. 4, who said an edition done in collaboration with L. Bieler would shortly appear, and Anton Scharer, in the 1990s, in a note added to the M. R. James's catalogue of Corpus Christi College manuscripts, in the Parker Library, was said to be working on one). Patrick Wormald discusses the *Liber* as a source, but suggests that it and Alfred's *Domboc* may have had a common source, and points to other sources, both oral (Grimbald of St-Bertin) and written (*Collatio legum Romanarum et Mosaicarum*), that may have determined the shape of the source 'text' (Wormald, *Making of English Law*, pp. 416–26); Simon Keynes and Michael Lapidge are only willing to say that there may be a connection (*Alfred the Great: Asser's Life of King Alfred and Other Contemporary Sources*, trans. by Simon Keynes and Michael Lapidge (London, 1983), p. 304, n. 2). David Pratt, on the other hand, points to a miscounting of Commandments and an inversion of verses shared by the *Liber* and the *Domboc* and argues that these are most easily accounted for by identifying the *Liber* as Alfred's source (David Pratt, *The Political Thought of King Alfred the Great* (Cambridge, 2007), p. 230). Additional shared variants support Pratt's conclusion (see esp. *tabernaculi* added to Exodus 21. 6, appearing as 'þæs temples' (itself an older borrowing from Latin *templum*) in Af El. 11) and may narrow the source to the *Liber* in Cambridge, Corpus Christi College, MS 279, whose dating by M. R. James to the end of the ninth or early tenth century may be at the late end of what is possible. Note, however, that the *Old English Heptateuch* translated a text which shared this last variant, but was not the *Liber*: 'to ðæs

with Alfred, purpose shaped language. The *Instituta Cnuti* used expansion to update and redefine older laws, since it was an attempt to produce a useful description of English law, while Guernes de Pont-Sainte-Maxence in his translation of the Constitutions of Clarendon (1164) in his *Vie de Saint Thomas*, composed between 1170 and 1174, included commentary on his source driven by his hagiographical purpose.[15] Guernes does offer a reliable Anglo-Norman French translation of the Latin text of each constitution, but also adds the reason it should be opposed: for example, 'Li dreiz de saint iglise fu iluec oblïez' or 'se ensi fust, fiebles hum dreit mais ne conquestast: La pöesté saint Piere li reis Henris guardast'.[16] His inclusion of personal criticisms in his translation is unique among translators of legal texts, but so was his purpose: to show the sanctity of a martyr and a king's corruption, rather than reflect the authority or explain the administration of the original laws. Even a translation that edited its source nevertheless expected to draw on the source's authority; even Guernes wanted his readers to recognize that his version of the laws was accurate, despite his agenda to undermine them:

> Se vus volez les leis rei Henri oïr,
> Qu'il voleit en sun regne e metre e establir
> E faire a saint iglise e guarder e tenir,
> Ci les purrez aprendre, car jo n'en voil mentir.
> Quant sainz Thomas les het, tuit les deivent haïr.[17]

halidomes dura', in *The Old English Version of the Heptateuch*, ed. by S. J. Crawford, EETS o.s., 160 (Oxford, 1922), p. 264. This variant does not appear in any families of texts used for Dom Quentin's edition of the Vulgate version of Exodus for *Biblia Sacra* (Rome, 1929), nor is there any sign of the same inversion of verses as found in Alfred's introduction and the *Liber*.

[15] Guernes de Pont-Sainte-Maxence, *La vie de saint Thomas de Canterbury*, ed. and trans. by Jacques T. E. Thomas, 2 vols (Leuven, 2002), I, 154–62 (lines 2391–2555). Cf. *Select Charters and Other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward the First*, ed. by William Stubbs, 9th edn, rev. by H. W. C. Davis (Oxford, 1921), pp. 163–67, for the source. See also Thomas O'Donnell in this volume.

[16] Guernes, *La vie de saint Thomas de Canterbury*, ed. and trans. by Thomas, I, 154 (line 2400) and 156 (lines 2414–15): 'holy church's rights are neglected here' or 'thus if this were done, a weak man would never obtain justice. King Henry would have St. Peter's powers'.

[17] Guernes, *La vie de saint Thomas de Canterbury*, ed. and trans. by Thomas, I, 154 (lines 2391–95): 'If you would like to hear these laws that King Henry wanted to establish and set up in his kingdom and to make holy church observe and keep, you may learn them here; I shall tell no lies. Saint Thomas abominated them, and therefore everyone must do so' (trans. by Janet Shirley, *Garnier's Becket* (London, 1975), p. 64).

In general, if translators aim for lexical equivalence between source and target, they have three options for rendering technical terms: transcribe them, construct an etymological replica (also called a loan translation or calque), or find a cultural equivalent in the target language. These three choices are visible in many different places and in the works of many different translators far beyond the bounds of early medieval England, from Jewish translators in the school of Aquila in the early second century trying to improve on what they perceived as the freedom of the Septuagint, to modern translators of technical manuals.[18] Medieval English translators of legal records were alive to all three possibilities.

