In this sense we can speak of a political society and try to establish its origins.

To appreciate the position we must remember that the kingdom of England during the Anglo-Saxon and Norman periods was not much more than a quarter of the size of modern France. It included neither Ireland, which remained independent till the reign of Henry II, nor Wales, conquered only in the reign of Edward I, nor Scotland which was not united until a much later date, the accession of James I. It was a very much easier task to unify the lands from Northumberland to the Channel than from Flanders to the Pyrenees.

Many invaders had conquered this small tract of land. The Celts had succeeded the prehistoric peoples and after them the Gaels and the Brythons. For almost four hundred years Britain was patrolled by Roman legions. They finally departed during the fifth century, leaving a free entry for German invaders; the leaders of the Anglo-Saxon bands established petty kingdoms under conditions of which we have little evidence and it has been said with some justification that the first page of English history is blank. The Germanization of the country was completed and reinforced by the arrivals from Denmark, Norway, and even Sweden at the beginning of the eighth century. The Scandinavians colonized the north and east of England which Alfred the Great abandoned to them by the Treaty of Wedmore (878) in the same way as they colonized “Normandy” when it was given up to them by Charles the Simple. During the first part of the eleventh century the Danes conquered all of England. Finally in 1066 it was invaded, for the last time, by the Normans under William the Conqueror with many recruits from Flanders, Picardy, and the Armorican peninsula of Brittany.

All the race groups that we have mentioned were to be found in France also and formed the basis of the French population but the character and relative importance of the

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1 See particularly CLXI, DLXXI; for the general history of England before the Norman Conquest there are good summaries in CCCLIX and in C.M.H., vols. i-iii.
2 CCCVII, 1 ff.; CCCLXX, 19; CXXX.
3 We shall not deal here with the Scandinavian occupation in spite of its interest to the legal historian. See DCLVIII, 4-11, and a summing up in DXXV, 173-7.
invasions was very different in the two countries. The most important factor was that the Romanization, which was extremely thorough in Gaul, was very weak and superficial in Britain.\(^1\) This essential contrast cannot be overemphasized, although certain English archaeologists, proud of the discovery of interesting Roman remains, have tried to dispute it.

All the great English historians belong to the "German School" and they have good reason. The Roman School advance the evidence of Roman tombs and some hundreds of villas discovered in the south-eastern plain, fortifications, such as the wall of Hadrian, roads, and inscriptions.\(^2\) The Roman legions and the merchants who went with them could obviously not be there for three centuries without leaving some traces of their occupation; in a distant and fogbound country, the conquerors would not fail to introduce some elements of Latin comfort or the gaiety of the decorative art of the south to relieve their homesickness. There were even great estates run on Roman lines and from London, the foundations of which are lost in the mist of pre-Celtic Antiquity, a network of roads spread out along which many towns sprang up.

Nevertheless Roman Government was confined to the plain and even there large areas remained uncultivated while the Government seems to have been almost exclusively military in character. The tombs are soldiers' tombs, the roads were military roads, and trade developed there to supply the needs of the high command; the so-called Roman houses were built on a pre-Roman plan. Lastly, and most important, the great works of Latin civilization, moral and intellectual, which transformed Gaul, only touched the fringe of Britain. The Britons did not learn Latin except in the towns; Christianization was too superficial to resist the German invasions; with the exception of some advances in agricultural method, rural life remained the same as before the Conquest.

Thus Celtic elements were not so completely suppressed as they were in France and they retained a fundamental

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\(^1\) This question is still hotly debated. See \textit{DVIII}, 321–6; F. J. Haverfield (\textit{CCLIV, CCLIII}, 265 ff., etc.) exaggerates the Roman influences. Cf. \textit{CCXX}, 1 ff., particularly \textit{DGXX}, bk. i, chap. ii.

\(^2\) On the position of contemporary research, see \textit{CCXXV} (includes bibliography). Cf. \textit{CCXX}, third part, chap. x.
importance in the political and social history of the country. The Romans doubtless changed little in the Celtic village community. As far as we can judge from the Gaelic laws of a later period, private ownership of property only developed very slowly among the Britons. An extensive agriculture with a cumbersome and costly outfit of tools was quite alien to their mode of life.

At certain intervals the soil was redistributed, by drawing or by lot, among the members of an association which provided and manned a large plough drawn by four or eight oxen. In origin it was a clan association between people who believed themselves descended from a common ancestor, but at some date which we cannot fix, the clan gave place to a contractual association governed by its own rules, general meetings, and elected officers. The Roman idea of the city state did not become established in Britain or rather it did not triumph over the spirit of rural co-operation. This organization of local life, embryonic though it must have been in the Anglo-Saxon period, was a phenomenon of very great importance, a distant but essential origin of the English political system.

The Anglo-Saxon invasions undoubtedly involved a good deal of brutality and many Britons were driven into Wales, Cornwall, and Armorica. Nevertheless many remained in England and the union of the conquerors with the British women assured the survival of the Celtic elements and the village community. Anglo-Saxon society at the beginning of the seventh century is known to us by an admirable series of legislative texts in the common tongue which English and German scholarship have made understandable to us, and by the Latin charters of gifts to the Church.

These texts do not remove every obscurity but thanks to their continuity they allow us to trace their very complex evolution. With the passage of centuries, Anglo-Saxon

1 The strange theory of Seebohm (DCLV, chap. x) is no longer held.

2 The laws and civilization of the Anglo-Saxons themselves have been dominated by the spirit of the clan and the family, little favourable to the progress of monarchy, and traces remained even after the Norman Conquest. See DUV, particularly p. 508.


4 DCLIII, 376; DLXIII, 108-110.

society was profoundly modified but now, at the beginning of its history, we need only remark one striking and permanent feature—the existence, in addition to the slaves, of an important class of free men who were both agriculturists and warriors who took over the old British villages and adopted their collective practices and regulations, frequently forming free communities recognizing no lord. Even at the date when William the Conqueror had Domesday Book drawn up there were still communities of this kind in existence. Even in those districts which fell under the domination of a lord the old Celtic rural settlement remained the basic social unit. The towns were unimportant, inhabited mainly by agricultural workers: it was the villages—the townships—which became the nucleus of the parish when Christianity was once more established in England, and of the legal and fiscal administration as the organization of the state developed. It was on the basis of their representatives, for instance, that an inquest was conducted to which each sent its reeve, priest, and four of the principal inhabitants.\footnote{DLXVIII, 390 ff.; CDLIV, 340, 356; the accounts of Stubbs, DCXXVII, i, 97 ff., 105, 111 ff., are still valuable.}

The representatives of the townships appeared in the Hundred courts and the Shire courts. The Hundred is a judiciary district found in all constitutions of Germanic origin (it corresponds to the pagus of Tacitus), holding monthly courts for dealing with robbers and bandits.\footnote{DCXXVII, i, 118 ff.; DLXVIII, 96–107. Cf. GCXVIII, 239–248.} The development of seignorial justice and the organization of the royal court lessened its importance considerably but the Germanic Hundred, which disappeared very quickly in Gaul, has lasted down to the present day in England as a geographical subdivision.\footnote{England is divided into 729 hundreds or (in the area of Scandinavian colonization) wapentakes. See the table in DCXXVII, i, 123.} After the Norman conquest the Hundred court appears again, generally transformed into a seignorial court. The Hundred like the township is one of the sources of local political activity in England. The Shire,\footnote{DCXXVII, i, 129 ff.; DCXVIII, 90–6; GCXVIII, chap. viii.} to be renamed County by the Normans, was a larger territorial unit.

