STUDIES IN ANGLO-SAXON INSTITUTIONS 450 - 900 A.D.

by

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In Caesar's Commentaries on the Gallic Wars one finds
the earliest account of the institutions of the continental an-
cestors of the Anglo-Saxons. The general impression to be de-
rived from this most meagre sketch on the old Germans, given in
the De Bello Gallico, is that in 55 B.C. the tribes of the
Rhineland, as Caesar knew them by report, were in a state of
semi-settled pastoral and agricultural activities. The ties
that united their simple tribal communities were those of kin-
dred. Their primitive institutions appear to have closely re-
sembled those of all the Indo-European races at a certain stage
of development.(1)

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1. For a full discussion of the value of Caesar's De Bello
    Gallico and Tacitus' Germania as source material, cf.
    A. Dopsch, The Economic Foundations of European Civilization,
    pp. 32-47.

No other civilized narrator commented at any length
on the ways of the barbarous tribes who inhabited the dank wolds
on the nether side of the Rhine and Danube until the year 98 A.
D. when Tacitus wrote his renowned and since much-quoted essay,
Germania. It would seem in the century and a half that had in-
tervened since Caesar's time the Germanic tribes had advanced
into a more highly developed semi-settled horticultural life.
Kinship was still the basis of their social organization but
certain new factors were at work. The very scant account given
by Caesar and the more detailed essay of Tacitus have value as
source material if properly interpreted. At various times in
the past far too much emphasis has been placed on the Germania.
The institutions of the Anglo-Saxons of three and a half cen-
turies later could hardly be expected to have as close a rela-
tionship with those described by Tacitus as historians at times
have tried to prove.

The actual value of the Anglo-Saxon poetry as source
material for the study of early Anglo-Saxon institutions is
rather debatable. Beowulf, Tinnesbuck, Walhere, Deor, The
Wanderer and The Seafarer, the Anglo-Saxon poems now in exist-
ence, took their present form in the sixth and seventh centur-
ies but their substance comes from a much earlier period. All
the scenes in these poems take place in foreign lands beyond
the German sea, and the material is legendary; therefore, they
can hardly be expected to add greatly to the stock of knowledge
concerning life in England. However, if properly interpreted

they throw considerable light on the social and government principles of the old Teutonic peoples in much the same way that the Homeric poems enlighten us as to the customs of the early Hellenic tribes.

The only contemporary authority for the period of the Anglo-Saxon Invasion and Settlement is the British monk Gildas. His well known work, De Excidio et Conquestu Britanniae, was written sometime between 540 and 570 A.D. The first part deals with the Roman occupation of Britain and the coming of the Anglo-Saxons; the second section is chiefly a verbose jeremiade against the real or supposed sins of the Celtic chieftains. The tract has little value as source material for study of Anglo-Saxon institutions but deserved mention as the sole contemporary source for the study of political events during the years of the Invasion.

Another document frequently mentioned, but rarely consulted, is the Historia Brittorum of Nennius; written supposedly in South Wales about 790 A.D. from material drawn from an earlier chronicle now long lost. Like Gildas, De Excidio et Conquestu Britanniae tells of the Roman occupation and the Saxon invasions.

The Annales Cambriae, although primarily a Welsh chronicle, contains some brief notices of English events valuable to the narrator of political history but of no particular value in the study of institutions.

The continental literary references to the state of affairs in England during the dark ages of the Conquest and Settlement are most barren of any material that might aid in ascertaining the actual conditions of life in Anglo-Saxon Britain. In reality we know nothing about the conditions of life in South Britain from the commencement of the Saxon Conquest until the time of Aethelbert of Kent (560-617 A.D.). Only by combining information gleaned from Tacitus and the Heroic Poems with what we know of life in Saxon England after the time of the Conversion can one hope to reconstruct anything like a clear-cut picture of the institutions in Anglo-Saxon England in the earlier parts of the period. In doing this we are met with many almost insurmountable gaps in existing knowledge for, despite the labored research of many eminent scholars during the last century, the earlier half of the Saxon Age remains a dim and distant past shrouded in a nebula of legends and myths and resounding with violence of clan and tribal struggle.

The purely English primary source materials, all of which belong to the period after the Conversion, are of several and varied types: namely, two lengthy literary documents, The Ecclesiastical History of Bede, and the Anglo-Saxon Chronicle, the laws or dooms of the Saxon kings from the time of Aethelbert of Kent to Knut (601-1020 A.D.), certain charters, wills and other diplomata, fragmentary biographical accounts, particularly Asser's Life of Alfred the Great, certain letters, especially those of Alcuin and Boniface; also numerous trans-

actions of church synods, penitentials, monastic records, and the like. Certain inscriptions, architectural ruins and relics from every-day life have come down to our day.

Among the outstanding guides to Anglo-Saxon affairs from 596 A.D. onward are Bede's History and the Anglo-Saxon Chronicle. Of these two, Bede is perhaps the most important. His Historia Ecclesiastica, with its connected narrative, represents a type of writing quite distinct from the brief chronological memoranda of events contained in the chronicles common to the seventh and eighth centuries in Europe. Although essentially ecclesiastical and political, Bede's great work, if properly interpreted, throws much light on the ways of the times, particularly in the case of many of the episodes recorded. The Anglo-Saxon Chronicle, commenced about 890 A.D., but with annalistic entries back to 55 B.C., is valuable for the study of the last century and a half of Anglo-Saxon history.

The most important of all the source material are the Anglo-Saxon Laws. However, there are no dooms or codes for the first century and a half of the Saxon Age. When the Saxons, Angles and their less well known kith and kin settled in England, all of their law was preserved in the form of oral tradition or customs. Owing to the gradual development of civilization and the influence of the church, some of these customs were altered or reduced to writing. The earliest written laws appeared soon after the coming of St. Augustine. The existing series of the Anglo-Saxon Laws extend from the reign of Ethelbert of Kent to the death of Knut (601-1020 A.D.). These so-

called Anglo-Saxon Laws do not form an exhaustive statement or complete codification of law, but comprise those portions that were changed, amended or newly enforced; the great part of the common law remained unwritten.

These dooms of the early Saxon kings relate mainly to crime, or specific offenses against the peace of the community, no attempt is made to enunciate general legal principles. Compared with the continental folk laws and capitularies, they are noted for their purely Germanic character or lack of intermixture with foreign law, and for the use of the vernacular in place of the customary Latin. It is worth noting that the Anglo-Saxon dooms, although not as early as those of the Franks, extend over far greater a period. In fact, no other German nation has bequeathed to posterity richer legacy of legal documents than the Anglo-Saxon.

The existing series of Anglo-Saxon dooms may be roughly classified as follows:

1. The Dooms of the Kentish Kingdom, extending from circa 600-695 A.D.--the exact date of the first issue of Ethelbert's dooms is not known, probably about 600 A.D. These laws are of particular interest as being the earliest documents in the Old English language. In all, the Kentish dooms consist of three separate issues, representing three or perhaps four successive reigns: namely, those of Aethelbert, those of Hlothaere and Eadric, and those of Withred; in all 134 short paragraphs, comprising mainly tables of punishments for crimes.

2. The Dooms of Ine of Wessex, extending from circa 688-695 A.D. These dooms are more numerous and much wider in scope than those of the Kentish kings. The terminology differs in many respects from that of the codes of Kent; other features show that between Saxon Wessex and Jutish Kent there were at this early period certain differences. Ine's codes consist of 75 or 76 statements, setting forth the punishments to be meted out for certain offenses.

3. The Dooms of Consolidated English, with Wessex as the nucleus, extending from circa 890-1065 A.D. These comprise about five-fifths of the authentic Anglo-Saxon laws. Alfred and his more able successors, down to the death of Knut, all issued dooms along lines similar to the earlier ones of Ine and the Kentish kings. The later dooms are more extensive and deal with a wider range of subjects than the earlier ones but do not depart from the general type.

Besides these kingly dooms, there has come down to us a considerable body of lesser legally outstanding documents and diplomata, comprising charters, wills, marriage contracts, manumissions, records of Witan and Church Synods. These documents are of very great value for the study of Saxon institutions, as they throw light upon the law of real property, classes of society, the nature of tenure and service, the functions of the Witan, the powers of nobility, and the relation of the Crown to the Church and to the nobles; they often elucidate the Royal dooms, and supplement the annals.

The original documents of the Saxon period, that is those which have survived the ravages of time, are now in the British Museum, Oxford and Cambridge Libraries, the various cathedrals and private collections. The earliest noteworthy attempt to edit and publish the Saxon laws were made by Lambarde in 1568; in 1721, Wilkin's Leges Anglo-Saxonicae made its appearance. Other more noted editions since have been: Thorpe's Ancient Laws, 1840; Schmid's Gesetze, 1858; Liebermann's Gesetze, 1899; and, Attenborough's Laws of the Earliest English Kings, 1922.

The systematic study of the lesser diplomata was begun by Hickes about 1703 when his Dissertatio Epistolaris made its appearance. The first outstanding investigator of the diplomata, as well as the laws, was Kemble who just at the middle of the last century published his monumental work, the Codex diplomaticus aevi Saxonici. Since Kemble's time, Birch, Haddan, Stubbs, Earle, Hearne, Hoare, Phillipps, Plummer, Duignan, Napier, Stevenson, Whitelock, and others have edited collections of Saxon documents.

Besides the principal sources already mentioned, there are a few minor and much scattered documents that yield with much labor a limited amount of knowledge concerning Saxon institution.

The old Norse sagas and certain Scandinavian documents throw light on English affairs in relation to the Viking in-roads, and give further insight into the institutions of a

people closely akin in culture and race to the Anglo-Saxons.
Also certain documents of the Norman and Angevin periods re-
flect back to the Saxon Age. This is particularly true in the
case of certain law books, land books, and accounts of saints
based upon earlier biographies now lost. The Domesday Survey,
if properly interpreted and used with much caution, enables
one to deduce certain ideas about the last half of the Saxon
Age. The remains of burials, architectural ruins (which are
few, as the Saxons used wood in place of stone), and innumer-
able relics from everyday life, together with local tradition
and rustic provincial customs enable us to form some hazy ideas
about life in Saxon times.

Before the eighteenth century there was little his-
torical research, in the true sense of the word. To meet the
needs of great lawyers like Coke, Seldon, and Madox, historical
knowledge was made to yield the necessary store of leading cas-
es. With the rise of historical writing in the eighteenth cen-
tury, the first great historians confined their interests to
the political aspects. Robertson, Gibbon, Blackstone and Hall-
am had no particular desire to investigate the growth of insti-
tutions. Savigny and Eichhorn, the great continental historians
of that period, unravelled European history into Teutonic and
Roman strands but showed no particular interest in the eccen-
tricities of early English institutional developments.

The first attempt at a thorough treatment of Anglo-
Saxon history was made by Sharon Turner, who, in 1828, published
his History of the Anglo-Saxons. Turner wrote under the spell

of the Romantic revival and in the unspoiled simplicity of Sax-
on life he found man unfettered by the bondage of later times.
Despite the lack of organization and method in treatment, the
tiring digressions and general confusion existing throughout,
these volumes remain to this day classics in Anglo-Saxon his-
tory. No one has written more fully on the Witan than Turner
and his chapters on Alfred the Great have hardly been surpassed.

The middle of the last century saw the appearance of
a distinctly Germanist school of historians who contended that
the Teutonic race towered above all else in the development of
western European institutions. It was under such Germanist in-
fluences that Kemble wrote his outstanding work, The Saxons in
England. Kemble's volumes, unlike most of the earlier treat-
ments, except Turner's, dealt especially with institutions. The
author used the comparative method of reconstruction of the un-
written history of the period between 449 and 700 A.D. To sup-
plement the documentary evidence available, he drew material
from the history of the kindred Germanic peoples; a remarkable
completeness of outline was thus obtained but he was led into
snares by this extensive use of cognate sources. His picture
of the "mark" as the unit of old English social life was an
error arising from this method.

The renowned continental historians, Mauer, Nasse,
Lappenburg, Steenstrup and Gneist,(2) applied their knowledge

2. For the names of the works of these historians, the merits
   of each, etc., cf. Bibliography notes at the end of thesis.

obtained from continental Germanic sources to clarify early English history.

Following in the paths traced by such earlier Germanists as Kemble and Mauer, Stubbs, Freeman, Elton, Maitland, Pollock, Plummer, Round, and Vinogradoff,(3) gave to the English-speaking world monumental volumes on the legal and political sides of early English history, while Maine's(4) scholarly lectures on the comparative history of ancient law and early institutions opened a new method and line of approach to the study of early Anglo-Saxon institutional growth.

Until late in the Victorian Age, the Romanists made no outstanding attempts to disprove the Germanists' theories that all English institutions were sprung from Teutonic sources. Coote was the first to bring forth a lengthy work to support his theories that Romano-Celtic origins could be proven for most English institutions. Seebohm, in two outstanding and scholarly works entitled, Tribal Custom in Anglo-Saxon Law (1902), and, The English Village Community (1896), argued for the institutional and agrarian continuity from Roman times.

With the passing of the Victorian Age came something of a falling off in enthusiasm for the study of Anglo-Saxon history. After the World War, the legends about the democratic virtues of the Teutonic peoples became but exploded myths; indeed, democracy itself lost most of its glamor. However, during

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3. Loc. cit.
4. Idem.

the past thirty years great advancements in the existing knowl-
edge of Saxon times have been made. Archeology and related
sciences have added new discoveries that give changed inter-
pretations to the documentary material. Philologists, both in
Britain and abroad, have battled over the problems of the Anglo-
Saxon literature. A few of the most outstanding works on Saxon
life that have appeared during the past three decades will be
discussed in the following paragraphs.

T. Hodgkins' The History of England from the Earliest
Times to the Norman Conquest (1906), and C. Oman's England be-
fore the Norman Conquest (1911), were in many ways the two full-
est and most dependable political narratives published, and de-
cidedly the most noteworthy works on the Saxon Age written from
the time that Stubb's Constitutional History appeared in 1873
until the publication of R.H.Hodgkin's The History of the Anglo-
Saxons (1935), and J. Jolliffe's Constitutional History of Med-
ieval England (1937).

H. M. Chadwick's three works, entitled Studies on
Anglo-Saxon Institutions (1905), Origins of the English Nation
(1907), and The Heroic Age (1912), threw critical light on the
Saxon source material and demonstrated the importance of the
Teutonic legends to the historian. M. C. Clarke's Side Lights
on Teuton History during the Period of Migration (1911) carried
on Chadwick's ideas.

W. A. Morris, in The Constitutional History of England
to 1216 (1930), attempted to interprete the early period of Eng-

lish history through the eyes of an American residing on the Pacific Coast.

H. Gray's English Field System (1935), and J. Jolliffe's Pre-Feudal England (1933), treat the agrarian side of history (with detailed studies of the Jutish customs of Kent, in the case of the latter author). Petit-Dutallis, Tait, Stephenson, Aberg, Shore, Chambers, Stenton, Bateson, Myers,(5) and others, have contributed volumes and articles on varied phases of Anglo-Saxon life. Indeed the number of works and articles treating Anglo-Saxon life specifically are so great that few, except specialists, can dare claim to have consulted all of them.

Many works dealing with medieval history in general have some space devoted to the Anglo-Saxons in England. Some of these treatments are very scholarly. Several of the more recent economic histories of medieval Europe contain general treatments of the social and economic trends that help to clarify Anglo-Saxon development very well. Among those worth consulting are: A. Dopsch, The Economic and Social Foundations of European Civilization (1937); P. Boissonnade, Life and Work in Medieval Europe (1927); N. S. Gras, An Introduction to Economic History (1922), J.W. Thompson, Economic and Social History of the Middle Ages (1928), and, E. Lipson, The Economic History of England: The Middle Ages (1929).

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5. Cf. Bibliographical notes at the end of thesis for the titles of each author's works.

Much of the best work on every aspect of Anglo-Saxon life is to be found in periodicals. Those containing articles of particular interest are: The English Historical Review, Transactions of the Royal Historical Society, History, Annales d'Historie Economical et Social, Modern Language Review, Proceedings of the British Academy, Revue Historique, Speculum, English Studies, and Englische Studien.

The best bibliography of Anglo-Saxon history is to be found in C. Gross' Sources and Literature of English History from the Earliest Times to about 1485. This work was first published in 1900. After the death of Dr. Gross of Harvard, a committee of his colleagues revised the work down to 1915. For the years since that date there is no complete bibliography of the Saxon Age. To the dates of their publication, the bibliographies of the Cambridge Medieval History, arranged according to the several subjects of the chapters, are fairly full and very reliable. The bibliographical notes at the end of J. Myers' and R. Collingwood's Roman Britain and the English Settlement and J. Jolliffe's The Constitutional History of Medieval England are very up-to-date and quite complete. A Bibliographical Guide to Old English, compiled by A. Heusinkveld and E. Bashe, of the University of Iowa, and published in the May, 1931, issue of The University of Iowa Journal of Humanistic Studies, is worth considering.