The first is transcription, one of the most basic techniques used when a translator encountered technical terms. The process was simple. When the translator decided a word in the source text would not be translated, for whatever reason, the translator would sometimes assign that word a gender (if such was required in the target language and the translator was so inclined) and transplant it whole into the translation. Examples of this in translations from English to Latin or French are legion. *Quadripartitus* is filled with transcriptions of Old English technical terms of law, some of which are given gender and inflected, like *hundredum* for *hundred*, *wera* for *wer* ('wergild'), *ordalium* for *ordal* ('judicial ordeal'), *weralada* for *werlad* ('exculpatory oaths based on a person's *wer*'), while others come in as they are in the source language (e.g. *halsfang* ('installment of wergild' or 'fine under English law'), *lahslit* ('fine under, usually, Danish law')).[19] In the *Leis Willelme*, the translator was willing to transform an Old English *thegn* into an Anglo-Norman *vavassour*, a *theof* into a *larun*, and a *borh* into a *plege*, but chose to transcribe Old

[18] Sebastian Brock, 'Aspects of Translation Technique in Antiquity', *Greek, Roman, and Byzantine Studies*, 20 (1979), 84–85.

[19] See a sample from Quadr at II Cn 19.1 (*namum*), 30.3b (*weram*), 30.6 (*ordalium*, *weram*, *wita*), 30.8 (*were*), 30.9 (*weram*, *utlaga* (for *utlah*)), 31.1 (*weram*), 32 (*ordalio*), 35 (*prima tihla* for *frymtyhtlan*), 36 (*weram*), 37 (*healsfang*), 39 (*utlaga*, *weralada*), 42 (*plena lada* for *fulre lade*), 45.1 (*halsfang*), and 45.3 (*lahslit*, *witam*). I cannot say why some words were incorporated more fully into the target language while others remained less changed. Many of these transcribed terms make their first Latin appearance here in *Quadripartitus* or its contemporaries, the *Instituta Cnuti* and *Consiliatio Cnuti*: s. vv. in *Dictionary of Medieval Latin from British Sources*, ed. by R. E. Latham and others (London, 1975–). Based on citations in the *Dictionary*, *Quadripartitus* and its contemporary legal translations appear to be the first texts to transcribe some Old English technical jargon into Latin: see, e.g., *fihtwita*, *hamsocna*, *lahslita*, *manbota*, *mægbota*, and *munda*. Three of these appear only in the work of the *Quadripartitus* translator: *mægbota*, *manbota*, and *lahslita*. Other terms appear for the first time in eleventh- and twelfth-century Latin texts, but not just in the legal translations: *frithborga*, *hamfara*, *hengwita*, *hida*, *marca*, and *namium*.

English *lahslit* into Anglo-Norman *laxslite*, and to retain *hundred*, *wer*, and *nam* ('distraint') relatively untouched.[20] It is not simply that the translator had an easier time finding Anglo-Norman equivalents for people than for abstractions, and so transcribes English concepts like *sac and socn* in his source. The same translator is willing elsewhere to lump together under the omnibus Anglo-Norman French *forfait* ('forfeiture') two quite separate English fines: *aeftergyld* ('subsequent payment of portion of fine') and *wite* ('fine, usually paid to the king').[21]

Transcription is, of course, one of the ways that new words enter a language. Such loans — that is what these are — were common, but do not from the perspective of a translator's intentions admit any catholic explanation.[22] On the one hand, transcription in a translation can be seen as deeply conservative, where the target language is thought inadequate or unable to capture the source term's meaning. On the other hand, when the audience for such a text may likely have had no experience in the source language, transcription can offer a base for a more liberal, rather than a more restricted, interpretation of meaning, since what is not clear in the translation may migrate beyond the bounds of the word's semantic field in its source language and likely assart into alien ground in the target. Transcribed words in translations are difficult to restrain. In England these legal texts with visible contemporary borrowings derive from a context that was trilingual — in both

[20] Transcribed terms include *lahslit* (*laxslite* in Leis Wl 42.2), *hundred* (22, 42.1, 43, 51, 52), *wer* (*were* at 8, 52.1), *nam* (44), *utlah* (*utlage* at 52.2). Sometimes a transcription merely offers the local term for what was described in Anglo-Norman; e.g. Leis Wl 5 if anyone takes 'u chevals u bos u vaches [...] que est forfeng apelé en Engleis' (either horses or oxen or cows [...] which is called *forfeng* in English). Other times, the transcribed term is accompanied by a definition without reference to speech community: e.g. Leis Wl 10.1 'sarbote, that is compensation for a wound'. Cultural equivalents for technical terms are fewer: e.g. *vavasour* for *ðegn*, *larun* for *ðeof* (47.3, 49), *seniour* for *laferd* (52), *serjant* for *hiredman* (52), and *plege* for *borh* (47). Terms appearing in the earlier chapters that are not translations show a similar division between preference for Anglo-Norman or English terms: *serf* (7), *vilain* (8.1, 20.3), *franch hume* (7), *gwage* (5.2, OE *wed*), versus *hengwite* (4), *hemfare* (2), *agwait* (2), *manbote* (7), *thein* (8), *hamsochne* (9, n. 20 (in London, British Library, MS Additional 49366)), *leche*[*feo*] (10, Liebermann's emendation from *lecheof*), *sarbote* (10.1), *socheman* (16), *marc* (17b), *munte* (18.1), *haumes* (20, OE *helmas*), *heimelborch* (21.1), *sache* (27.1), *soche* (27.1), *stretwarde* (28), *hides* (28), *guardireve* (28.1), *Mercenelahe* (2, 3, 7, 16, 22a), *Westsexenelahe* (2.2a, 3.2, 7, 8), and *Denelahe* (2.2, 2.4, 3.3) (though the last three, as combinations of place names and the OE *lah*, would at best have combined the same place name with AN *leis*).