Originally it is found in only one of the Anglo-Saxon kingdoms—Wessex—but its value as an instrument of
monarchical authority led to its introduction into other kingdoms and the establishment of thirty-nine counties which still exist. The Shire court met twice a year to deal with judicial business.

The strength of local life did not hinder the development of unity. There was an English state the moment that William the Conqueror arrived with his warriors. The ambition and energy of certain Anglo-Saxon chieftains and above all, the determined will of churchmen had built up a unified England.

When the Germans invaded Gaul they found powerful bishops some of whom were to become, at a later date, territorial magnates with titles of count or duke. When they came to Britain they found no parallel situation. The Christian Church which Gildas portrayed in the middle of the sixth century was in a most wretched condition. The British had relapsed into paganism and the conversion of the Anglo-Saxon proceeded slowly and was not even begun until 597 (the mission of Augustine). At the end of the seventh century an Asiatic Greek, Theodore, Archbishop of Tarsus, received from the Holy See the task of organizing the new Church. This remarkable man established the moral unity of England at a time when it was divided between rival and warring monarchies. He effected a new division of dioceses and gave the primacy to the Archbishop of Canterbury. He demanded the regular holding of councils and, in addition to the regional conclaves, established a system of meetings near London, almost every year, to which all the bishops came. The Church was in fact a national Church providing the people with a uniform religious tradition and an intellectual and artistic civilization. The Archbishop of Canterbury might come from Wessex or Mercia and a Kentish cleric became a bishop of East Anglia.

Although these prelates had no lay titles their role in political life was no less important than that of their Continental peers. On the contrary their culture, their habit of discussing in council, and publishing canons, made them, just as in Gaul, the political instructors of the lay magnates. They took their seat in the Shire court as the vicar did in the Hundred when a unified monarchy was established. The Primate Archbishop of Canterbury became
its supreme adviser and kept that pre-eminence for many centuries. At times he took the place of the king as president of the meeting of Wise Men. In a charter of 812 they speak of the “wise men of the king and archbishop”. In this country where every Latin influence had been stamped out, the Christian Church brought the Latin spirit, the appreciation of an abstract right (law), and the idea of national unity and the State.¹

II

The Anglo-Saxon Monarchy

It was only in the ninth century that monarchical unity was achieved. The Anglo-Saxon chieftains had established many kingdoms but no federation had grown up.² They fought bitterly against each other and against the Danes. Finally in the ninth century the kingdom of Wessex brought unity. For a century and a half the king of the English was a powerful sovereign during a period when the Carolingian Empire was falling to pieces. The reigns of Egbert, Alfred the Great, Athelstan, and Edgar were glorious and the last two assumed the styles of Basileus, Caesar, Imperator Augustus.³

The great struggles undertaken for hegemony over one of the kingdoms or for the expulsion of the Danes together with the influence of the Church explains how the chieftains of Anglo-Saxon lands became real kings and were able to organize their power in a country where the memories and experiences of Roman rule had been obliterated.⁴ They had to create an administration, finances, and an army. At the beginning of the tenth century England was divided into shires. The shire was governed by a war lord comparable to a Carolingian count, the ealdorman, and by the sheriff, an officer responsible for superintending and checking the revenues of the king.⁵

¹ DCCXXVII, i, chap. viii; CCCXLV; CCCXX, 3-4, 30-33.
² The word Heptarchy means nothing. It only indicates that there were seven kingdoms more important than the others.
³ CCCXLIX, chap. vi ff.; DCCXXVII.
⁴ DCCXXVII, i, 221 ff.
⁵ CCCVIII, chap. v and viii; CDLXXXIV, i ff.
The most remarkable of these revenues was the Danegeld, a tax levied throughout England for defence against the Danes. In addition, the population was under obligation to maintain roads and bridges and to keep itself trained as an armed militia in case of invasion. This national army, in which all classes were mixed up in an ill equipped rabble, was obviously inadequate and it was necessary to make use of mercenaries. As a result the practice of "host service" grew up comparable to the feudal service of the Continent.¹

The character of this monarchy which arose from the stress of war was exceedingly complex. From one point of view it was very much like the Carolingian monarchy (and, hence, the primitive Capetian monarchy); it had borrowed from that source rites which would enhance its prestige. In other respects it was still profoundly Germanic. Though the king had pompous titles and a sacred person he was no despot and his power was limited.

We cannot say without doubt that he was always elected, since the practice of associating the royal heir on the throne had not been neglected by the Anglo-Saxon kings. Nevertheless it was the custom to make a formal acceptance of the new king and this continued in certain cases after the Norman Conquest. After the formality of election the king was consecrated. A pontifical probably dating from the eleventh century describes the ceremony. The king was crowned with a helmet and annointed. The influence of Carolingian rites is obvious. Then the Anglo-Saxon king pronounced an oath absolutely parallel to the oath of the French kings. He promised to maintain the Church and all his people in peace, to put down rapine and injustice, to be just but merciful in all his judgments. Sometimes he was required to pledge himself; in 1014 Æthelred had to guarantee reforms. Once the consecration was finished the Anglo-Saxon king was regarded as a superior being whom it was a duty to love and serve. The laws of Æthelred imposed obedience to the king as a religious duty. The Danish conquerors preserved this tradition. The first article of the laws of Canute says: "Above all our subjects must always love and adore one God alone, join together in observance to the Christian faith and show loyal devotion to the King Canute." It would be

¹ DCLVII, first essay, 14 ff.
easy to borrow analogous passages from the Carolingian capitularies.¹

But even after he had been sanctified by consecration the king was subject to restriction. The Anglo-Saxon Church was not servile or even indulgent towards him and the Church took considerable part in the deposition of certain monarchs. Finally, there were occasions when the king undoubtedly had to make allowance for the assembly of wise men—the Witena Gemot.²

This title does not appear either in the laws which the assembly issued or in the charters. The author of Annales Anglo Saxones uses it in the eleventh century and this determines its place in the development of history. The editors of Latin charters make use of the term synodus, concilium, conventus, but in the texts in the common tongue from the eighth to the twelfth century we find the word “Wita” (those who know, the wise), used to refer to those who take part in the meeting of the Gemot.

Authentic documents on the Witena Gemot begin in the seventh century but there is good reason to believe that even before the missions of Augustine and Theodore and the participation of the Christian clergy in the government every petty kingdom had its Witena Gemot which had developed from the rude concilium described by Tacitus in the Germania. When the kingdom of Wessex succeeded in unifying England its Gemot became the national assembly. It obviously could not include all the freemen who had usually been present at the Gemots of the smaller kingdoms but it maintained, to some degree, its old Germanic character. These old usages do not appear to have been challenged and interrupted by Roman influences as they were in Gaul. We have seen that there were many parallels between the Anglo-Saxon and French systems, but the Assembly probably played a more considerable part in Anglo-Saxon history chiefly because it was a more regular and continuous part. However it is still a subject of doubt and controversy.