CHAPTER II. KINSHIP AS THE BASIS OF CUSTOMARY ANGLO-SAXON LAW

When the Anglo-Saxons and their less well known kith
and kin settled in Britain all of their law was preserved in the
form of custom and oral tradition. Consanguinity, or kinship,
regarded as fact was the strongest bond that bound them togeth-
er. If a man was not akin to another there could be nothing be-
tween them. In other words, to the period of the primitive
Teutonic family belong the principles upon which customary Eng-
lish law was based. True even before the Migration, certain
new influences might be discerned but they were not to affect
the social structure until long after the Invasion.

To understand the primitive phase of the Anglo-Saxon
social and political organization which gives its character to
the centuries during which the English were building the Hept-
archy it would seem advisable to consider at some length the
structure of the primitive Teutonic family or kinship group.

The primitive patriarchal family of the early Teu-
tons included, besides the head, who might be the father, eld-
est brother, or, in rare cases, an uncle, the sons, daughters,
grandchildren, and, in a more remote way, the cousins, nephews,
nieces, etc., to a third or fourth degree. Kinship was not
limited to agnates. The mother's kin, if in some respects less

favored than the father's kin, were still part of each man's
family and were united to him by all the ties of mutual right
and obligation that bound the kinship group together. The
wife after her marriage remained within the kinship bond of
her own family, her husband merely became her guardian. Like-
wise her children were within the bonds of her family, as well
as that of the father's kin. At one time the powers of the
head of the greater family group might have been more or less
absolute like that of the Roman "patria potestas" but by the
time of the outward expansion of the German nations it was no
longer absolute.

> "The German immigrants seemed to have
recognized a corporate union of the family under
the 'mund' or authority of a patriarchal head, but
his powers were obviously only the relics of a de-
cayed 'patria potestas'."(1)

The early Teutonic family group, or "maegth", was in
no sense a distinct body like the "familia" of the Ro-
mans, but, rather, a clan group including all the kith and kin.
One must bear in mind the fact that the term "clan" hardly
describes adequately the Anglo-Saxon "maegth"; it was a much
narrower and less comprehensive group than the Celtic "clan",
being limited to "bona fide" blood relatives.

The "maegth" was, however, most inextricably inter-
woven. It is only when one person is taken as the starting

1. W. Hearn. The Aryan Household, pp. 63-79.
    Cf. F. Gummere. Germanic Origins, pp. 162-206.

point in the reckoning that the "maegth" assumes a definite
form, and the several kin can be assigned to their proper
places.(2) This greater family group, the "maegth", was of all
importance both to the individual and to the mass of mankind in
a primitive society of these early Teutons. A full kinship was
essential to the enjoyment of life. The most terrible fate that
could befall a man was to be left without kith and kin. The
heaviest of all punishments was expulsion from the family. Ban-
ishment from one's kith and blood relations is a topic contin-
ually touched upon in early Anglo-Saxon poetry. The wretched
victim of such a fate was cut off all protection of customary
law and order. The most touching of Anglo-Saxon lyrics, The
Wanderer, mourns such a fate. Indeed, to these early English,
the very dogs that followed the camp had more in common with
the clansmen than a stranger from an alien and unrelated kind-
red group. The man of another blood kinship group was a po-
tential enemy to be feared, hated, and, at the first opportun-
ity, slain as the most ferocious of wild beasts.

It was to the family group or "maegth" that first of
all every individual owed what security of life and property
that he enjoyed. In childhood, the members of the "maegth"
watched over and protected him, even from the father in rare
cases. Members of his "maegth" were his surities at marriage,
before the tribal court they swore for him either to support

2. E. Young. The Anglo-Saxon Family Law, pp. 55-121.

his claim as plaintiff or his denial as defendant, and, in case
of necessity, paid his fines. In the blood feud they stood be-
side him in right or wrong to defend him with their lives. Even
after death, their guardianship did not fail; they avenged his
murder or exacted compensation for it, they acted as guardians
of his widow and children, and looked after his properties un-
til his children came of age.

These early Teutons regarded it a sacred duty to adopt
all the enmities of their family group, and the right of private
warfare was one of the inalienable privileges of every freeman.
(3) In its essence it was merely a recognition of the primary
lex talionis--an eye for an eye, a tooth for a tooth. Murder,
theft, rape were not thought of by these Germanic peoples as
offences against the community as a whole; rather they concerned
the greater family group, who when an offence was committed
against a member took up the feud for revenge or compensation.
As time went by and a higher state of cultural development was
attained the blood feud tended to be replaced by an elaborate
scale of pecuniary compensations, paid by the doer of evil or
his kin to the one injured and his kin. In the most remote per-
iod of Anglo-Saxon history the freeman or normal member of so-
ciety with a full kith and kin rarely accepted a pecuniary com-
pensation for the murder of a close kinsman when the blood re-
venge might by any means be carried out. It was the special

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3. Tacitus. Germania, c. CXXI.

privilege of the members of the "maegth" to carry on the deadly
"faetha" and beneath the dignity of a well kithed man to pay or
receive compensation.

      In the case of murder the method of pecuniary compensation gradually gave rise to a system of recognized tariffs, or life prices, by which the price of each individual in the social scale was established. The amount to be paid to each of his relatives, both paternal and maternal, came to be recognized by customary law. Likewise all offences, both grave and trivial, came to be valued so that punishment of them by the blood feud might be avoided. As civilization advanced, and individual members of the "maegth" became wealthy, or attained higher positions in society, a tendency appeared on the part of the rich to discard their poorer kin. Thus a freeman need not pay the "wergeld" of one of his kith who had in any way forfeited his freedom.(4) Moreover, every tendency to weaken the tie of kinship was encouraged by the state as clans united in larger groups to form primitive tribal kingdoms. The growth of Christianity after the seventh century led to the rapid decline in the blood feud as the Church definitely forbade it.

      Although blood-kinship and common obedience to customary law were the basic forces that held Anglo-Saxon society together, and although customary law would not deal in any way with the individual, nevertheless the individual was not sub-

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4. Ine's Dooms, p. 74.

merged in subordination to the "maegth". The rights of kinship were at all times individual rights. The wife was not mere chattel of her husband, her own family might uphold her in time of extraordinary abuse.

At some very early time it is quite possible that the joint family holding of land prevailed with the continental Germans, but by the time of their settlement in Britain this type of communal land-holding had been abandoned. Only the Jutes seemed to retain traces of it. Even as early as 98 A.D. Tacitus remarked that private property-holding prevailed among the Germans. From the time of the Settlement, private property seems to have prevailed in the case of cultivated or arable lands. Meadowlands and pasture areas surrounding the villages were held in common by all the villagers.

Life among the Germanic invaders during the period of the Conquest was most certainly harsh and uncertain; strong hands must pay for well-fed bodies. The old and the weak were superfluous; they were a burden to their kin. Remorseless logic pointed to speedy relief of valueless kin. Deformed infants, the old, the infirm, the inefficient were abandoned to starvation or put to more speedy deaths.

Besides the blood-kinship groups, or "maegth", in all the Heroic Poetry one hears continuously of the bands of young warriors who were bound by the most solemn oaths to some leader of renown and formed around this leader a kind of a military family. This was the "comitatus", an institution that flourished particularly in the age of the Migration of nations and

in its final growth profoundly affected all institutions of the
Anglo-Saxons. However, as a full treatment of this is given in
the next chapter, it will be passed over here.

Concerning the daily life of the folk during the first
century and a half of their domicile in England we know very
little. Archeological research has aided considerably in recon-
structing some picture of the daily life among the first few
generations of English but as yet at the best any account can
be in part only supposition. However, from the accounts of
Tacitus we do know something definite about the daily life of
the continental ancestors of the first English common folk.

In their continental homeland the Germans lived in
village communities consisting of widely-scattered, rude, wood-
en or mud family dwellings.(5) The lands belonging to the vill-
age were of two kinds; rudely cultivated fields, and belts of
meadow and woodlands. The arable land was held by the families
as private property, while the uncultivated meadows and wood-
lands were considered the common possession of all the villag-
ers.(6) These early Teutonic villages, whether in Germany or

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5. Tacitus. Op. cit., c. XVI-XX.
   Julius Caesar. De Bello Gallico, lib. VI, c. 21-22.
6. For a thorough discussion of village life among the early
   Teutons, cf. A. Dopsch, The Economic Foundations of Euro-
   pean Civilization, pp. 30-92. The ideas held by the Ro-
   manist school of historians differ greatly from those of
   the Germanist school on the question of what life was like
   in the earliest English agricultural communities. For a
   discussion of the ideas of both, cf. E. Lipson, The Econom-
   ic History of England, Vol. I, c. I; F. Seebohm's The Eng-
   lish Village is worthy of consideration, although many of
   his ideas are now rejected.

England, were not entirely isolated from one another. An adjacent or neighboring village lay nearby, separated by a belt of waste land. The villagers communicated with their neighbors over woodland paths or trails. The folk in the nearest villages were related by ties of kinship only less binding than those of their own home village. Each of these village communities, in England, as well as on the continent, formed the simplest, economic, social, and political unit (the so-called "mark" of Kemble and others was a unit of this kind). The village communities were loosely formed by the customary ties of kinship and later neighborhood into greater but very loosely defined units known as "hundreds". Some historians believe that the original "hundred" may have been a strong fighting band of warriors who, as they fought together, so settled down together; in this way the "hundred" became a political unit above the village. A combination of "hundreds", in turn, formed a "county", "gau", or "shire". In time, several "gaus" or "shires" together came to form the territory of a tribe, a "kingdom" or "reich".

In the primitive Teutonic family the adult males had some rights to a voice in the affairs of the family group, or, in other words, the powers of the head male were not those of the Roman "patria potestas". In the greater clan group those affairs which concerned all were debated in "folkmoots" by all the freemen.(7) Here lay, no doubt, the basic principle of a

7. Tacitus. Op. cit., c. XIII.

free nation; that the chieftain, or "cyning", could be no auto-
crat; of necessity he must always gain the willing cooperation
of his warriors or fellow clansmen. The right to a voice in the
affairs of the community, or tribe, traditionally was one of
the folk-rights of all freeborn adult males. Gradually, as
time went on and with settled agricultural life, the bonds of
kinship were replaced by the bonds of neighborhood. In the
place of so many kinsmen to swear for one accused of a crime,
custom came to demand so many neighbors. The "folkmoot" be-
came not a "moot" of the clansmen but a "moot" of the village,
town, hundred, shire, or nation. Neighborhood assumed the du-
ties of mutual warranty formerly exercised by the family or
"maegth".

In the most primitive times at the head of each fam-
ily group stood the clan father or chieftain; he was the eld-
est able-bodied male in direct descent from the traditional
founder of the family; he stood closer in relationship to that
traditional ancestor than any other adult male in the "maegth";
by right of birth he held the leadership. So, when clans grew
into tribes, the leadership was claimed by the chieftain who by
tradition accepted as fact stood in the most direct descent
from the common ancestor of the tribe. For example, the West
Saxons called themselves the "Gewissas" and claimed descent
from one common ancestor, Gewiss, the great-great-grandson of
Odin. The royal line of the Gewissas was known as the family
of Cerdic. This line traced its ancestry in direct, unbroken
descent through Cerdic to the first born of Gewiss' sons. The

line of Cerdic was thus related in blood to all the Gewissas
but more closely related by direct descent to the great common
ancestor than any other kinship group of the West Saxons. In-
deed the only idea of a nation held by these early English was
that of a kindred enlarged past all rememberable degrees of re-
lationship.

The "eorlcundman", or one "dearly born", the noble of
the earliest period, was essentially a noble by birth. To him
belongs the right by kinship to exercise sovereign power. The
terms used to distinguish this class who by folkright exercised
leadership were "eorldorman" and "cyning". At first the terms
seemed to have been synonymous. In the Heroic Poems we hear of
hosts of "cyninges", some leaders of but small household groups.
After the consolidation of the numerous tribes into the Tri-
archy, the terms came to denote different grades of nobility.

All the Anglo-Saxon nobility, "eorlcundmen", whether
Kentings, West Saxons, Mercians, or Northumbrians, were like
the "Ynglingas" and "Skroldingers" of Denmark and Sweden, and
the "Jarl" of Norway, descended from the deified Monarch of Asi,
Woden, or Odin, the great father of all the Northfolk; be they
Germans or Vikings. Thus as a class the old Anglo-Saxon nobles,
whether kings, "eorldormen" or "eorls" were all closely akin to
the gods of Asi and Valhalla.

In the Heroic Poems and in the charters and dooms we
begin with a progress of time to hear of another kind of noble
who is not spoken of as "eorlcund" but is "gesithcund". He is

noble of service, sprung from loins less renowned than those of
the great lord of Valhalla. According to the customary laws of
the kinship group he has no rights. He owes his position to
his sworn "comitatus" leader. With the transition from kinship
to neighborhood and from "nobility of birth" to "nobility of
service" this new type of noble comes to assume the rights and
privileges of the "eorlcundman", although he is but "gesithcund".

Since bloodship was accepted as the bond of society
with the primitive Germans, the community was equalitarian in
its public life; that is to say, equalitarian within each of
the birth grades of which the folk were composed. This found
expression in the common folklaw, in the "folkmoots" which, in
time, with the change to neighborhood, became the town-moots,
the hundred-moots, the shire-moots, and the national-moot or
"Witanagemot"; it was administered according to the duties and
privileges of every individual as conceived by the "maegth"
and transferred to the community. Basically the right of all
freeborn folk of the race--and upon the level of dearer birth,
that of nobles--was identical, a common folk inheritance. Hand-
ed down at first by tradition, it was the customary law of the
Kentings, the Gewissas, the Northumbrians, and the Mercians.
The community of all these early nations was but an aggregate
of its individuals and kindred.

A breach of peace in itself meant nothing for there
was no general peace, but islands of peace "which surrounded
the roof-tree of every householder, noble or simple, eorl or

ceorl".(8) The King's peace itself covered only his hall and
his immediate presence. Acts of violence were civil wrongs
done by one individual against another. In the earliest times
crimes of violence were family affairs, the earliest codes have
but the faintest suggestion of the recognition of murder, theft,
assault, rape, as offences against the community as a whole.
The early codes merely state standard rates by which the family
of the injured person, or the individual himself, might seek
compensation from the evil doer in return for the loss or in-
juries sustained, and by this means avoid bloodshed. When the
community commenced at all to act it was merely an arbitrator
between the parties concerned to insure the sufferer that he
should receive proper compensation and to the wrong doer that
on payment of the appointed penalty he should be protected
from all further feud or molestation. However, as time went
on, the community, or, in other words, the state, in return
for its intervention, came to claim a fine over and above that
which passed between the parties concerned.

A study of the early codes alone gives us a distorted
picture of life in seventh century England. The earliest codes
of Kent are largely concerned with incorporating the Christian
clergy into the folkways, or "setting the Church into world
law". The later codes of Kent and those of Wessex are concerned
largely with a new kind of lordship and folk bonds. A new no-

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8. J. Jolliffe. The Constitutional History of Medieval Eng-
    land, p. 10.

bility, nobles of service, are replacing nobles of birth. The binding bonds of family are giving place with settled agricultural life to the bonds of neighborhood or community. The old customary law of all folk knew neither nobility of service nor ties of neighborhood. Hence the codes of the late eighth century are concerned with the bringing of these into the old folk ways by the means of analogy and legal fiction. Clergy trained in the ways of Roman law are by the end of the eighth century bringing a new strand into English customary law.

In this chapter we are only concerned with the earliest of the dooms, namely, those of Jutish Kent and slightly with those of Ine of Wessex.

The earliest of all the written codes are those of Aethelbert of Kent, issued about the year 600 A.D. These laws show us a society of three ranks: "eorls, ceorls, and laets." This is in keeping with the classification of society given by Tacitus in the Germania. The nobles are spoken of as "eorlcund",(9) that is, nobles by birth. No mention is made in the codes of Aethelbert or his immediate successors of "gesithcundmen", or nobles of service, as yet they had not come to play any part in the tribal life of the Kentings. However, in the last of the Kentish dooms, those of Withred, issued in the autumn of 695 A.D., just about a century after those of Aethelbert, we find one mention of a "gesithcundman".(10) The noble

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9. Aethelbert's Dooms, 13, 14, 75.
10. Withred's Dooms, 5.

of service has appeared in our records of the Kentings. In
these early Kentish dooms those who are not entirely free do
not seem to owe their inferiority to dependence upon lord, but
rather to their birth status in the scale of the Kentish folk.
(11) These ancient dooms of the Kentings show that at the be-
ginning of the seventh century the earliest arrangement of Eng-
lish society on the basis of kinship was still in the folkways
practiced in Kent. The new nobility of service had made its
appearance but had not played any outstanding part. Particular
customs, such as "gavelkind", were part of the customary law of
the Kentings but not of the Gewissas or northern folk.