[21] Leis Wl 45.1 < II Cn 24.1 (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 326, 518).

[22] *The Cambridge History of the English Language*, vol. I: *The Beginnings to 1066*, ed. by Richard M. Hogg (Cambridge, 1992), pp. 299–308, 317–22; *The Cambridge History of the English Language*, vol. II: *1066–1476*, ed. by Norman Blake (Cambridge, 1992), pp. 414–35.

courts and the royal court — and so the decision to transcribe was not made either out of ignorance of Old English or Anglo-Norman or because of Latin's inadequacy. Rather, it likely shows that the authors and translators felt it perfectly acceptable to naturalize terms from a source or from vernacular languages in texts meant to describe those specific things that had been borrowed.

The second technique is etymological translation — again, this was a technique well-known to ancient and medieval translators.[23] Some in fact favoured this method above all others for its ability to capture — they thought — the exact meaning of the source's technical terms, without, it appears, as much interference from the existing semantic fields in the target language. In fact, use of this method is not surprising given the immense prestige etymology had as a part of *grammatica*. The early medieval encyclopedist Isidore of Seville used etymology to structure his treatment of all aspects of ancient knowledge in his aptly titled *Etymologiae*.[24] Isidore's later medieval readers learned that the 'true name' was the best source for the definition of anything. We can chuckle at a belief matched in no way by philological understanding in the work of Isidore's medieval successors, where Thurstan, archbishop of York, could have his name explained as derived from *turris stans* ('standing tower'), but we should remember that it was only in the nineteenth century that etymology founded on phonetic form claimed exclusive right to be considered valid, and that just before then, even the able mind of Dr Johnson could rest bemused but content with an explanation of the term *sirloin* as 'a title given to the loin of beef, which one of our kings knighted in good humor'.[25] The idea behind etymological translation is quite simple. A translator would break a word in the source into its parts and supply an equivalent in the target language for each,

[23] This technique produces loan translations or calques: e.g. Ælfric's grammatical terminology, where *praepositio* becomes *forsetnys* ('that which is put before'). On this, see Edna R. Williams, 'Ælfric's Grammatical Terminology', *Proceedings of the Modern Languages Association*, 73 (1958), 453–62, and more generally Helmut Gneuss, *Lehnbildungen und Lehnbedeutungen im Altenglischen* (Berlin, 1955).

[24] Isidore, *Etymologiarum sive Originum Libri XX*, ed. by W. M. Lindsay, 2 vols (Oxford, 1911); Martin Irvine, *The Making of Textual Culture: Gramatica and Literary Theory, 350–1100* (Cambridge, 1994).

[25] 'Turris stans' appears in an untitled poem by Hugh of Pontifract that has been inserted into the anonymous *Vita Thurstini Archiepiscopi* in *The Historians of the Church of York and its Archbishops*, ed. by James Raine, 3 vols (London, 1879–94), II, 261, discussed by A. G. Rigg, *A History of Anglo-Latin Literature, 1066–1422* (Cambridge, 1992), p. 52. Hugh's goal is to show the symbolic resonances of his subject rather than to present anything like a true linguistic derivation. On Johnson's quip, see Alfred Bammesberger, *English Etymology* (Heidelberg, 1984).

and then, generally, glue the parts back together.[26] This technique self-consciously produced neologisms in the target language.

It is used by translators moving legal texts into Latin, but not by those moving legal texts into English or Anglo-Norman. In the Latin translations, the meaning and order of the parts in the case of technical terms often betrays the etymological method. *Hamsocn* ('assault on a house') becomes *domi invasio* ('at the house' + 'attack') in the *Consiliatio Cnuti*; in the same section, *griðbryce* ('breach of peace') becomes *pacis fractura* ('of the peace' + 'breach').[27] Here the translator has broken the English words into their parts and translated each part with a Latin equivalent, preserving their original order in the English term, something not done by the more conservative translator of the *Instituta Cnuti*.[28] The translator appears to have decided that there was no single word in Latin that was equivalent to these familiar English compounds and was unwilling to spell it out in anything more usual in Latin. The use of etymological translations in post-Conquest Latin legal texts did not lead to the establishment of a technical Latin vocabulary of English law. The translations were many, representing multiple borrowings, and the move from Latin to Anglo-Norman happened too soon after the move from Old English to Latin for these attempts to have put down deep roots as a language of law with scribes.[29] The phrases and terms created remained awkward constructions in post-Conquest legal Latin that exhibited little natural usage, where technical terms of all sorts swam in a sea of lexical and grammatical chaos.[30]

[26] Consider, e.g., *pesah* ('Passover'), which is transcribed in the Septuagint, but becomes *uperbasis* by Aquila: see Brock, 'Aspects of Translation', p. 84.

[27] *Socn* is usually understood to mean 'jurisdiction' or 'court', but also covers 'assault' or 'attack' as an admittedly poetic usage.

[28] Cons Cn for II Cn 15 (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 319). In the same place (II Cn 15), In Cn has 'inuasio in domo uel in curia quod dicunt hamsocne'. Quadr has 'griþbrece id est infractionem pacis et hamsocnam id est inuasionem mansionis'. Note, however, that these other two translations, though they invert the word order, are still products of the same etymological method.