Like the Carolingians and early Capetians, the Anglo-Saxon

² The most complete study is the one made by F. Liebermann, CXXX; DCCXXVII, i, 154–181; cf. CXXVIII, chap. ix, and Excursus iv; CXXXY, 428–9.
THE ANGLO-SAXON MONARCHY

monarch was surrounded by ministri—permanent advisers—his relatives, including the women of the family, his officers, the warrior nobles attached to his person, and clerics: at least one bishop lived at court with him and the Archbishop of Canterbury was, as we have already said, a sort of chief minister. This permanent entourage authorized the acts of the executive—royal letters (writs). Its importance grew with the passage of time and the growing importance of French and Norman institutions. Around this nucleus of councillors the other wise men gathered when the king called a meeting. They had no representative character any more than in Gaul. The king invited to his presence the Churchmen, leaders of the army (ealdormen), warrior nobles (thanes), whom he considered it would be possible and useful to bring together or whom tradition demanded that he should summon.

They were not very concerned to obey or many in number and a hunting box or the hall of a royal village would accommodate them all. An assembly totalling a hundred people like that of November, 931, which included the Archbishops of Canterbury and York, two French princes visiting the court, seventeen bishops, five abbots, fifteen ealdormen, and fifty-nine ministri was considerably above the average of about thirty persons. It was only on rare occasions that clerks trained in law or officers from the localities took part in the debates or, when the Gemot met in London, representatives of the townsmen. Even more rarely was the meeting a mobilization of the army though this was the case in 1051 when the warriors were called on to ratify the banishing of Godwin. In general it was an aristocratic assembly whose discussions were led by the churchmen but its national character was very clearly marked by the fact that the laws on which it agreed were published in the vernacular, an unprecedented feature in the legislation of the Germanic peoples.

The Witena Gemot seems to have met fairly regularly at least once a year, usually on the occasion of one of the great feasts, Easter, Whitsun, or Christmas. The early Capetians adopted the same practice.

The scantiness of sources has driven scholars seeking to describe the powers of the Witena Gemot to add up all the
information provided by four centuries of its history. It is quite clear that we must distrust such a fallacious method for none of the meetings of which we have any knowledge could have fully discharged all those functions. It is certain that sometimes the king carried through on his own authority acts for which at other times he demanded the approval of his councillors. With this reservation we must admit that they dealt with all sorts of matters. They published religious prescripts and ecclesiastical rules—for Church and State were closely linked and the men of the period did not distinguish, even a learned man as Alfred the Great, between a council and a National Assembly. They made laws and repealed them: Alfred declared that only the Witan could abolish laws. They dispensed justice concurrently with the royal councillors who were evidently normally the highest court of appeal. They were consulted about taxation though our evidence does not justify saying that this assent was essential. We have altogether seven decisions of the Witan authorizing the levy of the Danegeld and we see that they refused to sanction it in 1051.

It is impossible to define their administrative competence more closely but they have a part in the appointment of ealdormen and a great part of the documents which throw light on their functions for us consists of grants of royal land to which they have given their assent. Above all, there were disagreements and violent quarrels between king and Witan. It would be a mistake to imagine that this primitive assembly, dating from the period of barbarism, possessed the characteristics of an organ of modern constitutionalism. There were no established safeguards, no regulation of the date of its meetings or of the people invited to be present, no provisions for minuted records or for carrying a vote against the royal will. We have no example of a law that was created in opposition to the King’s wish. Above all he could dismiss it at will and gave it no supervisory powers during the intervals between sessions. If he wished, he merely sought the advice of his ministers in place of calling the Witan together. In short the “Assembly of the Wise” was not an independent institution capable of a sustained and regular constitutional opposition. In many respects it was essentially
comparable, as we have said above, to the assemblies of the Carolingians and Capetians.

Nevertheless it seems to have limited somewhat the authority of the crown even apart from moments of crisis when it relieved England of an unsatisfactory monarch. The formula "I and all of us", which appears at the beginning of legislation is a fair representation of the position. The Witen Gemot certainly contributed to the establishment of a political society in England. It provided a forum for the discussion of matters of common interest for people from all quarters of the realm, an occasion when boorish thanes were called on to listen to churchmen and try to comprehend points of law.

At the end of the period the Witen Gemot was in decline and frequently its assent was not invited to alienations of royal demesne. This is not an index of the growing powers of the monarch but rather the reverse. The realization that his power was weakening drove him, as it had driven the Carolingians in France, to adopt remedies more disastrous than the disease. He created clients by dispersing his resources and tried in this way to increase the numbers of his thanes.

As early as the tenth century, Edward the Elder (899–925) had suggested to the Witan that they should themselves enter his retinue. There was reason to wonder whether the Assembly of the Wise and the monarchy itself were on the way to losing their national character. There were no reasons why England should escape a development that was general in that period. Centrifugal forces were threatening unity and the royal authority and the division between the powerful and the weak (among free men) was becoming increasingly marked. The Scandinavian invasions in England had the same effect as the Norman raids on France; they gave the force of a revolution to the military organization and social distinctions created by the possession of extremely costly weapons, the mobilization of the people under the banner of a local magnate or the erection of a stronghold for the lord in which the local population could find refuge.
III

Anglo-Saxon Society at the Period of the Norman Conquest

There is no more illuminating document than Domesday Book for gaining an appreciation of the changes which had been caused or more clearly revealed by the last Scandinavian invasions. This great survey records the findings of an inquest demanded by the first of the Anglo-Norman kings in 1085.

Domesday Book is a source not only for the policy of William the Conqueror but for the condition of England at the time of his arrival, for its condition could not be totally changed in the course of twenty years and, moreover, the frequent mention of “the time of King Edward” shows us that the picture provided is intended to represent the period of the reign of Edward the Confessor.

William the Conqueror intended to continue the levy of Danegeld but he wished to assess it equitably and projected a survey of the realm which would show the number of taxable units and the value of the income of each. He was equally anxious to know of whom each piece of territory was held so that he could define the political and administrative responsibilities of his tenants. This was the origin of the book. As a result, its interpretation is extremely difficult for those who are seeking information on the condition of the population, for definitions are framed from the angle of raising taxation and this fiscal return cannot be used as a review of social conditions. Moreover, the Norman clerks who prepared the Latin version have not always translated English technical terms or have been satisfied with very vague equivalents; above all they have completely omitted certain areas with a particular fiscal administration and Domesday Book is not altogether exhaustive. Nevertheless, with all its limitations it is an unparalleled document of extremely great value; there is nothing to compare with it in France, for instance, where no authority existed capable of commissioning its compilation.