The dooms of Ine of Wessex, issued between 688 and
694 A.D., give us our first glimpses into the ways of the west
Saxon folk. In Ine's codes we find these free classes of so-
ciety whose "wergelds" are stated at 1,200 shillings, 600 shill-
ings, and 200 shillings,(12) without naming the classes. The
most noteworthy distinction between classes or subjects in Ine's
dooms is not that between "eorl" and "ceorl" but that between
"gesithcundmen" and "eorlcundmen", or those who belong to the
King's personal following and those who do not and are styled
"eorlcundmen", that is, nobles of birth and kinship. The new
class, styled "gesithcundmen", seem to hold land by grant from
the King or to be in his personal service. The "eorlcundmen"

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11. In this connection cf. Jolliffe, Op. cit., p. 11.
12. Ine's Dooms, 70.

seem to hold their lands by kinship right of inheritance quite independent of the King. The man with the "wergeld" of 200 shillings seems to be the normal member of society, but the other class are nobles of birth or service; the half-free have vanished. In these dooms, the freeman, whether noble or common, must serve in the King's "fyrd".(13) All freemen have the right to give witness in the folk law court(14) and have a "mund" or peace over their homes and the hereditary right to private property and wardship of kin. Ine's dooms indicate that change or transition is taking place in society but that it has only progressed a short distance, the nobility are most affected, the "ceorl" still claims his ancient folk-rights and privileges, although the new type of lordship is changing the demands on the "ceorl" and his life value is being lowered in the "wergeld" scale. The unfree, or half-free, have become so much like chattels that they are ignored by the makers of the dooms.

The Mercians and Northfolk of the Humber and beyond have left no dooms. From Bede's History and fragmentary documents we know that the Northumbrians recognized only nobles of service or office by the middle of the eighth century. The Mercians, so it would seem by later references to the now lost dooms of Offa of Mercia, recognized the three-fold division of society identical with that of the West Saxon as set forth in

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13. Ibid., 51.
14. Ibid., 30.

the dooms of Ine. The only documents that give a complete classification of the Northfolk is the Be Myrcna Lage and the Northleada Lagu; the first is but a much damaged fragment and the latter belongs to the period just after Alfred.

Settled life in South Britain upon definite lands was gradually bringing down the basic bonds of kinship that had bound the folk together. Neighborhood and land were taking the place of the old "maegth"; the change is hard to sense from the existing records where it concerns the commoner or "ceorl" because the masses are conservative and change their folkways but slowly through centuries. Old folkways were being turned to suit new times, but such a change came very slowly. The changes concerning the nobility are much easier to trace as we have more references to them. Change with them came more quickly.

CHAPTER III. LORDSHIP AND KINGSHIP IN THE EARLY PERIOD

Tacitus related in the _Germania_ that among the Germans of his day, in times of peace, the government of the village communities were in the hands of councils of elders elected by the free-born warriors. In times of war or migration a chief or king was chosen from the "principes" or well-born families. The powers of such a temporary chief were limited and endured only during the period of hostilities or migration.(1)

Such may have been the case in 98 A.D., but by the time that the Anglo-Saxons migrated across the narrow North Sea they possessed a well-established nobility of birth which was distinguished from the ordinary mass of mankind by the prestige of the wealth and special talents in war of the individual members.

We believe that in the earliest times that the clan chieftain or "cyning" was essentially one of the kinship group. Traditionally he was the eldest male of the eldest branch of the "maegth" or clan group. He stood with respect to the greater clan group in the same relation that the patriarchal head did

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1. Tacitus. _Germania_, c. I.

to the household or immediate family. As in the case of the

"House or Family Father", his position was in some way sacred;

he was in some measure the religious head of the group (although

by the time of the Migration Teutonic heathenism was really very

feeble and played no great part in the everyday lives of the

tribesmen). This clan or tribal chieftain was usually more

wealthy than his fellow tribesmen because he enjoyed special

endowments, customary gifts and the lion's share of the spoils

of war. In times of war or migration he was the recognized

leader and in times of peace the chief administrator of folk

customs. On his death he was succeeded by his next to kin who

was most suited to the position. Basically the "cyning" of one

of the greater blood-kinship groups was blood of the blood of

all the kith and kin who formed the greater clan group. He was

of all the group most directly descended from the great common

ancestor.

     With the passing of time, clans grew into tribes and

the immediate families of the clan chieftains came to form an

aristocracy of birth. The folk came to recognize this by cus-

tomary folkright; the leadership in all matters belonged to

these well-born nobles whose wealth raised them to a position

of prominence in economic matters. In the contemporary docu-

ments, the Heroic Poems, the Sagas, and the History of the

venerable Bede of Jarrow, it is kings and their immediate fol-

lowers who are the doers of deeds, and who so completely fill

the accounts that there is little or no room for the assemblies

of the freemen that so fascinated Tacitus and Stubbs. In other
words, in the most dependable literary sources, with the excep-
tion of the Germania, which is not itself contemporary with the
Saxon Age, it is kings and their sworn followers, rather than
the folkmoots, that we hear about.

No doubt the institution of nobility rose to import-
ance in the times of the great migrations of the German folk.
One is warned, however, against accepting as the entire truth
the statement, "the migration and conquest made the king and
the noble". Perhaps the kingship and the whole institution of
nobility grew into power and prominence as a result of these,
but the renown of the princely offices antedates the landing
of Hengist and Horsa on the Romano-Celtic coasts of southeastern
Britain. Although Tacitus does not record it in his renowned es-
say on the Germans, kings and nobles, whose fame were known
alike to the Saxon, Cimbri, Frank and Visigoth had lived and
died beyond the Rhine and Danube long before the Angles, Jutes
and Saxons set foot on British soil. In Widsith, probably the
most dependable guide to "Who's Who in the Heroic Age", kings
and their immediate followers are the great, the far-famed, the
renowned.

Kings were most numerous in the Heroic Age. Beowulf
opens with the news of kings. "We have heard tell of the grand-
eur of the imperial kings of the spear-bearing Danes in former
days".(2) These old kings of the age of the Migrations were

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2. Beowulf. Earle's Translation, Part I, line 1.

not kings of territories but kings of folk. We hear in the Pagan Poetry of the "King of the Goth's", "the King of the Swedes", "the King of the Danes", "the King of the Angles", but never of the "King of Gothia", "the King of Sweden", "the King of Anglia", or the "King of Denmark". Thus we find in England in the early period when kinship was the basis of the social structure and for long after the ruler styled himself "King of the English", but eventually, long after kinship had given place to neighborhood as the bond that bound society together and nobility of blood had been replaced by nobility of service, the ruler changed his title to that of "King of England".(3)

To get an insight into the nature of lordship among the Anglo-Saxon in the period of the Settlement, the Heroic Poems and the Norse Eddas are the only sources that one can use. The Scandinavian Poetry is probably not older than the year 800 A.D. and probably not later than the year 1000 A.D.(4) Hence, although the Norse Poetry is several centuries later than the period of the Anglo-Saxon Settlement it reflects an almost identical state of institutional development. The pagan Teutonic civilization lived on in the north as nowhere else. Roman soldiers nor Roman missionaries never trod the Baltic shores.

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3. H. Maine. Early History of Institutions, p. 73.
4. Cf. L. Larson. The King's Household in England before the Norman Conquest, pp. 68, 73. Larson has very good reasons for stating these dates for the Norse Eddas.

When one considers the Heroic Poetry and the Norse Eddas, the immediate impression obtained is that lordship with these early Teutons was primarily of a military nature. The kings are first of all war chieftains of great prowess surrounded by bands of young warriors. This group of sworn followers was the "comitatus".

The origins of the "comitatus" are difficult to ascertain. It is equally difficult to show the relationship that existed between the "comitatus" and the old kinship groups. We know from the accounts of Tacitus that the military organization known as the "comitatus" to have been in existence in 98 A.D. Tacitus explains the general idea of the "comitatus" when he states that a "princeps" who had sufficient means might gather around himself a body of young warriors who were anxious to display their talents in war.(5)

The conditions, economic and social, that must ultimately develop from the continued existence of the "comitatus", are not difficult to picture. A wealthy and unoccupied warrior class rose who had no binding ties but those of sworn personal allegiance to a leader. But this class of warriors must be fed, beneath them there must be a class of inferiors who would till the soil. Here we have the germ of feudalism.

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5. Tacitus. Op. cit., c. XIII. For a discussion of the origins and nature of the "comitatus" cf. W. Hearn, The Aryan Household, pp. 246-50; W. Stubbs, The Constitutional History of England, Vol. I, p. 25.

At the time of the Migration we believe that Anglo-Saxon lordship was primarily of the patriarchal-kinship type. But every chieftain might, and it would appear did, possess a strong "comitatus". Nobles of blood are referred to as "eorl-cundmen", whereas the nobles who belonged to the chieftains' personal war bands are termed "gesithcundmen". The first was a noble by birth and kinship rights. The second was a "gesith" or companion of a chieftain; he owed his position to his chieftain alone.

In France the old nobility of birth rapidly disappeared after the Frankish Conquest. The new nobility of service put on the legal clothing of their dead predecessors, as it were. Clovis was traditionally of the clan of Merowingas, the most royal of the kinship groups by direct descent from the traditional common ancestor of the Franks, but this was but polite fiction; Clovis had no relationship to Meroveus. Clovis was no patriarchal clan father, but an adventurous leader of a strong military organization. His nobles were nobles of the sword and office. This new principle of selection for personal merit in war and administration overthrew the old system of kinship bonds and opened the way for feudalism. A similar trend of affairs took place in England but the process was far slower and far more involved.

It is an accepted fact that the primitive Teutonic village system transferred itself to England and took root and

flourished.(6) But it is easy to imagine that during the Conquest and Settlement large tracts of the acquired lands with or without dependents went to the chieftains and their most favored followers. Among the "gesithcundmen" we hear soon after the Settlement of "gesiths" or "thegns" who were holders of lands from the King.(7) Thus the germ of the large estate was inherent with the Settlement.

Let us look to France again; the evolution there was quicker and much more easily traced. In France the domains of the large landholder soon encroached upon those decayed "villa" communities that had survived from the times of the Roman occupation. The large landholder, a noble of service, acted as policeman, guardian of the law in the neighborhood of his estates. The practice of commendations sprung up. Charlemagne legalized it and his immediate successor made it universal. By the end of the ninth century it was an accepted fact that every man must have a lord. In a very limited measure and in varying degrees the same process took place in England. However, it is very dangerous to illustrate English development by French examples. The gradual steps to feudalization in England are far less discernible, more intricate, and far slower in movement than in France.

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6. A long and most involved controversy has been waged over the question of the early Anglo-Saxon village. The statement made here is most conservative.
7. Ine's Dooms, 45.

Undoubtedly with the Kentings and Gewissas at the time of the Settlement, the older patriarchal noble, the "eorlcundman", was the traditional noble recognized by the customary law of the Jutish and West Saxon folk.(8) The newer type of noble, the "gesithcundman", did exist but the folk according to custom had made no provisions to give him legal status. As has been pointed out the earliest dooms of the Kentings were in a large measure concerned with the incorporation of the foreign clergy into the folk by means of analogy and legal fiction and extending the King's "mundbyrd", or protection, over all the clergy and Church property. But toward the close of the seventh century we find a new problem taking up most of the space in the dooms--that of a new kind of a lordship, divorced in principle from the old nobility of blood. The old "eorlcund" rank was a passive privilege of blood and birth conferring authority of no kind over other men; this, the second phase of class distinction among the English, was lordship, as we understand it in later times, the patronage of one man over another. The "eorlcundman" was a noble by the grace of God; the new noble, the "gesithcundman", was a noble by the King's grace, and, whereas God's grace gave no special patronage over other men, the King's grace did.

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8. Institutions change continually but legal phraseology changes slowly; only when the changes are complete is it recorded--usually in the legal terminology. That nobles of birth had all but vanished by the time of the Invasion is very probable.

The earliest mention of the ties of the new lordship
in Anglo-Saxon documents speak of the client taking his patron
to "hlaford" and to "mundbora" and, in this phrase, the full
facts of lordship, both legal and economic, are expressed "hla-
ford", meaning literally "to give bread" and "mundbora" "to ex-
tend protection or peace". Literally the lord took the client
into his "comitatus" and guaranteed him food and protection; in
return, the client swore allegiance to the lord. The client is
termed a "gesith"; literally, "a companion of the lord". As a
member of this new military family the "gesithcundman" no long-
er needed the protection of his "maegth" as his status in so-
ciety is assured. With his lord as "mundbora" he may sue or
be sued in courts and offer oath and ordeal. Injuries against
him will be visited by the payment of the "mundbyrd" of the
lord whose protection has been violated. If he evades justice
his lord must make his offence good and he may assume the legal
personality of his man, and plead his cause before the King's
or "folkcourt". The lord thus came to stand toward his client
in place of kindred. With the protection of a wealthy and
powerful lord the client needed no kinfolk to make his place
in society secure.

At the time when lordship of the new type is first
mentioned in the codes of Ine and Withred it is in the process
of being reconciled to the old customary folklaw. It is being
woven into the old web of kinship. At first it is scarcely dis-
cernible in the fabric of customary common law but with the

passing of time it more and more comes to lend coloring to the whole. The tie of lord to man was regarded by way of conscious fiction as analogous to blood kinship, it was treated in practice as if it were and the client was taken into his lord's "familia". It was one of a group of relationships of which the more intimate blended imperceptibly into physical kinship, and which tended to find similar treatment in law; foreign residence, vassalage, fosterage, the tie of the godson to his sponsor--all were treated as in one degree or another or parallel with kinship. The "mund" of lordship, originating in the peace of the house-father over his sons and men, spread itself over the wider family of protected and commended dependents to whom the "mundbora" is not father, but lord.

The "mund" was transferred from the kindred to the lord; the lord replaced the kin as security, the lord could swear away his client's guilt in the same way as kin. The "heriot" or warrior's equipment in arms and steads, once the privilege of the eldest male of the dead man's kin, was reserved for his lord. For the kinless client the lord could give and receive "wer".(9)

Lordship and vassalage did not go far toward the root of social relationship in the times that Ine's codes were issued. They did not alter a man's grade in the folk. But they were extending privileges, and these privileges were, in the end,

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9. _Cf._ _Ine's Dooms_ for the clauses on which these statements are based; particularly Nos. 20, 21, 76, 22, 50, 23--in the order quoted.

to become the basis of a new grouping of society. There is
nothing in Ine's codes to prove that a caste of lords or a
caste of vassals had been in any way recognized by the custom-
ary folklaw. The "gesith" apparently remained "twyhynd man",
a "sixhyndman", or a "twelfhyndman"--according to his birth
grade in the common social scale recognized by the folk.(10)
But, beside the blood-price and the oath-value, which contin-
ued to depend upon birth, there were appearing in Ine's codes
other money compensations that defended the honor, prestige,
and peace of the individual, and these were coming to be wholly
determined by the official rank or proximity to the King. Such
were the "bohrbryce" or amendment to the protection extended to
the one in dependence, the "burgbryce" or compensation for vio-
lence done within the fortified enclosure of a notable, and the
"oferhyrnes" or that for disobedience or contempt of an order
which he is qualified to give by virtue of his office or status.
Such new privileges are more elastic than the "bots" found in
Aethelbert's codes and increase with the status of the individ-
ual's position toward the King, no matter what his birth scale
might be. The status of the individual is beginning to be af-
fected by that of his "mundbora". To be in the "mund" of a
bishop, "eorldorman", or other great official is a distinction;
but to be the King's man confers the highest privileges of all.

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10. _Ibid_., 6.

In a rudimentary way one feels from Ine's codes(11)
that certain privileges are associated with holding land. The
new nobility of service are closely bound up with the question
of land. From the existing documents we know that the new
class, "gesithcundmen" were endowed by the King with land which
the "gesith" held in some manner different to the old freehold
manner of the folk.(12) The land and its cultivators are not
given over to his discretion. Three-fourths of it must be kept
in peasant cultivation. From the land rent only can be demand-
ed of the peasant unless the "gesithcundman" provide for the
cultivator a homestead and livestock. In case of feud or
outlawry the tenants of the "gesith" must not be molested. If
the "gesith" leave his estate he can take only personal servants
and effects. It would thus seem that the King's grant to his
new "gesithcund" nobles was but a tenure over lands for a time.

The "gesithcund" landholder was a transitional type.
He existed in the period between the earliest age of kinship
and freehold and the later period of feudal tenure. The es-
tates of the "gesithcund" noble are termed "gesettlands" in
the later land charters, wills, etc., and are so referred to
in several of Bede's writings. They were cultivated by free
"ceorls" who owed several obligations to their lord but were
not on the same scale as the "villani" of the Domesday Report.
The "gesettlands" were assessed in hides like the rest of the

11. Ibid., 64-67.
12. Idem.

arable land of England and the hides were units of assessment
for royal rents and public service, just as the other lands of
the community were. If the "ceorl" who rented this "gesett-
land" provided his own home, stock, and implements, he paid to
the "gesithcund" lord only an annual rent, but if the lord pro-
vided everything, then the "ceorl" gave services as well as
rent.(13) The "ceorl" might swear allegiance to the "gesith"
and, as it were, join his "comitatus". Both forms of contract
seem to have existed in the seventh century.(14)

Thus in the days of Ine we see that the common free-
man was declining in Wessex; he was in the process of taking
the first step toward the "villeinage" which bound his remote
descendents under the Normans. As yet, that is, in the days
of Ine, the "ceorls'" place in the folk had not been debased
by their economic dependence upon a lord. They still retained
this customary "wergelds" in the Dooms of Alfred in the ninth
century. They still could bear arms and had their right to
oath or ordeal.(15)

The seventh century seemed to have witnessed much
spread of lordship everywhere in Saxon England. Lordship was
being resorted to in order to fortify every institution. Even
the common priest called himself a "mass-thegn". However, the
lordship of Ine's day was a mild and personal tie; it still

13. Ibid., 64-66.
14. J. Jolliffe. The Constitutional History of England, p.20.
15. Ine's Dooms, 51; Dooms of Alfred, 4, 2.

possessed something of the conceptions of the "comitatus" in
that it was personal and human--not rigid and formal as in the
later days. The spread of Christianity and the introduction of
Roman law was profoundly affecting the times. The upper clergy,
through their gradual acquisition of estates, were introducing
far-reaching changes into the whole idea of land-holding. Pri-
marily when the Roman clergy first established themselves in
Kent as newcomers they possessed no shares in the lands which
were all still held by "folk-right". The clergy made use of
their continental learning and Roman Law to introduce "Land-
books", that is, written charters by which with the formal con-
sent of the "cyning" and his "gemot" of the clain chieftains
the old "folk-right" could be overridden. Perhaps the intro-
duction of these landbooks was the turning point in the his-
tory of Anglo-Saxon land customs.