[29] On the multiplicity of forms (as well as declensions) as evidence for borrowing and reborrowing, see Richard Sharpe, 'Vocabulary, Word Formation, Lexicography', in *Medieval Latin: An Introduction and Bibliographical Guide*, ed. by F. A. C. Mantello and A. G. Rigg (Toronto, 1996), pp. 100–01.

[30] Consider Richard Sharpe's assessment of the Latinity of the *Quadripartitus* translator: 'The Prefaces of "Quadripartitus"', in *Law and Government in Medieval England and Normandy: Essays in Honour of Sir James Holt*, ed. by George Garnett and John Hudson (Cambridge, 1994), pp. 148–72.

The last of the three techniques — finding a cultural equivalent — was, like the others, a conscious choice of the translator. But here, instead of lifting the original into the target, as in transcription, or metamorphosing key vocabulary of the original into etymological replicas by the creation of calques, the translator chose from the existing menu of the target language's vocabulary the word closest to the meaning of the term in the source.[31] This is the least conservative technique with respect to the source. Unlike transcription, which embeds elements of the source language within the target, and loan-translation, whose very awkwardness retards any migration of meaning from the source, cultural equivalents break the visible and etymological dependence of the translation on its source, and thus may be quite liberal in the target.[32]

There are many examples of this technique being used for technical terms. However, finding a cultural equivalent was also difficult to do, and medieval translators (at least the ones who chose to write about it) knew that there was no word-for-word equivalence possible without some change in the meaning of the original. They knew the ancient world's judgement that a literary translation was not word for word — this was the technique of hack literalists — but sense for sense. In Horace's *Ars poetica*, the literary translator was no slavish *fidus interpres*; in Cicero's eyes, he must instead be an *orator*.[33] This technique also encouraged a broad spectrum of possible translations, ranging from simple equivalents — appearing literal — to revision and transformation of the original. Sometimes we can see the meaning of the source transformed through the selection of a word or phrase with a very different semantic field: the translator of the *Consiliatio Cnuti* renders *ealdorman*, the official who presided over shire courts, as *princeps*, and *æðeling*, a potential royal heir, as *basilides* ('royal or princely person'), choices that represent the general Romanizing tendency of this writer. For *ealdorman* he could very well have used

[31] This can result in a semantic loan — when the source is filling the shape of the target. Consider, e.g., OE *synn* ('injury, enmity, feud'), which picks up the meaning of 'sin, crime' from Latin *peccatum*: see *Cambridge History of the English Langauge*, I, 309.

[32] Unless the source were well known, this technique also did not always allow for an easy retrogression to the original, which is where some medieval readers would site the authority behind the text. When faced with Alfred's translation of passages of Exodus, the translator of *Quadripartitus* merely returned to the Vulgate and excerpted the translated passages Alfred had used for his source. Alf El. prol.–49.5 (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 26–45). He did not, however, emend his text to fit Alfred's source and thus included portions of Exodus that Alfred had decided not to translate.

[33] Horace, *Epistulae, Liber 2*, ed. by Niall Rudd (Cambridge, 1989); Cicero, *De optimo genere oratorum*, c. 14, in Cicero, *Rhetorica*, ed. by A. S. Wilkins, 2 vols (Oxford, 1902–03).

comes as does the *Instituta Cnuti*, or *senior* as is found in other sources, but he chose instead a term with an entirely different denotation and connotation.[34] The effect in the *Consiliatio Cnuti* was to de-emphasize English particularism and to garb the whole of Cnut in a quasi-classical — literary classical — robe.[35]

This method is the closest that legal translation technique ever comes to what classical writers would have called a literary translation. Cultural equivalency translation is Alfred's preferred method for rendering anything conceivably seen as technical in his selection of biblical laws.[36] The reasons for this choice have as much to do with the programme of translation Alfred initiated and participated in as with his conception of the purpose of the *Domboc*. Alfred's translations sought to bring Christian wisdom to his kingdom's elite. Such a goal is behind his choice of Gregory the Great's *Pastoral Care*, Boethius's *Consolation of Philosophy*, Augustine's *Soliloquies*, and the first fifty Psalms, all of which presented useful, topical guidance grounded in religious truth. Alfred's decision to translate some laws from Exodus as the first part of his code would at first glance appear to offer a similar wisdom founded on faith — the choice implies that these biblical laws formed the foundation upon which a Christian king's laws should be built. But unlike the Christian wisdom Alfred celebrated in his other translations, the wisdom in the *Domboc*'s introduction is presented as in part obsolete or revised, a statement of law crafted when the Hebrews were living rough in the Sinai and God knew they were not capable of better. This law was later ameliorated by Christ and his

[34] II Cn 58.1–2 (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 350–51).

[35] Following an agenda less concerned with technical accuracy, the translator responsible for a mid-eleventh-century Latin version of King Edgar's late tenth-century code on tithes and witnessing procedures introduces ambiguity to the personnel involved in the procedures by using *dominus* ('lord') for *se hundrodes ealdor* ('chief man of the hundred'), as well as for *se landrica* ('the landed proprietor'), and *se landhlaford* ('lord of the land or manor'), without always offering appropriate qualification to distinguish his lords. He adds to the problem by rendering another instance of *se hundrodes ealdor* as *principes hundred* ('princes, leaders, or ealdormen of the hundred'): IV Eg 8.1, 10, and 11 (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 210, 212–13).