Attempts have been made to base population figures on

1 See CDLIV, 1 ff. Domesday = “dies iudicii,” day of judgment.
Domesday.¹ No exact computation is possible but there is sufficient authority to say that the most numerous class, amounting to perhaps two-thirds of the population, was that of free peasant farmers termed by the Norman editors, villains, bordars, cottars.²

The villains had a high wergild rated at two hundred pennies, the price of thirty oxen, and many owned their own plots of land but most of them also held lands for which they owed some moderate rent to the lord who, in many cases, had jurisdiction over them. The free small cultivators, the characteristic group in the society, remained the principal element in the population but they were already being subjected to the system of lordship. Their development could only be hastened if the word villain in Norman England became very quickly applied to the agriculturists in a status of serfdom and not as in France to those who were free.³

Above these free peasants, Domesday tells us of a class of farmers higher in status but barely a fifth of their numbers, soemen, freemen, etc., terms which overlap one another but are applicable to the same social condition. If they owe services to the lord they are light labour dues such as a number of hours of work at harvest time or even merely “soc”, the duty of suit in the court of justice; some of them held their land without rendering any service to the lord, others commended themselves to a lord without holding any land from him and their own holding remained completely free.⁴

Finally, Domesday includes several thousand prelates, chiefs of noble families who are either Norman conquerors or thanes of the former regime whose dispossession receives special mention or who have been received into favour. The greater part of this landed aristocracy consisted of landlords who had rendered homage to the great magnates lay and ecclesiastical. Even in the Anglo-Saxon period these great magnates were

¹ CCLXXV, ii, 511-14. Cf. CCCXVII, 108; DLV, i, 512; CDLIV, 17 ff. In general the people named are the heads of households but sometimes it is possible to estimate the number of women and children.
² According to Ellis, op. cit., Domesday Book enumerates 108,407 villains 83,119 bordars, 6,803 cottars or cosets, and only 25,156 serfs who are in general all but slaves. On Anglo-Saxon serfdom, see CDLIV, 80 ff.
³ CDLIV, 36-66; DCLXII, 89 ff., 205 ff.; DCLIX, 323 ff.; DCLVIII, 446 ff.
⁴ CDLIV, 66-79, 108-7 et passim; DCLIX, 340-3; DCLVIII, 431-446; DLXXXV, 30-4.
few in number and could dispose of very few considerable fortunes. Godwin and Harold on the eve of the Conquest had immense demesnes. They were subject only to the king who formed the apex of the pyramid of commendation. What was the origin of commendation among the Anglo-Saxons? It had general causes which were to be found also in primitive Gaul and others which were particularly English. The most pressing reason was obviously the need for protection, above all in the courts of justice. Some of the Anglo-Saxon laws do not give us ground for saying with confidence that impartiality was always assured. They explain why it was advisable to seek powerful support. In addition the Crown, lacking any organized police, regarded commendation as a means of introducing some measure of order and authority in a society where violence was habitual; it regarded a man without a lord as a source of danger. Above all there was a need for soldiers and taxes especially during the period of the Danish invasions. As the basis for a dependable army, it encouraged the formation of groups of warriors round a powerful lord; military tenure was not yet established but it was not far off. The lord’s hall was adopted as the centre for the payment of Danegeld; even for the most peaceful inhabitants of the village the lord became a chief who must be visited and to whom it gradually became customary to commend oneself and swear fidelity.

As time passed, the monarchy showed increasing favour towards the nobility which was entrusted with the collection of taxation and the defence of the country. They made it responsible also for the maintenance of the public peace, increased their powers of jurisdiction, and allowed the old Hundred court to become a court of seignorial justice. They divested themselves of rights, revenues, and even territories in their favour.¹

When the Normans arrived in England they found, therefore, a society which, in some respects, resembled French society in the eleventh century ²—relations between man and man of a hierarchical character; an embryonic

¹ CDLXV, 161 ff.; DCLIII, 403 ff.
² CDLIV, 69–76 and 168 ff. (cf. the criticism of Round in V.C.H., Worcestershire, i, 250–1); DCLXX, 212 ff.; DCLXXI, first essay; DCXXVII, i, chap. vii.
seignorial regime; a nobility with military duties; a monarchy which had the glories of a great past and the consecration of the Church but had become weak and had surrendered its rights creating intermediaries between itself and its subjects in the hope of resisting the advance of anarchy and foreign invaders. It would not be difficult for the Normans to establish in such a country the rule of the military fief and the manor.

But, nevertheless, Anglo-Saxon society with its numerous small landowners and its system of commendation (still loose and vague) presented certain original features which retained their significance. In this country where there was no special legal terminology to differentiate the status of demesnes, there was still a system of tenures though not a feudal system in the sense that the term possessed in France. It was the monarchy which was to use the instrument of Feudalism for its own ends. In spite of its alien origin it was to be helped in its task by the memories of a national monarchy which had been able, with the support of the Church, to create a national state, and a legislation, an administration, and a general system of taxation with the assistance of the Assembly of the Wise. The embryo of a political society already existed in England. It was not now to be infected with the germs of anarchy for there was in Normandy a powerful principate capable of organization.

IV

The Duchy of Normandy c. 1066

The early history of Normandy is extremely obscure; charters are rare before the eleventh century and chronicles are meagre and of doubtful authenticity. The establishment of the Norwegian, Danish, and Swedish hordes in the valley of the lower Seine, the Bessin, and the Cotentin and the agreement made between Rollo and Charles the Simple are scarcely known except through their consequences.¹ The Pagan pirates who, in the ninth century, had ravaged

¹ DXXVI; DXXVII; CCCCL, 4 ff., 241 ff.; CDXXXIII, 177 ff.
Gaul, terrifying peasants and clergy alike, and contributed to checking the Carolingian renaissance became, during the tenth and eleventh century, landowners fully qualified to get the best returns from their lands. They supported the growth of an extremely powerful regional Church and a brilliant monastic civilization; above all they accepted the authority of a powerful duke. We have no evidence of the causes and methods of this transition.

It is quite clear that the invaders had great energy, intelligence, and practical ability and a series of remarkable dukes. Moreover these changes were not sudden. The Normans of the Bessin and Cotentin retained for a long time their Scandinavian language and accepted the domination of the prince very reluctantly.¹ William the Bastard himself was expelled by them during his youth and was forced to seek the alliance of the King of France to conquer them. Towards the middle of the eleventh century, however, the power of the “Duke by the Grace of God” was firmly established and only the title of king was lacking to the man who “held the monarchy of Normandy”.²

The Norman monarchy, in its country of origin as later in England, gained its power from the feudal ideas and governmental principles which were developed there in their strictest form.

In Normandy, sooner than elsewhere, the political system of Feudalism established itself and worked out a logical definition.³ Sooner than elsewhere, allods largely or even entirely disappeared, fiefs became hereditary, and even in the clerical holdings subinfeudation established itself.

Earlier than elsewhere fiefs were charged with an exactly fixed military service and the rights of relief and subjected, in case of minorities, to a rigorous right of wardship. Even before the King of France, in his own demesne, the duke forbade the building of castles or fortifications without his permission, and William the Bastard even destroyed those which had been built during his minority. There has been a tendency to attribute to the dukes even greater powers.

¹ D: CCC, i, chap. iv, ii, chap. viii, iii, chap. xii; CCCXXI; DXXVI, 292 ff.; CDXLIV, 55 ff.
² On the “kingdom of Normandy”, see DCL, 26 ff.; DXXVI, 367 ff.
³ CCLXXXVIII, iii, 88 ff. For all that follows CCL, chap. i; DCLXXII, chap. iii; DCL; CCCXXIX, chap. 2; CLXXX, 3-42.
It has been maintained that he had no mesne vassals, all
the nobles holding directly from him, and that he retained
in his own hands the monopoly of justice in important cases
but recent work has refuted these exaggerations. Sub-
infedation was usual and was taken into account by the
duke himself imposing the duty of host service on his barons;
the number of mesne tenants who should accompany each
was fixed usually at five or a multiple of five. The barons
had major powers of justice and held pleas at which they
could inflict death or mutilation. Nevertheless the famous
peace of the Duke of Normandy, which chroniclers mentioned
in admiration, was not absolute but in relation to a particularly
violent moral standard.\footnote{On the probable Scandinavian origin of the Norman peace, DCLXXXII, cf. DXXII, 93 ff.}
The right of vengeance, blood feuds, and private wars was only abolished by such regulations as
the Truce of God, which the Church imposed with the support
of the duke and a series of particular laws which the latter
strove to extend. It was forbidden to attack anyone working
on the land or travelling at his lord's summons; to carry
arms in a forest, to seek vengeance on an adversary in war
arrayed with banner and horn to rally supporters, to take
prisoner, etc.\footnote{Consegstudines et Justiciae, published in GCIL, 281 ff.} The important fact is that the duke has the
power necessary to enforce respect for his rules. Nowhere
else was there the same suppression of brigandage. Respect
for the ducal peace was maintained by the sheriff's officials
who had no counterpart in the royal demesne before the
institution of bailiffs. They were not merely agents in the
demesne responsible for collecting the lord's revenue and
holding a local court; even in the territories of counts there
were sheriffs who administered a district comparable in
extent with a small English county and maintained permanent
communication with the ducal Curia.