The clergy established themselves as a kind of re-
ligious aristocracy in the Anglo-Saxon social structure by the
same process that the nobility of service was incorporated in-
to the folkways. The Dooms of Kent illustrate this. When one
comes to consider the results of the Conversion one finds that
it permeated every phase of old English social life.

The clergy needed the King and the King needed edu-
cated advisors. Hence the close partnership between monarch
and higher clergy which had been formed in the days of the land-
ing of St. Augustine were never for an extensive period dis-
solved. The influence of the clergy was to lend to the monarchy

and the whole order of the higher nobility a new dignity. Hitherto, in the rough and tumble of Teutonic heathenism, the power of the King had rested partly on customs of the folk and partly on force, but after the Conversion the Church crowned the King with a diadem, consecrated him with Holy rites and declared him to be the Lord's annointed one.(16)

At this point it would seem appropriate to give something like a systematic classification of the Anglo-Saxon nobility in the period down to the time of Ine.

1. The King.

The "cyning" was the chief noble, the "dearest born" of all those "more dearly born" (to put an old Anglo-Saxon phrase into modern English). Traditionally the King was of the family or "gens" of the traditional ancestor of the folk. In the line of direct descent he was the most closely related to the founder of the folk group.

> "The more likely account would be the kingship arose where a military leader had established within and without the tribe a position which seemed to justify the assumption of royal dignity, that is to say, when he found himself strong enough to get himself proclaimed King. The dynasty once started was prompt to invest itself with a halo of sanctity by producing a pedigree tracing descent from Woden."(17)

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16. One of the most interesting accounts of the influence of the Conversion on the life of the old English is to be found in R. Hodgkin's History of the Anglo-Saxons, Vol.I, pp. 235-44.
17. J. Ramsay. The Foundations of England, p. 152.

A complete account of all rights and privileges claimed by Alfred the Great will be given in a later chapter.

The "cyning's wergeld" is not stated in the Kentish codes. However, the King's "mundbyrd" is stated at 50 shillings; an "eorl's", 12; and, a "ceorl's", 6.(18) The dooms of Aethelbert's successors--Hlothere and Eadric--give fuller statements of the Kentish "wergelds".

There is no existing document that directly states the King's "wergeld" for Wessex, but it has been arrived at indirectly. The Northleoda Lagu states the scale of the "wergelds" as follows:

	thrymas
King	30,000
Aetheling and Archbishop	15,000
Ealdorman and Bishop	8,000
King's Reeve	4,000
Thegn and Mass-Thegn	2,000
Ceorl	266 (19)

We do not know the value of the Northumbrian coin termed a "thrymas"; hence it is hard to compare this with the others stated in shillings. However, the elevated position in which the King is held is illustrated from this data.(20)

18. Dooms of Aethelbert, 8. Cf. also, F. Seebohm, Tribal Custom in Anglo-Saxon Law, p. 481; H. Chadwick, Studies in Anglo-Saxon Law, pp. 105-14.
19. Chadwick. Op. cit., p. 76.
20. For a complete table of the "wergelds" of all the English kingdoms cf. J. Kemble, The Saxons in England, Vol. I, pp. 286-87.

2. The "Aetheling."

In the social scale the next place was occupied by the
King's sons, or "aethelings", whose "wergeld" is usually quoted
as half that of the King and the same as that of an archbishop.

3. The "Ealdorman."

Next to the "aetheling" in the period of the consol-
idation, the "ealdorman" was the highest dignitary in the realm.
He might be descended from one of the old royal families of the
heptarchy or a relative of the King; we have ample evidence
that after the time of Ine the King's uncles, nephews and
cousins governed large subdivisions under the title of "ealdor-
men". On the other hand, in the later period, the "ealdorman"
was often a noble of service, a "gesithcundman". Traditional-
ly the title "ealdorman" denoted one who was of the blood roy-
al; the term was synonymous with "cyning". After the consolida-
tion the "ealdorman" usually governed a "shire".(21)

4. The "Eorl."

This term seems to have been used loosely to desig-
nate any nobleman. In the earliest period it was applied to any
leader of warriors who was "eorlcund" or "more dearly born" than
the commoner or "ceorl". By the end of the seventh century it

21. For a complete discussion of the position of the "ealdorman"
cf. Kemble, Op. cit., Vol. II, pp. 125-51.

had almost vanished from the legal sources, being replaced by the term "gesith". The Anglo-Saxon term "eorl" was of the same meaning as the Scandinavian title "jarl". Strange to say, after the Danish invasions a new title appeared in place of "eorldorman", namely that of "earl", which was a combination of the Danish "jarl" and the two English cognates, "eorl" and "eorldorman".(22)

5. The "Thane" or "Thegn".

The term "thegn" or "thane" does not appear in any of the legal documents until fairly late. No mention is made of the "thegns" in the codes of Aethelbert or his two successors. The first time that the term is used is in the Dooms of Withred. It here appears as the equivalent of "gesith". Evidently it designates one in the King's service, a noble of service of a rank lower than an "eorl". When the term "thegn" or "thane" appears, the term "eorl" tends to vanish, perhaps replaced. An "eorl" was once "eorlcund"; a "thegn" was once "gesithcund".(23)

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22. For complete discussions of the terms "eorl", etc., cf. Kemble, Op. cit., p. 149; also: C. Oman, England before the Norman Conquest, p. 454; T. Hodgkin, England to 1066, p. 434; Larson, Op. cit., pp. 76-104; Chadwick, Studies on Anglo-Saxon Institutions, Chapter V.
23. For complete discussions of the origin and nature of the term "thegn" cf. S. Turner, History of the Anglo-Saxons, p. 230; J. Lappenburg, History of England under the Saxon Kings, p. 316; T. Hodgkin, Op. cit., p. 228; Stubbs, Select Charters, No. 65; Oman, Op. cit., pp. 359-60, 470-71; Chadwick, Studies in Anglo-Saxon Institutions, p. 80; Larson, Op. cit., pp. 89-104; Seebohm, Op. cit., pp. 325, 368, 390.

6. The "Gesith".

In its original meaning the term "gesith" designated "a companion". Its first use was to refer to a member of the "comitatus". After the rise of a nobility of service it meant one who owed allegiance to the King or was in the King's service. The terms "gesith" and "thegn" were synonymous at times. (24) "Eorl" and "gesith" were not originally synonymous terms: the "eorl" referred to the old Germanic nobility of birth, the "principes", whose privilege it was to maintain a "comitatus"; the term "gesith" referred to a member of the "eorl's" following.(25) After the Settlement the "gesiths" lost their military character and developed into a landed aristocracy. Soon, however, the "gesiths" were heard of no more; the place vacated was filled by the "thegns". The "thegn" is referred to in the Latin documents usually as "ministri".(26)

7. The "Gerefa".

The most general name for the administrative and executive official in the period of Ine and afterwards was that of "gerefa". The term designated an executive official. There

24. For further discussion of the term "gesith", cf. Larson, Op. cit., p. 82; Hearn, Op. cit., p. 248; Stubbs, The Constitutional History, Vol. II; Seebohm, Op. cit., p. 366; Chadwick, Studies in Anglo-Saxon Institutions, passim; Ramsay, Op. cit., p. 130.
25. Larson. Op. cit., p. 87.
26. Ibid., p. 97.

were two grades and many ranks or subgradings; the most import-
ant were those in the employment of the King or an "eorldorman".
The "gerefa" was distinctly a noble of service. The more im-
portant "gerefas" came to hold estates in a manner like all
"gesithcund" men; such lands were termed "geref-lands". The
"scir-gerefa" developed into the "shire reeve" of later times.
About the person of the King there was always a body of ser-
vants, both menial and aristocratic, who held various titles
of "thegnship". In fact, even to the most menial office in
the King's service entitled the holder to be designated as
"thegn" or "gerefa". Archbishops and "eorldormen" also had
their "thegns". These varying grades of "thegnship" were a
characteristic of the period when vassalage became more or
less prevalent.

The codes of the seventh century, both those of the
Kentings and those of the Gewissas, show the primitive organi-
zation of the folk in a process of invasion by the forces of
lordship, Christianity, and neighborhood. New wine is being
put into old bottles. Lordship and Christianity are being suc-
cessfully woven into the fabric of the customary law. A new
landed aristocracy is appearing who hold their fields not by
hereditary folk-rights but as "gesiths" of the "cyning". The
normal commoner is still the "ceorl" or "twyhynde" man of the
codes of Ine. But many of this class are becoming bound in
some manner to a lord. The sense of community is taking the
place of the kinship bonds of blood relationship but in no way

has neighborhood entirely replaced kinship; rather, neighborhoods were coming to think of themselves as large and loosely related families. The ties of the kin in customary law were being extended on every side to mean neighbors or being assumed by a lord who became the official protector of his client. The old customary folk-laws are being stretched and extended to include all these new conceptions within their scope. Folk-rights made the common folk-law courts folk-moots but more and more the judgment is falling to men of reputation who were "seniores" or "witan", as being wise in the customary law. The old Teutonic popular principle of moots of all free men to decide all issues concerning the folk as a whole still found expression in the "tun-gemot", and the "hundred-gemot" and was being satisfied by delegation of these functions to those who by common folk custom represented the senior wisdom of the folk of the community. The freemen could not all attend the "gemots" of the shire or nation; instead the men who by custom of the folk were deemed the "seniores" went to voice the opinions of all their community-kinsmen. Times, however, were imposing a different composition upon the national "gemot", or "witanagemot" and "scir-gemot". In the days of the heptarchy the tribal "witanagemot" assemblies were great folk-moots of all the free warriors, but, as time went on, the great national "witan" assemblies became of greater distinction, although smaller and more and more removed from the common "ceorl".

In theory or better according to folk ways the King and the Witan both expressed the voice of the race. The first function of both was not to make laws but to apply an unchanging folk custom. All the codes show that neither the King nor the Witan in theory claimed a superior position. The laws announce at all times that the King and Witan speak with one and the same voice.(27)

The Witan as the voice of the assembled kinfolk claimed the right to choose the King although their choice by folk custom was confined to the family which according to folkright was most noble or "dearest born" of all those "more dearly born". To be King meant first of all to embody racial pride and to be the leader of the folk in war and bear the person of the folk in time of peace. The King was but the first of the folk; he reproduced upon a higher level the status of all nobility. The kingship had few definite powers. Acts that we should accept as proper to the Crown, the seventh century "cyning" did as if unconscious of their application and explained them as outcomes of his personal rank and privileges as recognized by the folk. Subjects for their part sought his protection because his "mund" was more dangerous to break than that of any other noble. The law in the seventh century was not the King's law but the folk's folk-right. The peace was not the King's peace. The King's peace was like other men's;

27. Cf. Introductions to the dooms of all the Saxon Kings down to the death of Alfred.

it was over his household; he could extend it to cover people that were not in his household, and he was continuously extending it to protect all his "gesith" whether they dwelt in or outside of his household.

Concerning the differences in custom or folk ways among the Kentings, the Gewessas, the Mercians and the Northumbrians little is really known. The differences are in details rather than generalities. In Kent a stronger birthright among the folk led to "gavelkind" or a partition of all properties and folkrights among all co-heirs. In the Northumbrian kingdom there was a Celtic strain. Monarchical influences were stronger than in the purely Germanic kingdoms, and under Kings ruled the subdivisions as in Celtic Strathclyde and Wales. Lordship of service and office displaced lordship of birth more completely at an earlier time than in Wessex or Kent. The "wergelds" of the Northumbrian were reckoned according to official standing of the individual instead of according to the ancient Teutonic blood-grades. The administrations of Mercia and Wessex were less monarchical than either Northumbria or Kent. The Mercian kingdom was more or less a confederacy of "maegths", nobility of blood held sway there longer than in Wessex where an official class of "gesithcund" men were already usurping the dignities of the "eorlcund" class by the seventh century.

PART TWO. THE PERIOD FROM THE SETTLEMENT TO THE DEATH OF ALFRED
700-900 A.D.

CHAPTER I. THE TRANSITION FROM KINSHIP TO NEIGHBORHOOD

The basic framework of Anglo-Saxon society was in a
certain measure possessed of a permanency that lasted through-
out the first four and a half centuries of its history and, in
fact, even to the death of Edward the Confessor. But the whole
social structure underwent a continuous development and far-
reaching internal and external modifications with the passing
of time. The exact chronological sequence of these varied and
innumerable changes are most difficult to trace coherently be-
cause of the lack of dependable source material and because of
the confusing and contradictory differences displayed in differ-
ent localities.

After the Settlement was complete and the pioneering
stage past, the general movement everywhere in Anglo-Saxon Eng-
land was from the personal to the territorial; from a state of
things where the kinship group was all-important to one where
the community was the binding force. In the earliest period
the phenomena of birth--nobility and family--groups were dearly

displayed everywhere. From the eighth to the tenth centuries personal freedom and political rights were becoming more and more bound up with community and the possession of land.(1)

England, of the first two centuries of the Teutonic occupation, was a region settled by many family-folk groups federated into seven or eight tribal kingdoms by the bonds of kinship extended beyond the rememberable degrees of blood relationship and held together by the leadership of some able "cyning". England of the eighth and ninth centuries was a region of village communities of several types which, in turn, were grouped on territorial bases into townships, hundreds and shires. These territorial divisions were bound into three or four tribal kingdoms that at various times recognized the territorial lordship of one or other of the royal families of the Triarchy.

The period from the abdication of Ine of Wessex (728 A.D.) to the ascension of Alfred the Great (871 A.D.) is in reality a little known age. There are no existing codes; those of Offa of Mercia (757-796 A.D.) are only known from later reports. The Church passed into a period of decadence after the days of Theodore of Tarsus and the venerable Bede and left to

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1. Cf. W. Stubbs, Constitutional History of England, pp.183-87; The Cambridge Medieval History, Vol. II, c. XVII, pp. 571-73; A. Dopsch, The Economic and Social Foundations of European History, c. IX, pp. 283-303; B. Boissonnade, Life and Work in Medieval Europe, c. VII; N. Gras, An Introduction to Economic History, p. 76.

posterity few records. In all, there are some fifty charters belonging to the eighty years between 796-871 A.D.(2)

The reign of Alfred (871-901 A.D.) is comparatively richer in documentary material. The codes contain seventy-seven chapters,(3) and the treaty with Guthram, the Dane, contains another five chapters.(4)

Alfred's own literary works, The Saxon Chronicle, a limited number of charters, and Asser's Life of Alfred made up the documentary material, meagre(5) indeed but rich in comparison with the eighty years previous.