[36] This is Alfred's preferred method for terminology in all of his texts: for his translation of the psalms, see *King Alfred's Old English Prose Translation of the First Fifty Psalms*, ed. by Patrick P. O'Neill (Cambridge, MA, 2001), pp. 45–53; for Boethius, see Nicole Guenther Discenza, *The King's English: Strategies of Translation in the Old English Boethius* (Albany, 2005), pp. 87–122. In all of his translations, Alfred made decisions on texts, style, syntax, and words that aimed for clarity in English, and did not resort to transcription or calques. The same is true, with two peculiar exceptions, of the person who translated IV Edgar into Latin.

apostles.[37] In Alfred's code, these laws from Exodus offered not the guidance of the other texts but rather a frame to explain Alfred's own laws — their context if not their authority. The ancient laws of the Hebrews, given by God, were nonetheless amendable; Christ and later his apostles established new interpretations and new priorities. So too the English kings of newly Christian peoples — first Æthelberht, then Ine and Offa. As with the Decalogue, so with these older English codes: some laws stayed, others changed, still others fell out of use. The appending of Ine's laws to Alfred's then fulfills a similar purpose to the translation from Exodus: Ine's laws on which his code was based, but which represented Alfred's people at a different time in their development from barbarism to full Christianity. In order for the translations from Exodus to serve this function, they had to be understood by Alfred's own contemporaries. Only then could Alfred's own ameliorations appear in their proper light.[38] So Alfred worried less about any latent technicality in the laws in Exodus — since no one was being asked to apply or follow them as written — and more about how to ensure that their meaning was clear.

It is in this context that Alfred's decision to seek cultural equivalents makes sense. It allowed him to turn the Mosaic code into a thoroughly West Saxon document. He nowhere uses transcription or produces any calques. Since the target is not particularly small, as would be the case if the technicality of certain terms was to be conveyed, Alfred adopts whatever English term comes closest to his source, using expansions liberally to ensure clarity and resonance. When someone has killed someone in Exodus, but had not lain in wait for him, God says 'constituam tibi locum in quem fugere debeat'.[39] Alfred, who has some legislation on sanctuary in the code proper, adjusts his Latin source to offer more exceptions based on intention ('Se ðe hine þonne nedes ofsloge oððe unwillum oððe ungewealdes'), and to offer something recognizably contemporary as a remedy: 'sie he feores wyrðe 7 folcryhtre bote, gif he friðstowe gesece'.[40] Alfred already has a procedure in place

[37] Alfred's tack may have originated under the influence of or as a response to his Continental adviser, Grimbald, who had been sent by Hincmar's successor as archbishop, Fulk. The Hincmarian strain in the preface has been discussed by Wormald, *Making of English Law*, pp. 423–27, as well as recently in the context of all Alfred's works by Pratt, *Political Thought*, pp. 223–30.

[38] M. Treschow, 'The Prologue to Alfred's Law Code: Instruction in the Spirit of Mercy', *Florilegium*, 13 (1994), 79–110.

[39] Exodus 21. 13: 'I will establish for you a place to which that person can flee.'

[40] Af El. 13: 'If he killed him then because of need or unwillingly or unintentionally [...] he shall be entitled to life and the right to pay compensation according to folk custom, if he goes to a sanctuary' (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 30–31).

and leans on the Bible's language to bring divine law up to speed. Alfred has performed similar acts throughout the translated portion of his *Domboc*, guided by his view of his place as a Christian monarch and by the purpose of legislation for such a monarch, a view likely shaped by his Frankish advisers and their vision of law.

It was quite common in the Latin translations, and occasional in the Anglo-Norman translations, for the translator to combine two of the above methods, usually transcription with either an etymological rendering or a cultural equivalent. In their lists of royal dues, both *Quadripartitus* and the *Instituta Cnuti* employ pairs to clarify meaning, in slightly different ways. While *Quadripartitus* offers 'fyrdwite, id est forisfacturam expeditionis, griþbrece, id est infractionem pacis', and so on, combining transcription with another method and assuming in almost every case that the reader knows the transcribed term is English, the *Instituta* uses the English term (identified as such) to gloss the translation: 'dimissionem belli, quod Angli dicunt ferdwite, fractionem pacis, quod dicunt griðbrece'.[41] As titles for the personnel of justice changed, similar insurance was needed to ensure no misunderstanding. For instance, one reviser of *Quadripartitus*, when faced with the transcription *aldremannus* for *ealdorman*, doubled up, adding a cultural equivalent, 'aldremanni id est comitis', to make clear that this *ealdorman* in the early eleventh-century code of Cnut was the equivalent of an earl (Latin *comes*) rather than a mere civic official in charge of a ward, which is what *ealdorman*/alderman had come to mean in the early twelfth century when the translator was at work.[42] In the late twelfth-century Anglo-Norman translation of the *Leges Edwardi*, the translator has maintained the Old English term *wer* ('wergild') as the price in English law for breach of peace, and turned the Latin definition ('id est pretium sue redemptionis') into an Anglo-Norman cultural equivalent: 'par lais Engleis sun were ceo est sa rancun'.[43] This combination of two methods ensured greater control over the

[41] Cf. Quadr's 'fyrdwite, that is the fine of military service, griþbrece, that is breach of peace', with In Cn's 'neglect of war, which the English call ferdwite, breach of peace, which they call griðbrece': II Cn 15 (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 319).