The ducal court, about which we have very little informa-
tion, bore a very strong resemblance to the Capetian court.
The same officers were there, the same shifting personnel
of bishops and barons, and it had the same atmosphere and
characteristics.

Under the guise of a solemn assembly which it assumed
from time to time it seemed to be sometimes a meeting of
judges, warriors, and political councillors; sometimes a sort of semi-council of exactly the same character as the court of Robert the Pious. It was in such circumstances that in 1080, in the mixed assembly of Lillebonne, William, in the presence of his vassals lay and ecclesiastical, established the already traditional customs concerning the jurisdiction of the Church.

Within his duchy, William was in effect master of his clergy quite as much or even more than a Capet in the dioceses subject to the Crown. Not only did his court regulate the extent of ecclesiastical jurisdiction but, if a sentence of the Church seemed too light, the duke intervened. He gave full protection to the riches of the monasteries and cathedrals and in effect nominated the bishops and the principal abbots. However, he did not abuse his power to impose unworthy candidates; he found, in the higher clergy, political advisers from whom he demanded wisdom and experience, he supported the plans for reform to which the great councillor of the Holy See, Hildebrand, later Gregory VII, was devoting his attention and in return the Holy See was prepared to support his greatest ambition.

The Capetians, in the eleventh century, lacked a dependable army and finance. Doubtless at this period the Duke of Normandy had not a very experienced financial administration but he had the monopoly of coinage in his duchy, and he had control of a considerable supply of bullion. Further, he had an excellent corps of archers and the best cavalry in Europe. No other country possessed warriors as disciplined or as active. The adventurous spirit of the vikings was handed down to their descendants and the dukes had a difficult task in preventing undue emigration to countries where fighting was going on—Spain, Italy, and the East. The comment made by William about Baudri, son of Nicholas, would have been true of many Norman knights, “I have deprived him of all his lands as the penalty for going to Spain without my permission... I don’t think a better knight is to be found in arms but he is unreliable and wasteful and spends his time running from one country to another.”

Such was the principality, small but by no means negligible, which dispatched the new invaders of England. The explanation of why they were able to dominate the Anglo-Saxon
kingdom so easily and reshape its constitution must be sought in the results of the policy of William the Bastard and his predecessors in the duchy and the youthful vigour and daring of the Normans. One example 1 illustrates very clearly both their swashbuckling heroism and their political spirit and had been well considered by William the Bastard. During the forty years which preceded the conquest of England, little bands of Normans had settled in Southern Italy living on their profits as mercenaries or acts of brigandage and then establishing small principalities. Their victory over the troops of the Holy See in 1058 demonstrated their strength very clearly but their leaders were too well advised to remain at enmity with the Pope. Robert Guiscard, the Crafty, did homage to the pope as "Duke, by the Grace of God and St. Peter, of Apulia and Calabria and, with their aid, of Sicily". This was in 1059, seven years before William the Conqueror landed in England with a banner blessed by the Pope.

Here in Southern Italy and Sicily where Latins, Greeks, and Moslems formed a heterogeneous mass of the superimposed religions and traditions of Rome, Byzantium, and the East, the Normans were to establish the state which, in the middle of the twelfth century, was the richest and strongest in Western Europe. It is more than probable that they introduced into the two Sicilies the same principles of authority as the dukes of Normandy had established in their duchy, and subsequently applied to England. Wherever they went the Normans carried some idea of government, and, in addition, there is evidence that from the north of Europe to the south they kept up communications with one another. From each realm they borrowed the administrative forms it had evolved. In a society of brutal and simple knights, the Normans were not content to use their swords best, they also theorized. Already they had a legal outlook which at this period was the endowment of a people qualified for dominion.

1 CCXIX, 1st and 3rd parts; CCXLIX, chap. viii.
CHAPTER III

THE FOUNDATION OF THE ANGLO-NORMAN MONARCHY

I

THE CONQUEST

In 1066 the founder of the modern English monarchy, William the Bastard, was 38 years old. He was a stout, bald man with the strong arms of an athlete and a stern face, terrible in its cold rage, who loved nothing but politics, war, and the chase. His life was disciplined and chaste, his character taciturn, deliberate, and stubborn, and he was capable of working silently for a long time in the execution of a plan he had formed and waiting for his opportunity. His early life had been harsh and insecure but from the age of 20 he ruled Normandy without rival. He had snatched the rich countryside of Maine from the powerful Angevin dynasty but his principal anxiety was to secure the English inheritance. There can be little doubt that he had been preparing its annexation for a long time. Many incidents in English politics from 1042–1066 are obscure and inexplicable if we hesitate, as most historians do, to assume this secret preparation but, once admitted, everything is explained.

The powerful Anglo-Danish dynasty founded by Swelyn and his son, Canute the Great, had been meteoric; in thirty years its force had burnt itself out. Harthacnut, an epileptic destined for an early death, consented to the association on the throne of the legitimate heir of the Anglo-Saxon kings

1 On all that follows the extremely tendentious exposition of E. A. Freeman, CCC, vols. i–iii, must be read with caution. For a summary treatment which can be recommended, see CCCIX, chap. xxv, xxvi.
2 DXXVIII, 1st series, 73 ff.
3 Compare the scribe who continues the Anglo-Saxon chronicle who lived at his court, CXXV, i, 219–221.
4 CDIII.
who had been brought up at the Norman court.\footnote{The three families of Edward the Confessor, William, and Harthacnut were related by the two marriages of Emma of Normandy. A daughter of Duke Richard II and sister of Duke Robert the Devil (William's father), she had married the Anglo-Saxon King Ethelred (dethroned by Sweyn in 1013) and Canute the Great. Edward was one of the children of her first marriage, and thus William's cousin. Harthacnut was the son of Canute and Emma.} It was not long before Harthacnut died (8th June, 1042), and Edward became an easy prey for William the Bastard; a man of extreme piety in temperament, so weakly that he passed his married life in celibacy, the Confessor, though revered as a saint, was negligible as a king. He was generally under the influence of Continental advisers and during his reign the court acquired an administrative personnel of Normans with a system of offices all but parallel to those of France.\footnote{BIX, 90–2; CDIV, 198 ff.} Already Normans of noble birth were beginning to settle and build castles, arousing the discontent of the population by their exorbitant violence. Norman clerics were beginning to monopolize the bishoprics and even the archbishopric of Canterbury was given to Robert Champaert who had just given up the cross of the Abbot of Jumièges, the famous monastery which the dukes had protected and enriched. Here, surely, appears the hand of William. He was already beginning to control the English Church by his tools and supporters. Above all, the brother-in-law of Edward, Eustace, count of Boulogne, the most overbearing and most hated of the foreign intruders,\footnote{Welisec men; foreigners (CXXV, i, 178 and glossary).} was a friend and accomplice of the Duke of Normandy. At any rate he was to be his lieutenant at Hastings. There seems little reason to doubt that already these foreigners were working on behalf of William the Bastard.