Alfred's codes are very conservative; they indicate no great or violent change, but, if carefully interpreted, in light of what may be learned elsewhere, they show that a great underlying change was taking place in the whole structure of Anglo-Saxon society. Territorialization of all relations of life, beginning in the sphere of common folk-law and spreading to all the institutions of the English folk is traceable.(6)

This is first noticeable in the rights and obligations of the individual and in the procedure of the courts. Legally, the kinship group had previously done three things

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2. J. Earle. A Handbook to the Land-Charters, and other Saxonic Documents, pp. 45-141.
3. F. Attenborough. The Laws of the Earliest English Kings, 62-93.
4. Ibid., pp. 98-101.
5. Cf. C. Plummer, The Life and Times of Alfred the Great, pp. 5-68; contains an excellent evaluation of the source material of Alfred's period, although rather out-of-date.
6. J. Jolliffe. The Constitutional History of Medieval England, p. 57.

for the members of the "maegth". It made them oathworthy; it
acted as "bohr" or surety that they should stand to judgment.
All three of these sanctions were needed in combination to
achieve a legal standing for the individual and legally to
constitute the multitude of individuals into society. It is
for this reason, because the legal virtue and status of each
of its members was a creation of the solidarity of the kindred
that English society was in the beginning based upon the tie of
blood. But with the lapse of time, mainly in the two and a
half centuries between the Settlement and the abdication of
Ine of Wessex (728 A.D.), each of these functions was trans-
ferred from the kindred of the individual to his neighbors.
At first to those who in a general way lived near and knew him,
and later to organized neighborhoods, townships, hundreds and
shires, which rose in response to the new stress laid upon the
tie of vicinity and the need to give it territorial definition.
This great change that was taking place in the ninth, tenth
and eleventh centuries was to profoundly alter the institution-
al basis of English life.(7)

     Swearing on behalf of a kinsman or compurgation in
the old Teutonic customary law was designed to force upon the
kindred the choice of telling the truth or affronting the gods,

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7. Cf. J. Jolliffe, The Constitutional History of Medieval
    England, p. 58; Stubbs, Op. cit., Vol. I, p. 183; W. Hearn,
    The Aryan Household, p. 373; C. Oman, England before the
    Norman Conquest, pp. 381, 471.

be they Christian or pagan, so the criminal-suspected's kindred were made his oath helpers. But this was a primitive idea that the times were outgrowing. In Ine's dooms a man accused of murder must have one of the King's "thegns" to swear to his innocence(8) as well as the oaths of his kin. Soon kin are replaced by neighbors. By the end of Alfred's reign the man charged of a theft must have a number of his fellow villagers hear his tale and then swear to his innocence. These jurymen or compurgators were nominated from the freemen of his administrative district by the local court officials.(9)

Likewise a man charged of not rendering the required services to the borough or not joining the King's "fyrd" when called upon must clear himself by the oath of a certain number of his fellow villagers.(10)

A full kindred in the early period made a man oath-worthy and law-worthy. The conduct of the individual in society was entrusted entirely to his kinsmen; they were responsible for him. Then comes a time when the "mundbora" of a lord, a "gesithcundman", might replace the deficiency of kith and kin; such was the case in the days of Ine. But when Cnute restates the dooms of Alfred, the conduct of the individual is the concern of his community; every freeman must "be brought into hundred and titheing" to "be worthy of his law and wer".(11)

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8. Ine's Dooms, 54.
9. Edward I's Dooms, 1, 4.
10. Cnute's restatement of the codes of Alfred.
11. Cnute's Dooms, 20; Jolliffe, Op. cit., p. 60.

Thus, as time goes by, the kindred organization passes away as the law develops new conceptions as the trends are toward neighborhood as the basis of the social structure. The community gradually usurped the rights of the kin. The process goes by several divers routes; the kin may first be replaced by a lord and then eventually entirely replaced by the community, or, the lord as protector of the community. In other words, the neighborhood takes over the task of restraining the conduct of its citizens, in part at its own will and in part as a result of the enactments of the central government. These arraigned in court no longer can establish their innocence on the oaths of their kin, but by the supposed impartial voice of those selected by the court officials as representative of their neighborhood.

The courts themselves were only indirectly affected by these gradual innovations brought about by the trends from kinship to neighborhood. They remain in tradition folk-moots. The freemen may come to them as before, now in the right of fellow citizens of the community instead of as kinsmen of the principals. The folk-courts became hundred and shire courts. The procedure moved through much the same routine as before but with neighborhood now the basis.(12)

Thus in the days of Alfred and more so during the succeeding reigns a radical change was taking place in the theory

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12. Stubbs. Op. cit., p. 202.

of legal administration. As long as the sole duty of the courts
was to set hostile kindreds at peace the custom was to fill the
courts with the folk. The court was a folk-moot. The kindred
with all their members were the mutual components of the moots.
But as kindred faded out of the picture the way was open to ad-
justments which might lessen the burden of attendance and make
for efficiency. The courts were after the ninth century deal-
ing with individuals, and with titheings or townships which
lent themselves to representation. The new jurisdiction of
the Crown was coming to play a greater part in all folk legal
proceedings. Crimes, such as murder, theft, rape, were no
longer being looked upon merely as kindred matters but were
now offences against the community and since the King's "mund"
was being extended over all the folklands and the inhabitants,
crime was the King's affair. Thus though the courts remained
in theory popular, their practice tended to become selective.
In time a legal aristocracy came to the fore and monopolized
the active work of judgment. Asser might write of "the judg-
ment of eorl and ceorl" in the folk-moots, but the voice of
the "ceorl" was becoming fainter every decade; the King's of-
ficials (or the senior "thegns") came more and more to dominate
the courts of the "tun", "hundred" and "shire".

Other forces were at work also; the King and his chief
nobles were granting lands away to men who came to act as judges
in their own localities (where the "ceorl" had fallen into econ-
omic bondage in a partial degree). "Sake" and "soke" ("sac" and

"soc"), that is, the right of private jurisdiction granted by the King, does not make its appearance in written law until the days of Cnute, but it is then well-established.(13) There are good reasons to believe that it developed early in the ninth century.(14) This granting of private jurisdiction over large areas was associated indirectly with territorialism and the growth of a powerful landed aristocracy.

Territorialism and the growth of a dominant aristocracy were increasingly marks of the ninth and tenth centuries in Saxon history. The common freeman was not disfranchised or reduced to serfdom; rather, he was thrust into the background, required to act by representatives selected for him. This growth of territorialism and aristocracy, however, was a very conservative and distinctly an Anglo-Saxon movement with no very apparent close relationship with the movement toward feudalism that was growing apace in the Frankish States. The English codes were at no time definite about land-rights. The idea of property and not dominion lay behind the growth of aristocratic estates in England.(15)

By the tenth century there seemed to have been three principal ways of land-holding in England: by bookright, by folkright, and by "laen" or loan. The last of these, the "laen", or "praestitum", appeared early in the ninth century.(16)

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13. J. Ramsay. The Foundations of England, p. 409.
14. Stubbs. Op. cit., p. 119.
15. Ibid., p. 173.
16. Cf. J. Kemble, Codex Diplomatus, pp. 279, 303, 315; other religious houses no doubt followed the same procedure.

The one receiving the property gave in return service. The
loans rarely extended over ninety-nine years, or three gener-
ations, and then reverted to the King or former owner. "Book-
land" was that granted by charter. "Folk-land" was ordinary
private freehold property, the disposal of which on the death
of the owner was made by customary folk customs. Of these
three ways of land-holding not one could create a permanent
link between the component parts of any accumulation of pro-
perty such as made the Norman honor indissoluble, nor bound
the heirs of any lord and those of his vassal to each other
through an indefinite future. The Saxon landholder bestowed
his lands at death, not as a dynast, but so as to complete his
own life, save his own soul, and satisfy his love for those
whom he had known in his lifetime. Thus feudalism in the true
technical sense never developed in Saxon England.

At this stage it might be well to attempt to give a
detailed description of the territorial divisions of England
as they existed at the beginning of the tenth century. In do-
ing this one has to generalize and frequently draw material
from a later age in order to clarify the whole.

The largest subdivisions of the Anglo-Saxon kingdom,
after the supremacy of Wessex was established, was the shire.
The origins of these seem to have differed in various parts of
the country. Some of them represented the lesser kingdoms which
had been absorbed as the Anglo-Saxon unity grew; Kent, Sussex,
Essex, Middlesex, and Surrey were remnants of little kingdoms.

Northumbria represented what was left of Bernica after Lothian had been acquired by Scotland. East Anglia of the early period became the two shires of Norfolk and Suffolk. The West Saxon shires seem to have had different origins. Some historians claim that these shires represent the lands held by different clans of the West Saxons, while others(17) contend that they owe their existence to divisions of the kingdom among different members of the Royal family, who, it would appear, held sub-kingdoms under a chief king. Cornwall represented the kingdom of the West Welsh and became part of the Wessex kingdom in the tenth century.

The midland shires formed out of the old Mercian kingdom were more artificial divisions, and did not exist until late in the tenth century. Just how many shires existed and were known by their modern names at any period in this age is rather hard definitely to ascertain. From the Saxon Chronicle, during the period anterior to Alfred's reign, we hear of West-seaxan, Suoseaxan, Eastseaxan, Middelseaxan (Wessex, Sussex, Essex, Middlesex), Northanhumbraland, Southhumbraland, Mercna (Northumbria, Southumbria, Mercia), Lindesware, Southrige, Wiht (Lincoln, Surrey, Wight), Hiviccas, Wilsaetan, Dornsaetan (Worcestershire, Wiltshire, Dorset), Sumorsaetan and Centware (Somerset and Kent).

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17. Cf. T. Hodgkin, England from the Earliest Times to the Norman Conquest, p. 433; Oman, Op. cit., pp. 371-73, 512-14; Kemble, The Saxons in England, Vol. I, pp. 72-87; Stubbs, Op. cit., pp. 122-31.

After Alfred's time the Saxon Chronicle adopts the word "scir" and we find these additional divisions mentioned: Bedanfordscir (Bedfordshire), Buccinghamscir (Buckinghamshire), Decrabyscir (Derbyshire), Gleawanceasterscir (Gloucester), Herefordscir (Herefordshire), Oxanfordscir (Oxfordshire), Devonscir (Devon), Hamtunscir (Northamptonshire), Southamtunscir (Southampton), Legeneceasterscir (Lancastershire), Norfolk, and Southfolk. In all, there are twenty-six such divisions mentioned in the Saxon Chronicle.(18)

Bede, in his Ecclesiastical History, mentions the shires only in a general way. Asser, in his Life of Alfred the Great, mentions by name Berkshire, Essex, Kent, Surrey, Somerset, Sussex, Lincoln, Dorset, Devon, Wiltshire, and Southampton.(19)

These shires, the largest territorial subdivisions of the kingdom in the period after the consolidation, each had, traditionally at least, its "scire gemot" or shire court. The "scire gemots" no doubt originated in a manner similar to the Witan or great "gemot" of the kingdom, namely, in the prehistoric folk-moots of all the folk. In its earliest form, the "scire gemot" consisted of all the freemen in the greater clan group who cared to attend. After territorialization took place the "scire-moot" in theory represented the freemen of the greater community or shire. However, by the time of Alfred the Great,

18. Kemble. Loc. cit., pp. 77-80.
19. The subdivisions of Kent were most interesting; for a full discussion, cf. Jolliffe, Pre-Feudal England, c. I, II.

so it would seem from such documents as exist, the "eorldorman" or "eorl of the shire", the "scirgerefa", together with the leading men from the various "tuns" and "vics" of the "scir" made up the "scirgemot". Of course, with these, members of the laity sat the chief churchmen.(20)

The earlier codes give us no particulars about the shire courts. A document of King Edgar's reign states that the shire court shall be held twice a year under the presidency of the "eorldorman" and bishop.(21) But, during the years after Alfred's ascension there are frequent references to the "scirgerefa" as the leading lay figure in the shire courts. Just who the "scirgerefa" was and how his office came to be of such importance will be discussed later, and became prominent in the "scirgemot" after some centralization of authority and consolidation had taken place under the royal house of Wessex. His powers, prestige and influence reflected the strength of the monarchy after the rise of a nobility of service and the territorialization of justice had been introduced.

Just who had the right to attend the shire moots in the ninth and tenth centuries is a difficult question to answer. In the early period when kinship was the bond that held society together, all freemen had the right to attend the shire moot.

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20. Cf. T. Hodgkin, Op. cit., p. 432; Kemble, The Saxons in England, Vol. II, pp. 151-81; Stubbs, Op. cit., pp. 129, 131; Jolliffe, The Constitutional History of Medieval England, p. 63.
21. T. Hodgkin. Loc. cit.

Existing evidence points to the fact that in the days of Alfred and afterwards came to the shire courts who were summoned by the King's "scirgerefa", or the "eorldorman", as the case might be. Likewise it is most difficult to get any clear conception of the procedure and nature of business dealt with. Most of the existing documents that speak of the shire courts belong to the reigns of Alfred's immediate successors.

> "Let freemen seek the 'hundred-gemot' in such a manner as was arranged aforetime, and three times a year the 'burg-gemot' and twice the 'scire-gemot', and let the bishop of the shire and the eorldorman be present, and there let both of them expound God's laws and the world's law and do justice to all men."(22)

From these words of King Edgar we learn that the shire moots deal with matters both civil and ecclesiastical, and, so it would seem, judicial, legislative, and municipal, if such terms might be used to refer to the business before an Anglo-Saxon court in the days of Alfred's great-grandson. Such a description only suggests the idea; the dooms quoted are later than Alfred's period and conditions are more advanced than in the ninth or tenth centuries.

The shires were divided into smaller subdivisions called "hundreds". The origin of the "hundred" is difficult to trace. The idea of a hundred households supplying a hundred warriors was very ancient with the Teutonic peoples; it is al-

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22. Edgar's Dooms, III (Thorpe, Diplomatarum Anglicum Aevi Saxonici, p. 202); requoted from T. Hodgkin, Op. cit., p. 429.

luded to in the Germania and was prevalent in Scandinavia at the dawn of recorded history. Although not definitely referred to in documents the "hundred" existed from the seventh century or earlier in certain parts. (It seems to have had some notion of a hundred households supported from a hundred hides of land.) King Edgar's codes appear to be the earliest to specifically speak of the "hundred".(23)

In general theory, but perhaps not in reality, each of these "hundreds" had its own "hundred-gemot" which attended to local judicial and administrative business. In the time of Edmund I all the freemen in the "hundred" were brought into a system of tithing similar in some respects to the "frankpledge" of the twelfth and thirteenth centuries.(24)

King Edgar's dooms are more definite about the "hundred" courts:

> "This is the arrangement, how men shall hold the 'hundred court'. First, all the freemen of the 'hundred' shall gather themselves together once in four weeks; and that each man shall do right to the rest, secondly they shall set forth to ride after thieves. If the occasion arise, let a man whose beasts have been stolen, give notice to the hundred-man and let all freemen of the hundred fare forth after the thief...let them do justice on the thief as ordained by King Edgar, and hand over the price to him who owns the animal and divide the rest of the fine, half to the 'hundred' and half to the king."(25)

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23. Cf. H. Chadwick, Origins of the English Nation, p. 244; Oman, Op. cit., p. 74; Jolliffe, The Constitutional History of Medieval England, pp. 116-20, Pre-Feudal England (the Hundred in Kent), p. 121; Stubbs, Op. cit., pp. 104-21; The Cambridge Medieval History, Vol. II, p. 570.
24. The "frankpledge", in the true sense of the word, did not exist among the English in the pre-Norman period. Cf. W. Morris, The Frankpledge System, pp. 4-6.
25. Edgar's Dooms, III, p. 5 (Thorpe, Loc. cit.).

These particular dooms belong to Alfred's grandson but reflect some light on the possible conditions of Alfred's reign. Before passing from the subject of the "hundred" it should be observed that the corresponding institution in most of the Danish counties after Alfred's treaty with Guthram were known as "wapentakes". The counties in which "wapentakes" took the place of "hundreds" were York, Lincoln, Nottingham, Derby, Leicester, and Rutland (of our day).

The "burh" or "burg", in the sense of a fortified town, first is referred to in certain secondary diplomata of the late ninth century, and in the next century there existed "burh-gemots", similar to the town moots, which will be considered next.

Practically the whole population of Anglo-Saxon England lived in rude cottages, grouped in either compact villages in the southeast or scattered hamlets in the northwest. Each of these settlements, or "wics" as they were termed in the vernacular, had its own bit of local self-government inherited from the times of the clan kinship folk-moot. Hence, theoretically, within the "hundred" were still smaller territorial units, the "wic" or "tun" with their "tungemot". Concerning these we know nothing except that theoretically they were supposed to exist. The laws of Edgar mention the "burgh-gemot" and specify that its meetings should be held three times a year, but fail to mention the "tungemot". No doubt the moot of the town decided purely local judicial matters and municipal affairs

(if such a term can be applied to the business transacted by the Anglo-Saxon village fathers presided over by the "Tungerefa").

The account just given is drawn from a few facts stated in the dooms. The picture presented is not new; it comes from the writings of the Victorians. From Kemble to Stubbs, all of the historians of the last century gave a similar clearly drawn account. In reality, if it did ever exist throughout all of England the complete system belongs rather to the period of Alfred's successors--Edward I, Athelstan, Edmund I, Edgar and Eadwig--than to the period from Ine to Alfred. The great variance of folk custom among the Kentigs, the Gewissas and the Northfolk must have given rise to many local differences. England of the eighth, ninth, and tenth centuries was a pretty disorderly land where it is hard to picture the perfectly systematic working of such a cut-and-dried system. Likewise the rise of large estates based on the principle of "bocland" and "laenland" must surely have complicated the whole affair. (26)

It is, however, very certain that vital changes were at work in the period from the eighth to the tenth centuries. The territorialization of all relations of life, beginning in

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26. The problem of the half-free, the "laets", of Kent and the servile "theowas" of the West Saxons, is most controversial. Cf. Chadwick, Studies on Anglo-Saxon Institutions, pp. 112, 380.

the sphere of private law and spreading outwardly to all institutions of the folk was converting the older organization by kindred into the matrix of the medieval territorial community. (27)

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27. No discussion of the peculiarities of the Kentish territorial organization has been given in this chapter. In this connection, Jolliffe has done much excellent research work. His discoveries and conclusions as to the nature of Kentish territorial subdivisions are to be found in Pre-Feudal England, pp. 1-98. A full discussion of the origins and nature of the Kentish subdivision, the "lathe", is to be found in the same work, pp. 39-73.

The question of the origin and growth of the manor has been in some measure deliberately avoided. A long and much involved controversy has been waged over this by the Germanists and Romanists. In connection with the origins and growth of the manor, one should consult the works of Seebohm, Vinogradoff, Lipson, Jolliffe, Round, Maitland, Pollock, etc. Book II, pp. 117-212, of The Growth of the Manor, by Vinogradoff, makes the position of the Germanists quite clear. Chapters I, II, pp. 1-77, Vol. I, of Lipson's Economic History of England, states the problem from both sides.