[42] *Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 351. For the early twelfth-century meaning of *aldermannus*, see the charter (dated 1111) of the dean and canons of St Paul's, London, witnessed by 'Turstenus aldermannus de la warde', noted by title not so much because he was an important man to have witness an act, but more to distinguish him from 'Turstenus telarius' who follows immediately in the witness list: *Report on the Manuscripts of the Dean and Chapter of St. Paul's*, ed. by H. C. Maxwell Lyte (London, 1883), p. 68a.

[43] 'in English law by his *wer*, that is his ransom [the price for his release]': Cambridge University Library, MS Ee.I.1, fol. 5 (translating ECf retr 12.3).

results than either method on its own. It offered the best of both worlds for a translator who cared about the technical meaning of the source texts.

What did English legal translators prefer? Each translator is different in the balance of techniques used to translate technical terms. Alfred, for example, always provided a cultural equivalent to the text of Exodus. As mentioned above, he never felt the need to transcribe any peculiar terms. One can well accept Malcolm Godden's conclusion that Alfred is purposefully trying to demonstrate the ability of English to convey the meaning of any aspect of classical Latin culture, though, as discussed above, it also made sense given his use of Mosaic law as a starting point and frame for his law. Alfred does this not by transporting his readers back to his source, but rather by bringing his sources up to the time and idiom of his audience, and does this without apparent strain. In fact, English translators before Byrhtferth do not complain of the inadequacy of English in the task of translating Latin. Later translators, unlike Alfred, used all three methods, though in differing degrees. It is unclear to what extent translators consciously played with these different methods. It may be that the writer we know best, the *Quadripartitus* translator who also authored the *Leges Henrici Primi*, changed his mind in successive drafts of the two texts.[44] The other two Latin translations of the Anglo-Norman period mix cultural equivalents and calques with transcriptions, often doubling up to, I think, tie down the meaning of the term so that it shifts as little as possible during the move from Old English into Latin. The Anglo-Norman translations follow suit, either, as in the case of the *Leis Willelme*, adopting a similar combination of methods or, for the later translations of the *Articuli* and *Leges Edwardi*, following and adjusting the language of the source to reach the same result as the Latin translations and the *Leis Willelme*.

This consideration of translation methods leads to a few conclusions. First, the technique used for translating technical terms from Latin to Old English was not favoured for translating from Old English to either Latin or Anglo-Norman French.[45] Alfred's English version of Exodus prefers cultural equivalents to the exclusion of calques or transcription, perhaps a sign of the confidence the translator-king had in his native tongue, but also a method encouraged by the purpose behind the translation. The twelfth-century Latin and Anglo-Norman translations, however, mix their methods, using mostly transcription supported by a cultural equivalent

[44] *Leges Henrici Primi*, ed. by L. J. Downer (Oxford, 1972), pp. 12–28.

[45] Though note the exception of the Latin translation of IV Eg, which uses cultural equivalents only.

or, much less often, by an etymological translation. In these translations, there is clearly more concern to get the denotation of particular words legally right, compared to contemporary translations of other genres — histories, saints lives, even biblical texts.[46] Even as late as the Anglo-Norman translations of the *Articuli* and *Leges Edwardi*, done, Liebermann thought, between 1189 and 1193 (or between 1155 and 1193), the translator has not only maintained the Old English terms — whether in their original or Latinized forms — but has added some terms not in the source to clarify, in one case, a pronoun that was an ambiguous referent.[47] This approach reflects the same mix of methods present in the Latin translations, though retaining at an even further remove from the original authority of the Old English technical language of law.

The fulsome presence of English legal terms in even Anglo-Norman translations leads to a second observation. The sound of English, it appears, was not particularly painful to French ears in court, contrary to what William of Malmesbury

[46] Geffrei Gaimar, *L'Estoire des Engleis*, ed. by Alexander Bell (Oxford, 1960); *La vie d'Edouard le confesseur*, ed. by Östen Södergård (Uppsala, 1948); *Poème anglo-normand sur l'ancien testament*, ed. by Pierre Nobel, 2 vols (Paris, 1996). This concern is not true of all texts: cf. Sanson of Nantuil, *Les proverbes de Salemon*, ed. by Claire Isoz, 3 vols (London, 1988–94), which combines close translations of the source text with the text itself and adds a long commentary to explain it, passage by passage. Ælfric stands out for his concern that translators of texts with theological meaning get it right: Ælfric, *Catholic Homilies: The First Series*, ed. by Peter Clemoes, EETS s.s., 17 (Oxford, 1997), p. 173 (Latin preface).