The aristocracy, however, the powerful ealdormen to whom the later Anglo-Saxon and Danish kings had entrusted groups of counties, could not be left out of account. There was good reason for asking whether England was going to disintegrate once more, whether the three kingdoms of the past, Northumbria, Wessex, and Mercia, were to be revived or even whether one of the ealdormen would be able to maintain unity for his own advantage. The man who has been portrayed as the leader of the Anglo-Saxon nation against
the Normans, Godwin, ruled Wessex as ealdorman and, with his two sons, held half the kingdom in his grasp. He was English but owed his power to Canute and was looked on rather as a Dane. He played almost the same role in relation to Edward as the dukes of France, ancestors of the Capetians, to the Carolingians. There is no doubt that he sought to bring the Crown into his family which means that he was implacably opposed to Norman influence.

The inevitable conflict broke out in 1051. Edwin invited Godwin to punish the people of Dover who had refused to entertain Eustace and had killed some of his retinue; Godwin, unwilling to comply and threatened with a trial for treason, fled into exile with his sons. Immediately afterwards William paid his cousin Edward a visit which has always been a matter of mystery. Norman chroniclers all tell us that on some unspecified occasion Edward promised the Duke of Normandy the succession to the Crown and it is very probable that William forced the promise from him in 1051.

The success however was premature; Robert Champart and his underlings had not sufficient weight to fight Godwin and his sons who returned to England next year, regained their power, and expelled the Normans. After the death of Godwin, 1058, his son Harold was, for the remainder of Edward’s reign, the real master of England. He installed in the See of Canterbury a man he could trust, the Bishop Stigand, but he gave William an opportunity because when he journeyed to Italy to receive the pallium from the Holy See he acknowledged Benedict X who had been deposed as an Antipope. Moreover, in extremely mysterious circumstances, Harold fell into the hands of William during a trip to France, a victim of his own imprudence and possibly of a carefully laid plot. We know that William made him take solemn vows on consecrated relics by which Harold undoubtedly swore that he would not seek the English Crown.¹

William had only to await the death of Edward the Confessor which occurred on 5th January, 1066. Harold was not concerned about his oath and immediately had himself recognized as king by a small group of magnates. For all these events we have an extremely convincing piece

¹ See the different versions in CUKCII, 198–201.
of evidence, the famous embroidery, "the Bayeux tapestry," which is of contemporary date. As soon as he has shown us the new king of England seated on his throne, the artist pictures an "English ship sailing for Duke William's land" carrying the news to him. Subsequently the tapestry shows us woodmen cutting down trees to build the Norman fleet. Then the launching and equipment of the ships. William had neither as many vassals nor as many subjects as his adversary and when he revealed his plans at the Assembly of Lillebonne his barons were reduced to an amazed silence and could offer no constructive advice. He approached them individually with promise of magnificent spoils and all the chivalry of Normandy prepared to follow. Finally, he addressed an invitation to the adventurers who existed everywhere at this period and bands of Flemings, Picards, and Bretons joined him. Chroniclers tell us that he assembled an army of sixty thousand men, fitted out three thousand ships. These are stereotyped figures which medieval annalists always introduce. According to a more reliable authority, seven hundred ships carried William's army which amounted to something between five and ten thousand men, an army which was a considerable size for that period.

There is no doubt that the one which Harold could field against him was smaller for it had been materially weakened by the great effort it had been called upon to make against another invasion. William landed at Pevensey on 28th September, 1066. On the 20th the King of Norway, Harold Hardrada, accompanied by the brother and rival of the King of England, Tostig, had landed his army on the Yorkshire coast. The coincidence was so obviously fortunate for William that it is difficult not to imagine some collusion. The scheming Tostig had made offers to William which it was impossible for him to refuse.

Caught between two invading armies, Harold would be destroyed and his conquerors would divide the spoils. William's hopes were more than justified. Harold made a forced march to York at the head of an army which he had

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1 On this embroidery, certainly executed very shortly after the Conquest, see particularly CXXXVI; DXXVIII, first series, 51 ff.
2 On the Conquest, see CCC, iii, chap. xiii-xvi; DXXVIII, résumé of the chroniclers in CXXXII, 201 ff.; on the return of William CCOIX, 83-97; COXLI; COXLXX; DXXV, app. i.
mobilized in the South to resist the Normans. After an extremely violent battle the King of Norway and Tostig were defeated and killed (25th September, 1066). William was rid of embarrassing rivals and at the same time the resistance to his disembarkation was removed. While the English army was resting at York after its severe ordeal, William landed without any difficulties on the Sussex coast. The battle which decided the fate of England was staged on the 14th October, a little to the north of Hastings. The heroic death of Harold deprived the English of their only leader. William, with his customary energy, took advantage of a somewhat doubtful victory and the divisions among his adversaries. He brought with him a banner which had received the papal blessing and the English Church, which might have resisted the invasion, yielded. The Witenagemot, under the leadership of the Archbishop of York, recognized William as lawful king and crowned him at Westminster with the customary cerimonial. He swore to govern equitably and to defend the churches and their ministers. He did not base his claim on conquest but on his relationship to Edward the Confessor and the customary election.

II

THE EARLY ANGLO-NORMAN KINGS AND ANGLO-NORMAN INSTITUTIONS (1066–1135).

The century of Anglo-Norman history which began with the election of William as king and was closed by the accession of Henry II (Plantagenet) saw many disturbances. Nevertheless it would not be true to assess it as, on the whole, a period of destruction. On the contrary it laid the foundations of medieval England with its contented populace, its social system, and its strong monarchy.

Native resistance lasted for five years. Deprived of any co-ordinated leadership it became merely a series of local

1 See particularly, DXXVII, 61–77.
2 DXXVII, i, 819. On the question of elective monarchy, see p. 43 above, and Bk. II, chap. i, § 4 below.
3 The political history of the reigns of William I, William II (Rufus), and Henry I (Beaumarchais) is dealt with in CCC, vols. iv and v; CCCII.
risings which William ruthlessly crushed. The revolts of the French barons, dissatisfied with their share of the booty and anxious to lighten the royal yoke, were much more serious and imperilled the new dynasty. The question of the government of Normandy added to the difficulties of the Crown and the Capetians, suzerains of the duchy, tried to fish in the troubled waters. The Anglo-Norman monarchy succeeded in achieving equilibrium but only after oscillating violently between anarchy and an irresponsible tyranny. William I had known how to achieve and maintain it and when his two sons succeeded him, the first, the brutal William Rufus (1087–1100), did not live long enough to compromise the development of his father’s work and the second, Henry I (Beaumarchais, 1100–1135), was endowed with remarkable political ability and able to consolidate its position for a considerable period. Treatment of the period of anarchy which followed the death of Henry will be reserved for a later chapter. Here we shall only deal in outline with the work of the first three Norman kings as a whole and cannot hope to assess in detail the contribution of each one of them. The constitutional history of the reign of Henry I alone, which one scholar has found justification for calling the most absorbing chapter in English history, demands considerable attention.