CHAPTER II. LORDSHIP IN THE PERIOD AFTER THE SETTLEMENT

From the days of Ine onward the terms which were used to indicate lordship were gradually taking on new meanings. The bonds that had bound the old Teutonic warlord to his follower had been very personal and human. Bonds as it were of the living, in no way bookish or legalistic. After the seventh century one feels that this informal tie of lord for man gives place gradually to a more stultified legal materialism. One senses the growth of something that has faint resemblance to the feudal system of the Frankish empire. But there is nothing in any of the codes until long after Alfred's day to lead one to say that the Anglo-Saxons were moving toward feudalism. Rather, from the days of Ine to Alfred, Anglo-Saxon England was as far as lordship was concerned passing through a transitional stage, an indefinable state of lordship that lies somewhere between the "comatatus" condition of the Heroic Age and the feudal state of the Angevin period.

As pointed out in an earlier chapter there were during the eighth, ninth and tenth centuries three ways of landholding in Anglo-Saxon England. The most prevalent was that of folk-right; this was the old freehold system. On the death of the possessor of lands it was passed on to his natural heirs,

that was his kinfolk in order of blood relationship or as the owner particularly willed it. Folkland was thus in no sense "ager publicus". It was folkland in that it usually remained in the control of the folk.(1) The second method was by charter. This method had been introduced by the Church early in the sixth century and was much used by the clergy. The party obtaining the land received a written charter to the effect; usually the King's personal consent was obtained. Such land was known as "bookland". By this device the clergy came to hold large estate. Lay persons also acquired extensive acreages by this same method. The third method was by "laen" or loan. Such grants were made for any term of years, up to and including ninety-nine years. With none of these three methods was there any feudal oath or ceremony acknowledging continued hereditary tenure and promising faith and service in the true feudal manner. The omission of the four words, "in feodo et haereditate", from the formulary of all Anglo-Saxon land laws indicated that while the movement was toward conditions similar in many ways to feudalism, feudal tenure in the true technical sense never developed until the Norman period.

Great landed estates rose and passed away in a single generation in Saxon England because of the ability of the individual to will them as he saw fit. The estates of the Church alone passed on unbroken from one generation to another.

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1. Cf. F. Pollock, The Land Laws, pp. 19-53.

It is all but fallacy to try to ascertain the degree of control possessed by the Saxon landlord of this period over the "ceorls" who tilled the soil on these greater estates. To attempt, likewise, to state the various degrees of freedom in terms of our conception of freedom possessed by the "ceorlish" population to be found on these estates during the ninth and tenth centuries would be difficult. We hear much about these great lords but when one tries to pierce below the stratum of such substantial lords, it is all but impossible to get much actual fact, for, beneath the uniformity of folkright, book-right, and "laen" there were as many systems as there were still many Englands. Each of the old kingdoms maintained its own "ceorlish" customs and laws.

One thing, however, seems fairly clear: lordship over peasants settled upon land of a lord had by the tenth century some quality which made it quite different from lordship in the period of the Settlement. The name and institution of the manor was lacking but great estates were in existence and the customary law was coming to recognize the large estate as something outside or apart from the ordinary jurisdiction of customary folkright.(2)

2. Pollock. Op. cit., pp. 18-52; J. Earle, A Handbook of Land Charters and Other Saxonic Documents, Introduction,pp.xiii-cxi; W. Morris, The Constitutional History of England to 1216, c. III-VI. Other authorities are: F. Maitland, Domesday Book and Beyond, pp. 24-26, 55-60, 242-50, etc.; P. Vinogradoff, English Society in the Eleventh Century, pp. 28-38, etc., H. Cam, Francia and England, pp. 110-20, etc.; H. Adams, Essays in Anglo-Saxon Law, pp. 33-55; F.

From the earliest period the "ceorl" of the Gewissas seems to have been in some measure less a freeman than the "ceorl" of the Kentings and Northernfolk. As time went by, the West Saxon commoner became more and more a man with a lord. By the time of Alfred the "ceorl" of Wessex could be given no higher status than that of a Danish freeman when a common standard was sought on which to evaluate both Dane and English.(3) Certain diplomata coming from the Midlands of a period slightly later reveals that a large part of the "ceorls" were without lands and held the fields from which they derived their subsistence by ties that were very much like those of feudalism.(4) Continuity of lordship and commendation from generation to generation was most common with the peasants through the Midlands from Ine's day on; it no doubt tended to harden into obligation; feality taken generation by generation became a rule.

In the Midlands and West this movement toward manorial estates was most marked(5) but free villages continued to be the rule in East Anglia and Kent down to the time of the Domesday Survey.(6) However, to the very end of the period

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Stenton, Documents of Social and Economic History of the Dane Law, pp. lxi-lxiii, The First Century of English Feudalism, pp. 12-15; G. Adams, American Historical Review, Vol. VII, pp. 11-35; Vinogradoff, English Historical Review, Vol. VIII, pp. 1-17.
3. Cf. Alfred's and Guthrum's Peace.
4. Morris. Op. cit., c. III.
5. Maitland. Op. cit., pp. 169-72.
6. Idem.

there remained some free villages in Wessex. It must be under-
stood that from the Anglo-Saxon Conquest onward there were at
all times a part of the population that was in more or less
servitude. But, despite Seebohm's arguments to the contrary,
it is well established that throughout the whole Saxon period
the majority of the tillers of the soil, the "ceorls", were
legally free.(7) From the time of Ine onward there had exist-
ed a class of landless "ceorls" in Wessex. The law of the West
Saxons by Alfred's time came to assume that the landless man
had a lord.(8)

In the period from Ine to Alfred the chief nobleman
of the kingdom was styled an "eorldorman". The title itself
was most ancient; at one time the term had signified one of
the "most dearly born" of those "more dearly born" and had
been more or less synonymous with the title "cyning"--a title
borne only by those whose ancestry entitled them to the priv-
ileges of royalty. However, with the passing of nobility of
birth, the title of "eorldorman" came to be borne by many men
of servile origins who owed their high position to ability and
kingly favor. The "eorldorman" of the eighth and ninth centur-
ies was more a noble of sword and office than a patriarchal
clan leader.

Traditionally the "eorldorman" was head of the shire.
This is questionable in many cases and especially in Ine's time

7. Aethelred's Dooms, pp. 3,1,7,etc. Cf. Vinogradoff, Growth
    of the Manor, pp. 214-16.
8. Idem.

and before, because the shire as an uniform subdivision probably did not exist until the ninth century.(9) In a general way, before 850 A.D., or thereabouts, any noble vested with the highest dignity might be styled an "eorldorman". The specific meaning of the word, as indicating the chief noble in a shire, did not appear until the time of Alfred.(10) Traditionally the "eorldorman" as head of the shire had the right to preside over all shire courts, to attend the national Witan and to lead the shire "fyrd" in battle. To ascertain what the real powers of the "eorldormen" were at any stated time is hard to do. As in the case of the King, the "eorldorman's" powers depended on his own abilities, wealth and general prestige as well as the particular conditions of the district over which he ruled at any specific time. In theory his control was at no time absolute. During the earlier centuries the powers of the freeman by customary folkright were sufficient to put some restrictions on the "eorldorman"; with the decline of the "ceorl's" independence in the times of territorialization and consolidation, came the rise of the powers of the King's "reeve" and the bishop. Some of the "eorldormen" seem to have been really kings in their own territories, merely recognizing the general and rather vague lordship of the Mercian or Wessex prince that claimed the "Bretwaldship". Others were very much restricted and dependent upon the will of the central monarch and his of-

9.   Cf. L. Larson. The King's Household before the Norman Conquest, pp. 105-6.
10. Ibid., p. 108.

ficials. For example, in the year 780 A.D. we learn from the Saxon Chronicle that the "cyning's gerefa", aided by the freemen, burned Bern, the "eorldorman" of Northumbria, to death at the stake at Silton because he was guilty of tyranny and oppression.(11) After Alfred's time the powers of the "eorldorman" became more clearly defined and more closely restricted by the presence of a special official of the central government, the "shire reeve" or "scirgerefa".

Alfred's dooms make it clear that the "eorldorman" possessed full powers of holding plea and proceeding to execution in both civil and ecclesiastical matters.(12) The laws of Edgar state that twice a year in the shire moot, the "eorldorman", together with the bishop, should hear all civil, criminal and ecclesiastical cases.(13) The laws of Alfred specify that if an "ceorl" wished to leave one lord and seek another, he must do so with the consent of the "eorldorman" of his shire.(14) Ine declares that the "eorldorman" who is privy to the escape of a thief shall forfeit his shire unless he can obtain the King's pardon.(15)

Theoretically the "eorldorman" possessed the power to intervene in all disputes between the clergy and the laity.(16)

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11. Saxon Chronicle--the year 780 A.D.
12. Cf. J. Kemble, The Saxons in England, Vol. I, p. 137.
13. Edgar's Dooms, requoted here from Kemble, Op. cit., p. 157.
14. Alfred's Dooms, p. 37.
15. Ine's Dooms, p. 36.
16. Cf. Kemble, Op. cit., Vol. II, p. 136.

We have several records of the "eorldorman" exercising such powers. The "eorldorman" was the leader of the shire "fyrd" in time of battle. There are endless references to this in the Saxon Chronicle.(17) The "eorldorman" was responsible for the carrying out of all the laws in his shire; this is made clear in one of Edgar's dooms.(18) He was also responsible for the execution of justice against those who had been found guilty in the law courts.(19) It appears from Alfred's dooms that the "eorldorman" was the authority to whom all the freemen should apply for redress of private wrongs when the party injured was not strong enough to bring the evil doer to justice.(20)

The problem of how much territory was included in an "eorldom" in the days of King Alfred is most difficult to answer. The answer can best be obtained by stating how many "eorldormen" there were in Anglo-Saxon England in Alfred's time, or soon after. It would seem the number of "eorldormen's" signatures on charters in the reigns after Alfred were as follows: Edward I, fourteen; Athelstan's, thirty; Eadred's, ten; Edmund's, ten; Athelred II, ten. It appears that the number varied; six to ten was the usual number(21) after Alfred's time, but in the

17. Cf. Saxon Chronicle, 837, 838, 845, 903, 851, 853 A.D.
18. Cf. Edgar's Dooms, Vol. IV, p. 15.
19. Idem.
20. Alfred's Dooms, pp. 42-43.
21. H. Chadwick. Studies in Anglo-Saxon Institutions, pp.187-95.

time before that it is quite impossible to state the number be-
cause in the days of Ine and down to Alfred the term was used
in the diplomata to indicate any outstanding man or one of
blood kinship with the kingly family in the various tribal
kingdoms.(22)

Not only was the life of the "eorldorman" guarded by
a very high "wergeld" but the dignity of his person and family
were protected by special clauses of the Saxon codes. To draw
a weapon before an "eorldorman" with the intent of doing bodily
harm incurred a penalty of 100 shillings in the codes of Ine
and Alfred. To verbally insult an "eorldorman" at a "folkmoot"
cost the Wessex commoner 120 shillings.

After the Danish invasions the title of "eorldorman"
fell into disuse; the new title of "earl" replaced the older
one. This was no doubt a result of the combination of the
term "eorldorman" with its Danish equivalent "jarl". The "earls"
of Cnute's day ruled over vast regions; in all Cnute had only
about four or five noblemen whom he styled "earls".(23)

The commonest noble of the later half of the Saxon
Age was the "thegn". In the social scale he ranked below the
"eorldorman". In the eighth, ninth and tenth centuries one
hears of King's thegns, queen's thegns, earldormen's thegns,
archbishop's thegns, thegn's thegns, disc-thegns, hall thegns,

22. Idem.
23. Cf. C. Oman, England before the Norman Conquest, p. 454;
    and, for further discussion of the nature of these terms,
    cf. Kemble, Op. cit., Vol. II, p. 149; T. Hodgkin, Eng-
    land from the Earliest Times to 1066, p. 434.

hall thegns, bur-thegns, horse thegns, bedchamber thegns, Welsh
thegns, middling thegns, and thegns-born. It was a title
claimed by some of most ancient lineage and others of "coerlish"
parentage. From the frequent use of the possessive form one
would be led to decide that it designated a noble of service
who owed special allegiance to some superior lord. Turner,
more than a century ago, stated that it was essential to a
"thegn" that he should possess land.(24) Lappenburg and Kemble
were of the same opinion. Palgrave, Freeman, Ramsay and Thrupp
did not state definitely what they considered to be the essen-
tial qualifications of "thegnhood". Stubbs stated that,

> "...the ceorl who acquired five hides of land and
> had a special appointment in the King's hall with
> other judicial rights became thegn-worthy; his oath,
> protection and wergeld were those of a thegn."(25)

Hodgkin defined the "thegn" as one in society who stood above
the "ceorl" and was identical with the "twelfhydeman" of the
Wessex codes,(26) and was the lineal successor to the "gesith"
of the period of the Settlement. Larson states that the "ge-
siths" of the earlier period eventually lost their military
character and became a landed aristocracy; their place was tak-
en by the "thegns" who closely resembled their predecessors in
origin and history.(27) Jolliffe defines the "thegn" more
clearly:

24. S. Turner. _History of the Anglo-Saxon Kings_, p. 316.
     J. Lappenberg. _History of England under the Saxon Kings_,
     p. 230.
25. W.Stubbs. _The Constitutional History of England_,Vol.I,p.173.
26. T. Hodgkin. _Op. cit._, p. 228.
27. Larson. _Op. cit._, p. 86.

"The title of thegn was applied to any official of high standing, but especially to the 'ministri' below the rank of eorldorman and in constant and active service, and above all to those in immediate attendance upon the King... .Thegnage meant no more than service, 'ministerium'. From the ninth to the eleventh century it was the normal expedient for getting done any work of exploitation or administration which could not be done conveniently left to reeves, or for discharging such public duties as could be done by deputies. So, just as the king's thegns made themselves useful about his person or seconded the reeves of the shires and boroughs, so every great estate and every private franchise had its thegns."(28)

It appears to have been customary to designate any landholder with an estate of five hides or more a "thegn". The common class of "thegns" after Alfred's time were holders of landed estates but not necessarily holders of great offices in the King's service. Those especially in the service of the King were designated with some special title as "disc-thegn" (chief butler). The title of "thegn" was never legally heritable, but nevertheless the higher and wealthier "thegns" were on their way to establish themselves as a landed aristocracy in the later Saxon Age. They were building themselves estates upon the King's generosity, and their value in local government made the Crown anxious to fortify their interests, limiting their necessary attendance at court to once in three months and leaving them free to look after their own interests at other

28. J. Jolliffe. The Constitutional History of Medieval England, p. 93.

times.(29)   The lands obtained by these "thegns" as a reward
for service were granted as free property by "bookright" or
"laen".(30)

The "thegns" tended to become the country gentry, the
county squires of their age and day, with little interests of-
ten in court affairs although many continued to be summoned to
the Witan as their signatures on the dooms of the King and Witan
show.   In the affairs of the "tun", "hundred" and "shire" they
played a leading rôle.

The "thegn's wergelds" vary in the codes of the Ge-
wissas, Kentings, Mercians and Northumbrians, but the compara-
tive values have something of an uniformity; all the "thegn"
class stand above the "ceorl" but below the "eorldorman";
those that are termed "cyning's thegns" have a higher "wer-
geld" than all the others designated by the title of "thegn".

After the times of Alfred the term "landholder" and
"thegn" became almost synonymous in meaning.   The old grades
of the folk were forgotten.   The new classification was "theg-
en" and "theoden", just as it once had been "eorl" and "ceorl".

With the consolidation and rise of the kingly office
to position of more than merely tribal chieftainship, other new

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29.   Asser.   De Rebus Gestis, p. 101. (In tribus namque cohorti-
      bus praefati regis satellites prudentissime dividebantur,
      ita ut cohors uno mense in curto regio die noctuque ad-
      ministrans commoraretur, mensque finitio et adveniente
      alia cohorte, prima domum redibat.)
30.   Cf. Birch de Gray.   Cartularium, p. 750.

lords of office made their appearance. The most general name
for the King's "reeves" or civil servants was that of "gerefa",
or, as it is written in the documents, "geroefa". The term,
"gerefa", seems to mean "sheriff" or "deputy"; it was expressed
in Latin as "praefectus" or "praefectus regus", occasionally as
"minister" and rarely as "legatus" and "proconsul".(31) The
peculiar functions of the individual comprehended under the
title "gerefa" were further defined by the prefix compounded
with it, as "cyning's gerefa", "scir gerefa", "tungerefa", and
"portgerefa".

At a very early period it seems that the "heah-gere-
fa", or "chief reeve", was in charge of the King's immediate
household, a kind of a "major domus". However, the English of-
ficial of this name never rose to any position of importance
as the Merovingian officer did; only once is it recorded that
the "heah-gerefa" assumed the leading rôle in the kingdom; dur-
ing the infancy of Osred of Northumbria (circa 705 A.D.) the
"heah-gerefa" assumed regal power for four or five years (cir-
ca 705-710 A.D.)(32) and might have continued in power but he
was slain by the Picts.