[47] Clearer in the translation of the *Leges Edwardi* than the *Articuli*, where the principle clause (Wl art 4) containing Old English terminology (Frenchmen in England in the time of King Edward followed English custom, 'quod ipsi dicunt on hlote et an scote' ('which they called *on hlote* and *on scote*')) is omitted and the only other term in the code, *ran* (Wl art 6), is dropped: instead of 'ran, quod Angli dicunt apertam rapinam que negari non potest' ('*ran*, which the English call open theft which cannot be denied'), the text reads 'de k'il apelent aperte roberie u ravine u ke li hume ne pot nent nier' ('that which they call open robbery or rapine which a person cannot deny') (*Die Gesetze der Angelsachsen*, ed. by Liebermann, I, 487–89). In the Anglo-Norman *Leges Edwardi*, on the other hand, almost all of the English proverbs embedded in the Latin source are retained and all transcriptions and their cultural equivalents (in French) remain. The translator has in fact added Old English terms where they had been covered by general language in the Latin source; ECf 22.5 alludes to those 'qui non habet has consuetudines' (those who do not possess these customs), while the Anglo-Norman translation spells it out (Cambridge University Library, MS Ee.I.1, fol. 6) just before the clause in order to define 'has consuetudines'— 'ke unt cestre devandites custumes en lur tere de sake e de soke e de tol e de tem e de ynfongeneþeof' (who have those customs on their own land concerning *sake* and *soke*, *tol* and *tem*, and *ynfongeneþeof*). The translator appears (fol. 5^{v} (ECf 15)) to de-Latinize the term *felagus* in the source, recording it as *fulaghe* in an attempt to capture the spelling of the late Old English term *feolaga* ('fellow, partner').

had claimed more generally in his Latin translation of Colman's English *Life of Wulfstan* and in his own *Gesta regum Anglorum*, and noted as well by Benedict of Peterborough and the Ramsey Chronicler.[48] These comments need to be received with necessary skepticism. William wrote that he was leaving out many of the personal names 'lest the barbarity of the words wound the delicate ears of readers'.[49] It is likely, in fact, that Normans were eagerly learning their Old English paradigms — maybe not in the weeks after the Conquest, but certainly within the next two generations.[50] It was in their interests to learn the sound of that barbaric tongue because it was by its sounds that they gained their wealth.[51]

Third, we see that etymological translation is generally avoided. There are at least three reasons I can think of for this. The first reason is that the social context made it irrelevant. The world of English law was always filled with English speakers — whether as their first, second, or third language.[52] A translator operating in this world, aware of its languages, would likely have recognized that an etymological translation in Latin would make his source less, not more, understandable than if he used transcription or found a cultural equivalent. All methods could pass difficulties in the source onto the translation, but the etymological method more so as it produced neither a familiar word nor preserved the original in transcribed form which might be interpreted by a native speaker, but instead created something

[48] Benedict of Peterborough, *Miracula sancti Thomae*, I. 15 and IV. 31, in *Materials for the History of Thomas Becket*, ed. by J. C. Robertson, 7 vols (London, 1875–85), II, 47 and 205; *Chronicon abbatiae Rameseiensis*, ed. by W. Dunn Macray (London, 1886), p. 176.

[49] '[...] me nomina testium pene omnium suppressisse, ne uocabulorum barbaries delicati lectoris sautiaret aures': William of Malmesbury, *Vita sancti Wulfstani*, in William of Malmesbury, *Saints Lives*, ed. by M. Winterbottom and R. M. Thomson (Oxford, 2002), p. 58 (Book I, Chapter 16.5); *Gesta regum Anglorum*, ed. by R. A. B. Mynors, R. M. Thomson, and M. Winterbottom, 2 vols (Oxford, 1998–99), I, 176 (Book II, Chapter 115).

[50] A linguistic assimilation by the Francophones is likely to have occurred within a few generations: Ian Short, '*Tam Angli quam Franci*: Self-Definition in Anglo-Norman England', *ANS*, 18 (1995), pages (p. 156).

[51] As George Garnett has emphasized, what the Normans needed was access to the lands, rights, and privileges they had appropriated with the Conquest: *Conquered England: Kingship, Succession, and Tenure 1066–1166* (Oxford, 2007), pp. 16–17.

[52] Men like Ansketil of Bulmer, translator in Yorkshire for an important inquest in 1106, must represent a large class of royal and baronial servants. See the analysis of Domesday Book translators in Hiro Tsurushima, 'Domesday Interpreters', *ANS*, 18 (1996), 201–22. Ansketil appears in *English Lawsuits from William I to Richard I*, ed. by R. C. Van Caenegem, 2 vols (London, 1990), I, 139.

awkward and strange.[53] The difficult work of abstracting the roots of words, finding their equivalents, and then using the resultant neologism to represent a technical term still in common use by those in the legal system at every level was work that would hardly prove uniformly successful or appreciated. It should be remembered that it was only later, from the beginning of the thirteenth century, that the language behind the law begins to catch a case of Francophilia, and the surviving Old English terms, embedded in charters, treatises, and translations, begin to find themselves replaced with cultural equivalents understood by Francophones in the Plantagenet court.[54]

The second reason is that what Norman kings confirmed was often — explicitly — the *laga* rather than the *lex* or *leges* of Edward the Confessor. *Laga* is a standout lexical borrowing from English, for example, in Henry I's coronation charter. There Henry tells his barons and vassals, both French and English, that 'lagam Eadwardi regis vobis reddo'.[55] Its presence there implies, I think, a conscious decision to use it instead of its Latin cognate. The use of the English — even in its transcribed form — would have been recognized as such by those who knew English. Patrick Wormald has argued that the *Quadripartitus–Leges Henrici* set was inspired by Henry's coronation charter, and I have argued that the *Leges Edwardi* was similarly inspired by Stephen's coronation charter and charter of liberties for the church in 1135–36; we both here acknowledge the tremendous power the monarchy had to shape even legal composition that was essentially unofficial and private.[56] Might it be that the translators of the early twelfth century were similarly responding not only to the authorization of the pre-Conquest law, but also to the language in which it had been issued and which, given royal employment of its jargon, retained authority after 1066 and well into the twelfth century?[57]

[53] See O'Neill's comments at *King Alfred's Old English Prose Translation*, ed. by O'Neill, p. 45.