The social and political upheaval which accompanied the birth of the Anglo-Norman monarchy was naturally not the abrupt work of a consciously revolutionary determination. Led by circumstances to represent himself as the heir of Edward, continuing the traditions of his reign and faced by considerable difficulties, William the Conqueror made concessions, accepting English law and institutions which were in part at least new to him, but he also introduced certain Norman characteristics.1

His primary concern was to make certain provision for an army and finances for the establishment of peace and order. We shall see that he loaded his followers with property and introduced into England the feudal host-service according to Norman usage, but the Anglo-Saxon fyrd, the mass levy of the people which reminded him of his full levy of Norman vassals, proved a valuable institution which he preserved.

1 Stubbs remains the principal authority for all that follows: DCXXVII, i, chap. ix–xi, 306–541. Cf. CCCXVII, 94 ff.
His son, William Rufus, knew occasions when, attacked by the Norman baronage, he owed his preservation to the English fyrd:¹ in 1086 at the Moot of Salisbury all the free tenants, whether of knightly rank or not, whether English or French, who were subject to the obligation to serve the king in case of emergency, came to take their oath to William as his lieges, to swear to defend him against all comers. This oath of allegiance rendered to the king by all his free subjects is an index of the immense difference between the Anglo-Norman and Capetian monarchies. Some historians have seen in this event the definitive introduction of Feudalism into England. This theory takes no notice of the feudal tendencies which existed in Anglo-Saxon society and leads to false analogies with the feudal regime which in fact existed on the Continent. By the Oath of Salisbury, the king established his power independent of the hierarchy of vassals while at the same time determined to gain all the support possible from the Feudal System. He upheld the Anglo-Saxon and Danish tradition, itself very similar to the Carolingian tradition which had died out in France, but there is every reason to believe that the clergy preserved in their libraries a copy of the capitularies by the side of the Anglo-Saxon laws. This is not the only occasion on which we shall compare Anglo-Norman institutions with French law and practice.

William retained a considerable share of the confiscated lands in his own hands. The income of the agricultural holdings enumerated in Domesday Book amounts altogether to about seventy-three thousand pounds; the Conqueror retained about a seventh of this landed wealth. Territories realizing eleven thousand pounds a year, scattered more or less throughout the length of England, made up the royal demesne. From this source William received more than twice the income of Edward the Confessor. Subsequently he increased it further by confiscation after the revolt of the Norman barons in 1076.² In addition to the rents of the demesne he possessed the Feudal profits (aid, relief, wardships, marriage), the fruits of justice and the various contributions of the town communities, the Jews and, incidentally, the Church—all dues which the king had been

¹ Henry I began to use Flemish mercenaries. ¹ COG.LXXXIV, i, 47 ff., 59 ff.
² Corbett, in C.M.H., v, 507 ff.
accustomed to receive as the Duke of Normandy and which
the King of France levied in the territories which were subject
to him.

The distinctive feature of Anglo-Norman finance was the
coincidence, which proved somewhat burdensome for their
subjects, of the levies customary in Normandy and the old
war tax established for the defence of England against the
Danes—the Danegeld. As we have already remarked, it
was to assist the regular levy of the Danegeld that Domesday
Book was compiled.

The financial administration was consolidated in the same
way. The sheriff who raised the Danegeld and farmed the
revenues of the shire was preserved; the Normans, employing
their customary terminology called him Vicomte just as the
shire became the county. It is the institutions of House-
hold, Treasury, and Exchequer which give us the most
remarkable example of the amalgamation of Norman and
Anglo-Saxon institutions. The dukes of Normandy and the
Anglo-Saxon kings, like the Carolingian monarchs, stored
their valuables in their bedchamber of which the wardrobe
formed an important part. The keeper of the Chamber and
the chamberlains were personal servants who travelled with
their master on his progresses and were responsible for the
custody and transport of his purse, jewels, and records.
This was the constitution of the household which is described
to us, as it existed at the time of Henry I, in an invaluable
little treatise the Constitutio domus regis. From the
earliest days of the Conquest, the Public Treasury was
separated from the Chamber and fixed at Winchester, an old
royal city: the Chamber only kept a chest for the personal
expenses of the king. But the Treasury at Winchester did
not have or did not retain for any considerable period the
duty of checking the sheriffs' accounts, the control of which
was entrusted to a section of the Curia Regis and carried out
by a method of counters on a squared table called the
Exchequer; its results were inscribed in a parchment roll
known at a later date as the Pipe Roll. The roll for the year
1129–1130 is extant. In this fashion, at a very early date,
 apart from both the Chamber and the Treasury at Winchester,
was created the Exchequer—the Curia Regis ad Seaccarium.

1 CXL, i–ii. 2 CXL, i, 67–90.
They carried on there the Anglo-Saxon custom of melting and weighing the coins which the sheriffs presented. Whether the system of auditing by counters had been adopted in Normandy before its introduction into England we have no means of saying, but it is certain that the Exchequer system only existed in Normandy and the countries conquered by the Normans.¹

Thus William the Conqueror and his sons, in their efforts to strengthen their defence against their enemies and to build up financial reserves, discovered in England, and carefully preserved, principles of a sort of national army and public taxation and traditions of financial administration which only required their attention and improvement. Similarly, the Norman monarchs found in the country they had conquered admirable instruments for watching their people, for fixing collective responsibilities, and determining those causes which it appeared best not to hand over to feudal and seignorial jurisdiction, above all for keeping in contact with their subjects and asking them for information and even, if necessary, sacrifices in the county court (shire moot, or more simply shire) and the hundred court. They were preserved and it is impossible to lay too much emphasis on that fact. These local assemblies, which were always a burden to the inhabitants and would gladly have been allowed to become obsolete, gave its peculiar character to the constitution and political development of England. Documents on the work of these courts and their relations with the central administration² are very few, but the letter addressed by the Conqueror to Archbishop Lanfranc, the Bishop of Coutances and the Count of Mortain on the rights of the Church of Ely is one of the most interesting documents in English history.

I summon and bid you to assemble once more all the shires (all those present at the county court) which were present at the proceedings about the possessions of the church of Ely just before the recent voyage of my wife to Normandy. Those of my barons who are competent to take a place there and were present at the previous proceedings and hold lands of the Church should be present with the shires. From the assembly (in unum congregato) proceed to elect a group of Englishmen who know of the situation of this Church’s territories at the time of King Edward’s death and can give their evidence under oath.

¹ See the Studies of Petit-Dutaillis and Lefebvre, DXX, i and iii; or in DXXVII, i, 804 ff.; and iii, 732 ff. DXXVIII, XXXIII, DXXXIII, etc. (bibliography in the notes to our studies).
² They have been cited in DXXVII, i, 479–480 notes.
The king's policy towards the natives, the system of inquest and jury, the summons of members of the shire court to the royal court are brilliantly illuminated by this document. What was William's policy towards the Witan once it had elected him king? Would he seek to preserve this established institution which he had been able to use very well to his own advantage or would he seek to replace it by a feudal curia of the French type? The question is irrelevant. At this period men were moved by necessities and acted in accordance with the tendencies directing society rather than with theoretical principles. It was generally agreed that a monarch could neither dispense law nor administer his realm without the advice of his supporters. The feeling and ideas which gave rise to the feudal regime of France and, even more important, the Anglo-Saxon system of commendation alike would not accept the idea of monarchy without some limitation.