After the period of the Triarchy the "gerefa" became
distinctly a special fiscal, administrative, judicial and ad-
ministrative officer of the Crown. He owed his position and

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31. Cf. Kemble, Op. cit., p. 151; Lappenburg, Op. cit.,p.328;
F. Palgrave, British Commonwealth, Vol. I, p. 99; Larson,
Op. cit., p. 108.
32. Cf. Bede. The Ecclesiastical History, Book V, c. XXIV.

powers to the King alone; he was the King's ears and eyes, as it were; the King's interests were the "cyning's gerefa's" interests.

Besides these "gerefas" of superior grades and in the service of the King, there were "gerefas" of inferior ranks. In fact, it seems that each "eorldorman", archbishop, bishop, and "thegn" might have several kinds of "gerefas", who represented him on special occasions or had charge of some particular estate. The more important of the "gerefas" acquired estates; we hear of "gerefa-lands". It appears that while in office the "gerefas" seldom held estates but on retiring received such grants. (There is reason to suspect that certain of the "gerefas" on acquiring lands came to be styled "thegns".) However, in no sense was the "gerefas" a landed or hereditary class; they were distinctly officials in someone's service, dignified servants as it were, many of whom came from obscure origins.

The "scirgerefa" was, as his title suggests, the special agent of the central government stationed in the shire to look after the interests of the central government. The "eorldorman" might be a descendant of the former royal family of one of the old tribal kingdoms or a relative of the reigning family; his position depended in part on the old hereditary kinships' rights, but the "scirgerefa" was merely an appointed officer who might be removed at any time or transferred elsewhere. Some historians have contended that the "scirgerefa" was at one time elected by the freemen in moot; however, by

the time we come to hear of this official, he is very much an officer of the Crown. It was the duty of the "scirgerefa" to administer justice, to carry out the execution of the law and act as the chief fiscal officer in the shire. He levied and collected all taxes claimed by the central government. At all times he served as a kind of a check and spy on the powers and conduct of the "eorldorman". Each of the subdivisions of the shires had "gerefas" of similar powers and duties but on less extensive grounds. Thus there were "tungerefas", "portgerefas", "wicgerefas", and "Wealgerefas" or "Welsh reeves".

The "gerefas" as officials appeared first in the seventh century, rose to their greatest importance in the years between Alfred's reign and the ascension of Athelred the Unready. During the days of Cnute, "eorls" came to be all-powerful and the "gerefas" lingered on as mere sheriffs.

Any survey of Anglo-Saxon political and social systems calls for at least some passing consideration of the place of the Church and its relationship with the conditions existing in any particular period. The Conversion was the most important event in Anglo-Saxon history from the Saxon Settlement to the Norman Conquest. After the time of the coming of St. Augustine there were always around the King, bishops and clergy who were better educated than the King or his nobles. The clergy, as a group, possessed a share in the legal heritage of Rome, and knew something of continental methods in governments. Having access through their education to the accumulat-

ed learning of the Mediterranean world, they occupied a position from which they could dominate the King and his lay ministers. Possessed of a monopoly of the art of writing they could introduce legal practices from Rome.

The close partnership between monarch and clergy which had been formed in the first days of the Conversion was never for any extensive period dissolved. Both monarch and clergy obviously had much to gain from this partnership. The clergy needed the protection of the King and the King needed educated advisors. Also the influence of the clergy raised the monarchy and the whole order of nobility to a new dignity. Hitherto, in the rough-and-tumble of Teutonic heathenism, the power of the King and all the nobility had rested partly on folk custom and partly on force. But after the Conversion the Church crowned the King with a diadem and declared him and all the nobility to be the Lord's anointed ones, against whom to rise up in revolt was the most hideous of sins.

The esteem in which the clergy were held is clearly illustrated by their place in the social scale, as defined in the "wergelds" after the Conversion. The clergy stand in all codes next to the King. Even the property of the clergy was guarded by a nine-, ten-, or twelve-fold compensation; one that in most cases surpassed that of the King's own.

The upper clergy, through their gradual acquisition of estates introduced far-reaching changes into the landholding system. Primarily as has been previously shown all the lands

with rare exception were held by "folkright", but the clergy as newcomers soon found a way to possess a share in the lands.   As previously shown, they introduced "landbooks", that is, charters by which with the formal consent of the King and his Witan the old "folkright" could be overridden.   By this means the Church gradually came to be the holder of the largest and most numerous estates in all Anglo-Saxon England.

During the first century after the Conversion the Church showed great zeal for order, progress and learning; the culmination of this period produced Aldhelm, Bede, St. Boniface, St. Cuthbert, and Alcuin--the most illustrious names in all Anglo-Saxon history, with the exception of that of Alfred the Great.   On the political and business side, the work of Theodore of Tarsus and his advisor, the scholarly Hadrian, set an example of system, efficiency and order, such as the Saxons had never before dreamed of.   When Archbishop Theodore died in 699 A.D., the Church of England, ruled from Canterbury, rose with massive grandeur over the tribal kingdoms.

The century after Theodore and Bede saw a general degeneration in the English church.   The decline came in part from internal rottenness and, in part, from the external blows of the Vikings.   Under Alfred the Great a Renaissance in the Saxon church restored some of its vigor of the age of Bede and Boniface.

It would seem that at the time of the Conversion, Pope Gregory had very definite plans for the organization of

the Church in Britain.(33) There were to be two metropolitans,
each with twelve suffragan bishops, one of the archbishops to
have his seat in the South and one to have his in the North.
But the nature of the Conversion prevented this from being car-
ried out and not until after the Council of Whitby was there a
definite scheme attempted, and then little was done as the first
clergy were by necessity itinerant missionaries.

Under Theodore, two archbishoprics were established.
By 900 A.D. there were twenty bishoprics in England.(34)

As years went by the Church became the chief land-
holder in all England. The real climax of the power of the
clergy was not reached until a generation after Alfred's time,
the age of the great Church magnate, Dunstan.(35)

"Indeed, for nearly forty years after Ed-
red's death in 955, the history of England is no
longer that of its kings and nobles, but of a great
churchman, Dunstan, who forced a change of the great-
est moment upon the nation and having been trusted
servant of one king, deprived a second of half his
dominions, established a third on the throne and
moulded the character of that sovereign and his suc-
cessor."(36)

Dunstan was the greatest of all the clerical nobles,
but lesser ones ruled vast estates and wielded great influence,

33. Cf. Kemble, Op. cit., Vol. III, p. 361. Kemble tells us
     without quoting his sources.
34. Cf. B. Thorpe, Cod. Dipl. No. 1024; Kemble, Op. cit.,
     Vol. II, p. 362.
35. Cf. J. Pearson, The History of England during the Early
     and Middle Ages, Vol. I, pp. 75-220.
36. Ibid., p. 95.

both spiritual and temporal from the eighth century onward. Monastic estates rivalled those of the most powerful nobles; indeed the greatest landholder in all England without excepting the King himself by the time of Alfred's grandson was the Church. It was the fine abbeys and rich monastic establishments that particularly fired the passions of the plundering Danes when they assaulted England.

Any discussion of Anglo-Saxon nobility in the period after the appearance of the Triarchy must contain some mention of the nature, powers and composition of the Witan, the "gemot" of the nobles, both lay and spiritual. During the nineteenth century, much--certainly too much--was written about the powers and function of the Witanagemot. Sharon Turner, writing under the spell of the Romantic "Zeitgeist", pictured the Witan thus:

> "The Anglo-Saxon Witanagemot or parliament was a wise and parental lawgiver; not bound in the chains of an obsolete antiquity, but always presiding with naturing care; always living, feeling and acting with the population and circumstances of the day, and providing such regulations, either by alternation of former laws, or by additions of new ones, as the vicissitudes, wants and sentiments of co-existing society in its various classes found to be continually needing sometimes legislating for the benefit of the rich, or great, or the clergy, or the agriculturists, or the commercial classes, sometimes for the middling and lower classes, and sometimes for all."(37)

Such a picture was a creation of Turner's mind working under the spell of Rousseau. Kemble, Stubbs, Freeman--in

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37. Turner. *Op. cit.*, Vol. II, p. 289.

fact all the Victorians--failed to rid their minds of this idealistic picture.

Folkright made the common law courts folkmoots, but the function of judgment often fell to men of reputation who were "seniores" or "witan", as being wise in law. The popular principle in the moots was satisfied either when they embodied the folk directly or by delegation of function to those who were representative of the legal wisdom of the community and this made it possible for the judgments and political decisions of a nation to be made by a few of its wise men in council of the folk, but in actual practice never was extended to the Witan. From the days of Aethelbert of Kent to the time of Harold Godwinson, the Witan was an assembly of nobles.(38)

At this point it would be quite in order to consider the existing documents and the opinions of all those who have studied this institution with the view of arriving at some definite conceptions as to: 1. who of the nobles sat in the Witan, 2. when and how these nobles were convened, and, 3. the actual powers of the nobles convened under the name of the Witan.

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38. For discussions of the nature of the Witan that show the various conceptions held concerning it throughout the Romantic and Victorian Ages and down to the present, cf. Turner, Op. cit., Vol. II, Book 8; the entire subdivision is given to a discussion of the Witan. Also cf. Kemble, Op. cit., pp. 182-261; Stubbs, Op. cit., pp. 133-57; J. Ramsay, The Foundations of England, Vol. I, p. 162; Pearson, Op. cit., pp. 265-78; Oman, Op. cit., pp. 367-69; T. Hodgkin, Op. cit., pp. 232,267,301,319,356,452,455,465; R. Hodgkin, The History of the Anglo-Saxons, pp.208,211,270, 276,606; Morris, Op. cit.,pp.36-39,57-59,72-74; Jolliffe, Op. cit., pp. 23-29. One of the most exhaustive accounts is, F. Liebermann, The National Assembly in the Anglo-Saxon Period.

In the documents, the Witan has many vernacular and
Latin appellations. The commonest is "Witan-gemot" (assembly
of the wise), "Eagla raed gifan" (council givers), "Eadiagra
geheahtendic ymcyme" (the illustrious assembly of the wealthy),
"mycel synod" (great assembly), "maiores natu" (senate or eld-
ers), etc. The frequent use of the terms "synodus" and "con-
cilium" shows that the Anglo-Saxons did not discern clearly
between the ecclesiastical councils of Christian countries and
the national assembly convening to deal with secular matters.
In fact, the very vagueness of the numerous titles given to the
body suggest that its nature was indefinite and the relations of
Church and state were so interwoven that no clear conceptions
of difference between a synod of the clergy and a "gemot" of
the nobles existed.(39)

The actual members, as distinguished from the collec-
tive body, are designated as "sapeintes", "principes", "sena-
tores", "primates", and "procratories". One need not be moved
by these high-sounding titles; the Latin terminology was great-
er in its influence on the writers of the documents than Roman
legal practices were on the men of the age.

The documents are followed by many crosses, indicat-
ing the signatures of the individual members. These crosses
are usually followed by the titles of the member designated by
the marks. By consideration of a number of these documents it

39. Liebermann. Op. cit., p. 12.

is possible to form some ideas of the position in the social scale of the nobles who were members of the Witan.(40)

A charter of Aethelbald of Mercia, for 736 A.D., is signed by the King, two archbishops, two "comites", a "dux", an "abbas", and by six persons without note of rank.

A charter of Offa of Mercia, for the year 794 A.D., is signed by the King, an "atheling", two archbishops, four bishops, an "abbas" and six "dux".(41) Another charter of Offa of Mercia is signed by the King, the Queen, an archbishop, three bishops, five abbots, two "principes", one "dux", one "prefect" and by eight without titles.

A charter of Aethelred I is expressed to be made with the consent of the King's "optimates" and "fideles" and is signed by the King, two archbishops, six bishops, four "duces", six abbots, ten "ministri" and two persons without name.(42)

A charter of Aethelwulf of Wessex of a much earlier period is signed by the King, an archbishop, two "duces" and twenty-three without titles. It is further endorsed separately by two "abbas", seven "presbyters", six deacons and three without titles.

A charter made just at the time of Alfred's death is signed by the King, an archbishop, four bishops, the King's brother, two "athelings", five "dux", four "presbyters", eighteen "ministri", and by three persons without titles.

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40. MSS. Cott ii, p. 3; K. 80; B.I, 7. Cf. Earle, Op.cit., p.29.
41. Heming 54; K.164. Cf. Earle, Op. cit., pp. 63-64.
42. Thorpe. Diplomatarum Anglicum Aevi Saxonici, p. 39.

From a consideration of these and many more such documents it would seem that the Witan membership falls into four general classes:

1. Members of the Royal family.
2. Archbishops, bishops and other prominent clergy.
3. "Eorldormen" and "eorls".
4. The most prominent of the King's "thegns" (or "gesiths" in the earliest centuries) and "gerefas", that is, "ministri".

It would appear that the Witan was assembled by the King's writ. Numerous passages in the diplomata affirm this; for example, "The King sent after all his Witan and bade them come to Gloucester to convene with him a little after Easter." (43) In one MMS. for the year 993 A.D., Aethelred II says: "I ordered the Witan to meet at Winton on the day of Pentecost." (44) Another document of the time of Alfred's grandson says, "...on a paschal solemnity all the great of the laity and clergy met in Witan council on the summons of the King".(45)

The times at which the meetings of the Witan were held appear to have been most frequently the great festivals of the Church, as Christmas, Easter, and Whitsuntide; and, of these, if one can judge by its being most frequently mentioned, Easter was the more usual period. But meetings were not by any means con-

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43. Saxon Chronicle.
44. MMS. Chaud. c. 9, p. 122.
45. Gale's Script, p. 395.

fined to these seasons; the middle of Lent, July, August, September, and October are all mentioned in the Saxon Chronicle. One fragment of an ancient law book states: "Alfred caused the 'seniores' to meet and ordained for perpetual usage that twice a year or oftener they should assemble to speak their minds."(46)

The place of the meetings was not fixed. After the time of Egbert of Wessex the Witan of the consolidated kingdom usually convened at Calne, London, Kingston, Wilton, Winton, Clovesho, Oxford, Gloucester, Wantage, Winchester and Exeter. The place of meeting depended on the King's residence and convenience.(47) As to the method of summoning, little is known; no Royal letters of summons have come down from the entire age. Liebermann, the greatest authority on this particular institution, believed that messengers with oral mandates summoned the members to the "gemots" of the Witan.(48)

Kemble found one hundred six to be the largest number of signatures on any of the Saxon documents relating to bills signed by Witan members. On a careful checking of these, however, one finds that Dip. Doc. Nos. 219 and 220 in Kemble's Codex Diplomaticus Aevi Saxonici are signed by one hundred twenty-one persons. However, some of the best authorities(49)

46. Mirror. Requoted here from Turner, Op. cit., p. 308.
47. Cf. Liebermann, Op. cit., pp. 48-49.
48. Ibid., p. 50.
49. Ibid., p. 42.

consider that all the signatures on these documents do not represent the names of persons who were actually members of the Witan itself. Opinion of the best authorities set the membership from thirty to one hundred in the period after the Consolidation.

The actual powers of the Witan are debatable. Opinions of the best authorities have varied greatly. "To look to the needs of God's Church and the right keeping of monastic rule, and to take council for the stability of the secular state", is the account of its own purpose by the Witan held at Clovesho in 825 A.D.; and, as a means to that end, it set out to inquire "what men had been maintained in justice and equity, and who had been defaulted by violence and injustice or despoiled".(50) Evidence for such care is plentiful from the reign of Alfred's son, Edward, onward to the death of the Confessor, but there is little in the diplomata before Alfred to aid one in deciding just what the functions of the Crown and those of the Witan were. There is a prevailing confusion of the functions of the Crown and those of the Witan.(51) Theoretically the Witan and the King had the same function to apply an unchanging folk custom; both bore the person of the race and were parts of the same entirely. Kemble attempted to reduce the Witan's powers to a system, clear and definite; such was quite out of the question. His classification is stated

50. Birch. Op. cit., p. 384.
51. Kemble. Op. cit., pp. 204-27.

below (one is warned that in truth it has little value):

1.   First, and in general, they possessed a consultative voice, and the right to consider every public act, which would be authorized by the King.

2.   The Witan deliberated upon the making of new laws which were to be added to the existing "folkright", and which were then promulgated by their own and the King's authority.

3.   The Witan had the power of making alliances and treaties of peace, and in council with the King, of settling the terms.

4.   The Witan had the power of electing the King.

5.   The Witan had the power of disposing the King.

6.   The Witan, together with the King, had the power to appoint prelates to vacant seats.

7.   The Witan and the King together had the power to regulate ecclesiastical matters, appoint fasts and festivals, and decide upon the levy and expenditure of ecclesiastical revenues.

8.   The King and the Witan had the power to levy taxes for public services.

9.   The King and the Witan had power to raise land and sea forces when the occasion arose.

10.   The Witan possessed the power of recommending, assenting to, and guaranteeing grants of lands, and permitting the conversion of "folkland" into "bookland" and vice versa.