[54] The common terms for jurisdiction, 'sac and soke, toll and team, and infangentheof', still appear in newly issued charters until just after the middle of the twelfth century; after that, they only recur in enrollments of older charters.

[55] Here (c. 13) and in an earlier clause on murder fines (c. 9), the transcription of the Old English word *laga*, itself a borrowing from Scandinavian, is used: Stubbs, *Select Charters*, p. 119 ('I return to you the law of King Edward').

[56] Patrick Wormald, 'Quadripartitus', in *Law and Government in Medieval England and Normandy*, ed. by Garnett and Hudson, pp. 111–47; O'Brien, *God's Peace*, pp. 46–48.

[57] Consider how the process of renewing writs under new kings or new holders of those writs would have reaffirmed the very language of rights and dues: Sharpe, 'Use of Writs', pp. 283–91.

This leads to my third reason. It looks as if the original language generally retained linguistic authority in the legal texts in England between 1066 and the end of the twelfth century. When we look at those translators elsewhere who have adopted etymological translation as their technique, we find that their products were intended to replace the source as the authoritative text. This goal justified the recourse to the unusual but semantically more accurate locutions produced by calques. By analogy, consider a group of much earlier translators wrestling with similar problems of technical meaning in the language of their source. In second-century Judea, Aquila and his school of translators were attempting to improve the clarity of the Septuagint not because it was a good crib for overly Hellenized Jewish boys at the Yeshiva, but because — as Sebastian Brock has argued — the Greek version was accepted as divinely inspired by then. Aquila recognized the Septuagint's severe ambiguities because of its dependence on transcription and wanted to improve the Greek translation's ability to capture the meaning of the original by creating calques. The bond with the original remains in the translator's head; but for the audience, the translation stood on its own.[58] This was clearly not so for versions of the *laga Edwardi*.[59] The various translations of this *laga* frequently pointed back to their Old English roots, whether oral, hinted at in the case of the Latin *Articuli* and clearer for the *Leges Edwardi* and the first half of the Anglo-Norman *Leis Willelme*, or textual for *Quadripartitus*, *Instituta Cnuti*, *Consiliatio Cnuti,* and the Anglo-Norman French translations of Cnut in *Leis Willelme*, and of the *Articuli* and *Leges Edwardi Confessoris*.

My last point follows directly from that final observation. We cannot interpret the use of transcription in all of the post-Conquest translations or treatises as a sign that the terms were increasingly archaic and could not be represented by anything current. Some might argue that the *leges*, and I include in this group the translations, were archaizing because their contemporaries no longer located the authority of their law in any Old English terminology. I think kings confirmed something

[58] Brock, 'Aspects of Translation', pp. 84–85.

[59] Transcribed OE terms occur in records of all sorts that attempted to describe a portion of the *laga Edwardi*, while several post-Conquest manuscript collections of OE texts, including the most comprehensive, chose to copy almost all the texts in their original language. See, however, In Cn in *Textus Roffensis*, replacing OE Cnut, which is a curious exception to this practice: Mary P. Richards, 'The Manuscript Contexts of Old English Laws', in *Studies in Earlier Old English Prose*, ed. by Paul E. Szarmach (Albany, 1986), pp. 171–92; Patrick Wormald, '*Laga Edwardi*: The *Textus Roffesnsis* and its Context', *ANS*, 17 (1994/95), 243–66; and Bruce O'Brien, 'The *Instituta Cnuti* and the Translation of English Law', *ANS*, 25 (2003), 177–97.

that had real meaning to the audience, and the treatise writers — some, perhaps most — tried to capture an acceptable version of that promised law in their treatises and translations. All their transcription was not in vain. These post-Conquest translators of legal texts did not share the views of a much later French translator of English literature, the Abbé Prevost, who said of his translation of Richardson's *Pamela*, 'I have suppressed English customs where they may appear shocking to other nations, or made them conform to customs prevalent in the rest of Europe. It seemed to me that those remainders of the old and uncouth British ways, which only habit prevents the British themselves from noticing, would dishonor a book in which manners should be noble and virtuous'.[60] For the post-Conquest translators, these *unkuþ* customs of the conquered English were worth preserving, not effacing, since it was by them that law, albeit an increasingly narrow portion, was defined long after the fall of the last native English-speaking king.[61]

[60] This attitude helped the Abbé shrink Richardson's seven volumes to four: quoted in translation in the introduction to *Translation/History/Culture: A Sourcebook*, ed. by André Lefevere (London, 1992), p. 9.

[61] The Anglo-Norman translation of the *Leges Edwardi* preserves an English expression (ECf retr 23 in Cambridge University Library, MS Ee. I.1, fol. 6^{v}) on those who enjoyed one's hospitality, both the *kuþ* and *unkuþ*, for relatives and foreigners.