 Practically speaking, a man only rendered obedience to his lord on the basis of a personal contract; those who were directly subject to a prince were in duty bound to reach agreement with him and to assist him in making judgment or decisions if he called on them and this duty of advice easily led them to formulating the ideas of a corresponding right, for we must never overlook the spirit of independence and pride which animated the companions of a king. It finds reflection in epics better than in chronicles or annals. In short, no king, French or English, could fail to summon his court; it was an essential institution, though, as yet, undefined, changing in appearance, and very different from county to county, for nowhere had it yet evolved any rigid forms. The court of the Anglo-Norman kings therefore continued at the same time to be the Witan and the Norman Curia. The English certainly considered its members as the successors of the Witan and they were often referred to under that name or as the Sapientes.¹

 The Anglo-Norman court, like the Anglo-Saxon Witan² varied in numbers, formality, and composition. The numbers

¹ See the documents quoted in CDXX, 75 ff.
² Our treatment might well be developed, modified, and restrained by a few question marks. However we have not sufficient space in this volume to give reasons for our decisions. Cf. Gneist, CDXXVIII, 201 ff.; Stubbs, CDXXXVII, i, 443 ff.; and the conciliatory thesis of Liebermann, CDXX, 75 ff.
of relatives of the king, friends, servants, churchmen, lay magnates, and casual workers was never constant. The king invited whom he wished and the only difference, in fact, that we need remark is that owing to his increased power the king was able, even more than before, to dispense with the assent of the Assembly and, on the other hand, that the word Curia was more comprehensive than the Anglo-Saxon term. It became applied not only to these special meetings but, equally, to the permanent council of the king—the statesmen, lawyers,¹ and financiers, who helped him in the everyday tasks of government. The Norman clerks gave the same meaning to Curia and Consilium and used them without distinction.

So far we have found a fusion of institutions and interesting developments rather than innovations.

In two spheres, however, the Conqueror and his advisers achieved revolutionary work of the highest importance. Territorial power had been transferred to the Norman lords and the transference was accompanied by the establishment of a tenurial system; the government of the national church was transferred to Norman prelates, a transference which was accompanied by the creation of ecclesiastical tribunals. In spite of the influences which drew England towards a social and territorial system comparable to that of the Continent, there remained many proprietors in 1066 who were either free or subject only to very light and undefined obligations. In Normandy the French seigniorial regime was a little more developed than in the rest of the kingdom but otherwise presented no special characteristics. At the end of the eleventh century Anglo-Saxon society bore absolutely no resemblance to either of the societies from which it had arisen. The catastrophe of the Conquest, the interaction of two peoples, and the ability of a strong monarchy served by remarkable advisers had remodelled it and given to it a legal foundation that was quite original. The vocabulary of social obligations was not the same as across the Channel.² Vassal was a word

¹ In the Norman period the royal court was not so overloaded with business. William I had very largely handed over the rights of justice to the barons and the Church (see DCLVIII, 110 ff.) and the pleas reserved to the king were still dealt with in the county courts except when a baron or an important issue was involved. The institution of itinerant justices would seem to date back, however, to the reign of Henry I. See DXXXII, i, 108; cf. Bk. ii, Chap. II, below.
² CDLIV, 188; DXXXII, i, 294 ff., 297.
rarely used but tenes (tenant) is frequently met. A tenes in capite (tenant in chief) was a man who held his land of the king without any intermediary whether he was a powerful baron or a simple farmer of the demesne. All the subjects of the king rich or poor, free or bond, were tenants with the exception of the proletariat and outcasts of town and country; everyone held a tenure of the king or of an intermediary and, ultimately, everyone held, directly or indirectly, of the king. This systematization, clearly the work of Norman lawyers, is the key to the condition of the people in medieval England and produced political consequences of considerable importance.¹

The origins of this remarkable constitution lie in the transference of lands after the conquest. The general truth of that fact has been challenged in vain. Although the dispossession almost certainly took place by degrees, there is equally little doubt that finally the majority of the English had lost their lands.² The most unfortunate victims were the numerous Anglo-Saxon small farmers of free status whose lands were given to Norman warriors without any compensation. They were classed as “villains”, a term which implied personal liberty but now they became tenants bound, both personally and in their holdings, to the lord and sank to the lowest depths of the social scale alongside the serfs of Anglo-Saxon society. They were still called villains but the word which in Capetian France continued to denote free peasants gained a new meaning in England after its conquest by the Normans and villainage became the type of servile tenure.³ This process had an equally severe effect on many socmen.

Out of nine hundred socmen in the County of Cambridge, seven hundred had lost their liberty and become serfs by the twelfth century.⁴ This upheaval, which not only ruined the great native families to the benefit of the conquerors but degraded the middle class of the rural areas, led to the formation

¹ CDLIV, 151 ff.; DXXXII, i, 232, 296, 356, 407; DCLIX, 293 ff.; my study of the general position in DXX, i, 52 ff., or in DCXXVIII, i, 810 ff.
² The most masterly studies on this difficult question are by Round in V.H. See my note and the bibliography in DXX, i, 21, n. 2, or in DCXXVIII, i, 788, n. 1.
³ On villainage before and after the Conquest, DCLXII, 43 ff., 80 ff., 127 ff., 218 ff.; DCLX, 296 ff., 359 ff.; CDLIV, 38 ff., 60 ff.; my study on the origin of the manor in DXX, i, 1 ff., or in DCXXVIII, i, 788 ff., and pp. 59–61 above.
⁴ CDLIV, 62–3; DCXXVII, i, 785. On socmen see p. 49 above.
in England of a seigniorial regime comparable to that of Normandy, the regime of the manor,¹ and it was William’s followers above all who gained by the change. Nevertheless not all the distinctive features of Anglo-Saxon agrarian society were obliterated. Manorial organization did not destroy the community spirit and agricultural co-operation but rather, as a result of contact with Norman influences, the traditions of solidarity were strengthened.² The English peasants had quite as clear a view of their interests as the Normans and knew how to act together.

Moreover not all the small free cultivators of native origin were reduced to servitude nor all the great landlords to an end of misery and despair, only they were not willingly left in possession of their previous possessions. For instance, Oda of Winchester had been able to convey an impression of loyalty and was given territories equivalent to those he lost.³ What was the legal status of these free Anglo-Saxons whose hierarchy had been so complex in the reign of the Confessor? How did they stand in relation to the invaders—powerful barons, knights, mesne tenants, nobles, and even commoners who had come from the Continent knowing nothing of the structure of English society? The lawyers of the Curia would be involved in tremendous difficulties if so many different elements had to be fused in the same furnace. The tremendous heterogeneous mass of free tenants of the king, freeholders, emerged from the fusion. The necessity for the king to have obedient subjects and to be able to choose the best and to make use of them led him, as we have seen, to demand a personal oath from all freemen. Those who could not offer it to him in person discharged the summons in the county court between the hands of the sheriff. This common obligation to swear fidelity to the king and to serve him with arms and advice created a very large class of subjects socially unequal but equal before the law. Free villagers, townsmen, and warriors holding a free tenure all enjoyed the same right and had the advantage of the common law. The English nobility was only distinguished in this mass by the will of the king who as we shall see granted special military tenures and needed administrative officials.

¹ DCLIX, 299 ff.; description of the manor in DCLXII, 314 ff.
² CXLIX, 137 ff., 251.
³ DLXXXI, 427-8.