11.   The Witan possessed the power of adjuding the lands of offenders and intestatis to be forfeited to the King.

12. Lastly, the Witan acted as a supreme court of justice, both in civil and ecclesiastical matters.

Kemble goes on to cite specific cases to support each of the above quoted statements. To classify definitely the functions of the Witan at any spedific period in the Saxon Age is about impossible. Moreover to definitely state any particular powers of the Witan before the tenth century is fallacy. To say, for example, without qualification that the Witan could elect and dispose kings would be to ignore the changing values of terms. We have seen what power inherited place in the blood-grades of the folk had to determine status and right. The potentiality of kingship inhered in the highest kin of all, the "cynecynn" (the kin most royal), and was transmitted to all its members together with the "aetheling's" "wer" and other marks of pre-eminence. From the "cynecynn" (the kingly blood and kind) the choice of the King must be made, for it only was deemed to be royal. Thus in this, as in all functions, the powers of the Witan were hemmed in by customary law. An unchanging folk custom was supreme over both King and Witan. The King and the Witan as related parts of the entirety, the greater folk group extended beyond all remembrance of actual relationship, were the sources of the greater legal wisdom of the folk. At no time, and surely not before the tenth century, was the functions of the King and Witan considered as separate in any sense. The King consulted the Witan because that was the age-old custom of the folk and because it was good policy

to have the willing support of the chief nobles, be they warrior of the blood most direct from the great common ancestor or nobles of office and wealth. In the earliest period the Witan was of the nature of a tribal moot of the "naiores natu" or "principes" or "seniores" of the folk; in the later period, it was something of a territorial, quasi-feudal council in which "reeves" and "thegns" sat with "eorldormen" and bishops. As the customs of the folk changed, so the nature of the Witan changed.

CHAPTER III. PROBLEMS OF THE KINGSHIP TO THE DEATH OF ALFRED THE GREAT

Except in Kent where Frankish precedents were available and in Northumbria where Celtic influences were borrowed, the resources of the Anglo-Saxon kingship may be traced in process of evolution from very simple beginnings. Ideas which form the background of early English thought about kingship may be found elsewhere in the common Teutonic and Norse tradition. The law with these early Germanic people did not in the beginning come from the King. He was no monarch possessed of subjects as our present day understands them. Neither was he an overlord with vassals as the feudal age conceived of vassalage. However, the kingship was a well established institution with the Germanic invaders long before 449 A.D., and held the center of the stage in all the communities established in Britain. The King's most essential quality to the folk as a whole was something more subtle than executive power. In all ages and countries the King is in a measure representative. There are times when the folk must think as one, feel as one, and find issue for its common emotion in symbolic act. At such a time the King is the supreme individual of the race, incarnating its will in titual act, giving to its ideal the coherence

and endurance of personality. Through the King the folk thought and acted as a united whole.

Just within the shadow at which the records fail stand the old Teutonic or Aryan sacrificial King(1) as the votary of the folk, the descendant of the gods and the representative of all the blood kindred. True, the magical element of the kingship was slowly exorcised by Christianity, but the King remained the focus of emotions which were fundamentally pagan, and in his person the proper virtues of a barbaric folk were seen to be exemplified and ennobled. In this also the King was the type of his people that he drew to a head the war-like prowess in which the race felt itself to live most keenly. Courage was less a quality of the individual King than a function of the Crown, and its wealth was a trust for the endowment of the war.(2) The King was the "gold-giver",(3) the resource of heroes,(4) the patron and lord of great warriors.(5)

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1. Cf. F. Gummere, <u>Germanic Origins</u>, pp. 270, 292; W. Hearn, <u>The Aryan Household</u>, pp. 126-27; H. Trail, <u>Social England</u> (Article by O. Edwards, Social Life and Manners of the Early Germans), p. 100.
2. Cf. J. Jolliffe. <u>The Constitutional History of Medieval England</u>, p. 42.
3. <u>Beowulf</u>, Part XVII, line 1170: "Spake then the Lady of the Scyldings: Receive this beaker, sovereign mine, wealth dispenser!" (<u>Earle's Translation</u>.)
4. <u>Ibid</u>., Part XV, line 1047: "So manfully did the illustrious chieftain, the hoard-warden of heroes, reward battle-risks with horses and treasures."
5. <u>Ibid</u>., Part XXVII, line 1960: "Forasmuch as Offa was, the spear-keen king, for graces and war-feats widely celebrated; with wisdom he ruled his ancestral home; whence Eomaer was born for people's aid, kinsman of Heming, grandson of Garmund, and skillful campaigner."

The contrast between the pagan and Christian ideals of kingship
lead to much fluctuation of conduct and fortune with the "cyn-
ings" in the age of the Conversion.

> "For the weak the struggle was too great.
> Under an apostate king the gods were estranged,
> every man's virtue was affronted, and the very
> course of nature turned back. Many gave up the
> struggle and became Christian monks, or vanished
> on pilgrimages. Some were killed but their sub-
> jects, like Sigebert of the East Saxons whom his
> kindred slew 'because he forgave his enemies'. As
> conversion became real, the old religious and repre-
> sentative quality was Christianized, and remained a
> principal justification of kingship."(6)

Alcuin, writing at the end of the eighth century, could say,

> "...in the king's righteousness is the common weal,
> victory in war, mildness of the seasons, abundance
> of crops, freedom from pestilence. It is for the
> king to stone with God for his whole people".(7)

Christianity eventually raised the kingship to a position of
new dignity and opened the way for a closer relationship with
the Christian princes of the Franks as well as the whole field
of Mediterranean culture. On the whole, however, the first ef-
fects of Christianity was to impoverish the prestige of the
tribal kings of the Octarchy and Heptarchy, and it was some time

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6. Jolliffe. Op. cit., p. 43.
7. Alcuin. Letter to King Aethelbert, A.D. 793, Requoted here
   from Jolliffe, Op. cit., p. 43; also quoted in R. Chambers,
   England before the Norman Conquest, and, in S. Turner, His-
   tory of the Anglo-Saxons, Vol. II, Book VIII, Chapter III.

before the new lustre of Christianity and the new religious re-
lationship between King and people began to be felt.

In the northwest, constant contact with the Celtic
British peoples seems to have directly increased the kingly
power. Kingship was a more despotically developed institu-
tion with the Celtic tribes. The tribal kingship in Northum-
bria showed these influences. Likewise the age of Settlement
of a new race in a rich, new land is a period of opportunities
for the more energetic and aggressive to accumulate for them-
selves wealth, power, and family prestige. The descendants
of Ella, Hengist, Offa, and all their kind seem to have been
men of exceptional nervous and physical vigor. The opportun-
ity to build up a dynasty of increasing power and wealth was
much better in South Britain than it had been in North Germany.
The accumulation of wealth in a better agricultural region aid-
ed the kingship to develop along certain lines as in Wessex and
Kent, likewise. In Kent the close contact with Frankish Gaul
influenced the development of kingship in particular directions,
just as the Celtic influences of the northwest affected the growth
of the same institution among Northumbrian and Strathclyde peo-
ples.

To be King with the early English, as has been pointed
out, was to embody racial pride and religion, to lead the kin-
folk in war and to bear the person of the greater kin-group in
times of peace. But, in truth, the early Kings of the Heptarchy
were but first of the folk who reproduced upon a higher level

the status of the noble. His family had the highest standing
of all those deemed noble and he as the head of the "cynecyn"
had a "mund" and "wer" at a higher rate than any other of
those "more dearly born". The common folk sought the King's
protection because his "mund" was more costly to break than
that of any other noble. Essentially there was no difference
in the King and all the nobility. It was no particular sin to
murder the King; rather, it was the most costly of killings.
The King, like all the folk, had his price in the "wergeld"
tariffs. But his life was valued much higher than that of any
other noble. The law was not the King's law, but the folks'--
folkright. It was primarily administered in district folk-
moots where the freemen and "better born" of the folk were the
judges. The King had no power to deem dooms; only as the nob-
lest of the noble was his opinions reverenced. Crimes of vio-
lence were no crimes against the King. To kill a man was an
act of private wrong. Punishment was in the hand of his kin
to be accomplished by the blood feud or compensation. The
King's part was to protect those who had sought his "mund"
and to follow up the breach of folkright when the kindred
failed to accomplish their legal revenge, and to put down
violence when it became too strong for the kindred and later
the neighborhood to resist. It was an extra-judiciary author-
ity.

      "As with the other Germanic people, there
was a money payment for the King to take, the 'wite',
but it was insignificant beside the 'bot' or compen-

sation for blood, and its origin was probably not
penal. Neither in theory nor in practice did the
King punish. The peace, again, was not the King's.
During their session the court lay under their own
peace, 'methel-frith' or 'moot-frith', and this is
as near as we get to any public peace in early Eng-
land. The country was full of legal sanctuaries,
but they were the preserves of the individuals.
The King's peace was like other men's. It lay upon
his palace; it was over his household, he could ex-
tend it to his friends, servants, and messengers."(8)

A man protected by the King's "mund" was in the King's "hand-
grith" and it was a costly affair to molest such a one.

"In later days the King's 'mund' was ex-
tended by analogy and fiction, but in the first
age it was wholly private and confined to its avowed
purpose. Even this personal peace extinguished when
the King entered a subject house. The guest, King
though he be, came under his host's 'mund', and the
relation of subject to sovereign was reversed."(9)

In such beginnings do we find what the Crown will
come to be. The King in this early period was but the strong-
est of the kin. His household of "gesith's" was a natural
rallying point for the "more dearly born" and the strongest
warriors.(10)

"He was the spokesman of his people, though
he spoke with and from among the notables, who em-
bodied the wisdom of the folk, and were termed the
'Witan'. Crises of war and peace, the reception of
the Christian faith, the choice between Scottish and
Roman communions turned largely on his word. Force

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8. Jolliffe. Op. cit., p. 45.
9. Ibid., p. 47.
10. L. Larson. The King's Household in England before the Nor-
man Conquest, Chapter III, passim.

was sometimes too strong for local power, and then
the King must intervene. It was a threat held 'in
terrem', hardly more than a corollary of the King's
leadership in war."(11)

These were functions substantial enough, however, to
make the kingship the focus of history, but were lacking almost
everything of later English monarchy. Life in the villages of
rural Anglo-Saxon England went on without any direct interfer-
ence from the "cyning". He in no way made the laws; only in-
directly was he the protector of the laws of the folk. What
stability the law had came from itself. No tie bound the mul-
titude of individuals to their King: rather, they were tied
in the network of natural kinship, and the loyalties and obli-
gations of neighborhood. Indeed, here lay such strength as
the barbarian throne possessed for upon it was projected the
loyalties which made the common life stable. Bound in kindred,
the folk saw in their King the purest and most jealously re-
corded ancestry of their race. Religious in acts of life, they
had in him the eldest descendant of the gods. Warlike by in-
stinct, they looked to him to exemplify and sustain the prow-
ess of the nation. In its infancy, as a principle of state,
the throne yet answered to the religious and emotional needs
of the community of the folk.(12)

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11. Jolliffe. Op. cit., p. 48.
12. Ibid., p. 47.

Such kingship could be strong within the scope of the kinship group but it was hard to extend this type of kingship with its roots in kinship heathenism and tribal custom to anything greater. Ambitious "cynings" of the Heptarchy strove through endless decades of bloodshed for the "Bretwaldship". But the triumph of nationhood over tribalism came slowly. From the fifth to the seventh centuries the brief historical annals resound of treachery, lust and bloodshed.(13)

The narrative account of the struggles that culminated in the final supremacy of Wessex in the ninth century may be commenced with the supremacy established by King Aethelbert of Kent, who ruled as previously recorded, from 560 to 616 A.D. Before the end of the sixth century he had won the acknowledgment of his leadership from the kingdoms south of the Humber. But, when Aethelbert died, the Kentish supremacy ended. Northumbria then made a bid for the leadership in the tribal states. A struggle ensued between Northumbria and Mercia. For a time the Northumbrian "cynings" with varying fortunes held the leading position. By 650 A.D. there were but three tribal kingdoms

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13. Cf. C. Oman. England before the Norman Conquest gives the most detailed and perhaps the clearest accounts of the long struggles for supremacy among the tribal kingdoms of the Octarchy and Heptarchy. Turner, Op. cit., Vols. I, II, are interesting reading although now out-of-date entirely. Turner possessed the ability to make Saxon history live, although his work is devoid of all proper perspective. Lappenberg's, T. Hodgkin's and Ramsay's accounts of the tribal wars also are very readable (cf. Bibliography).

of importance--Northumbria, Mercia, and Wessex, the so-called Triarchy of the later seventh and early eighth centuries. The dominating state in the later eighth century was Mercia. In fact, Offa II of Mercia (757-796 A.D.) was the first Anglo-Saxon "cyning" to conceive of himself as King of all the Anglo-Saxon folk, be they Kentings, Northumbrians, West Saxons or Mercians. The Mercian kings of Offa's dynasty were the first to incorporate the lordship of alien folk into their titles, claiming to be kings not only of the Mercians "but those neighboring peoples over whom God hath set me". Aethelbald of this dynasty claimed an "imperium divino suffragio fultus" and signed himself "Rex Brittanae". The Pope addressed Offa as "Rex Anglorum" and he sincerely attempted to sink the varied identities of the Anglo-Saxon folks in a common "Regnum Anglorum".

The death of Offa II of Mercia stopped the normal development of an all-embracing Anglo-Saxon kingship in which Alcuin and the more enlightened contempories had placed their hopes. Wessex had never lost her independence entirely, even in the time of the great Offa II of Mercia. When the strong hand of Offa was stricken the Mercian supremacy faded and a new "cyning" of the south rose to power, Egbert of Wessex (803-839 A.D.). By the conquest of Mercia he reversed completely the position of the two kingdoms. So strong did he become that even the King of Northumbria recognized his overlordship while Egbert lived. All the folk of Anglo-Saxon Britain in some measure sought him to "frith and mundbora" but how far his

lordship over all the folk of the "Anglecynn" can be pressed is doubtful. The real consolidation was to be the work of Alfred and his successor. Egbert had brought Wessex to the fore just in time for the blood of Cerdic to take the leadership against a new foe, the Danes.

During the first four centuries of Anglo-Saxon history is mainly determined from below. The initiative of the kingship and economic forces made headway only slowly against the innate conservatism and the forces of disunion. After the creation of the territorial community as the basis of society the unified realm becomes more apparent. In this second period the Crown rises above the administrative framework of shires and hundreds in a way that the old tribal monarchies never could have.

The real transition from tribal lordship to national monarch is not reached until the period of Alfred the Great, and, in many ways, is not evident until the times of Edward the Elder, Athelstan and Edmund I. Not all the prerequisites of the medieval government of a territorial state are achieved before the end of the Saxon Age and it is particularly difficult to definitely show how by the time of Alfred's death in 899, 900, or 901 A.D. these radical changes were progressing toward any definite end.

The changes that were to transform Anglo-Saxon England into a territorial kingdom of the true medieval type were mainly imposed from above and due to the conservativeness of

the masses of the folk and the isolated position of England at the very western outskirts of European civilization came but slowly. The chaos caused by the Danish wars gave the Crown of Wessex its opportunity, for the Anglo-Saxon tribal groups could only survive at the cost of union and re-construction.

To understand the problem of reconstruction and the establishment of the monarchy on a new basis as carried out by Alfred it seems wise to consider briefly the Danish Wars and the manner in which they cleared the ground for the reconstruction of a national state to replace the tribal unions that had existed from the time of Offa II of Mercia.

The Danes first began to plunder the coasts of England a few years before the end of the ninth century. During the early years of the ninth century they were diverted to Ireland, which they overran at will. About 834 A.D. they again returned to molest the kingdoms of the "Anglecynn". At the same time they established themselves at various points on the Continent opposite the British coasts. Their invasion of England took much the same course as that of the Angles, Jutes and Saxons some centuries earlier. At first their attacks were seasonal and confined to the coasts but soon they came to winter raids and carried their conquests inland. Northumbria was overrun between 860 and 868 A.D. Finally, in 868 A.D. Northumbria accepted Danish rule,(14) and the Norsemen turned South

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14. J. Ramsay. The Foundation of England, p. 241.

to overthrow Mercia. The midlands kingdom did not fall as eas-
ily as Northumbria which had been torn by civil strife. Mercia
sought aid of the Wessex King while the Danes continued to sub-
jugate East Anglia and ravage the midlands in general.

Early in 870 A.D. the Danes struck at Wessex. In
871 A.D., Aethelred and his brother, Alfred, princes of the
West Saxons, began a long struggle with the invaders. The same
year, Aethelred died and Alfred became King of the Gewissas
and traditional overlord of all the southern "Anglecynn", for
the general lordship of the house of Cerdic had been recognized
since the days of Alfred's grandfather by all the folk south of
the Humber, be they East Anglians, Kentings, Mercians or Ge-
wissas. Alfred's first Danish War ended in 872 A.D. and for
the next four years the raiders plundered Mercia. War was re-
newed in 876 A.D. and lasted until 878 A.D. (Alfred's Second
Danish War) when a treaty known as the Peace of Wedmore was
agreed upon. Until 892 A.D. raiding bands of Danes assaulted
the coasts but 878 A.D. marks the end for many years of Danes'
inroads.

It is true that in the Dark Ages no foreign war and
invasion was necessary to throw society into confusion. Dis-
order was more or less the normal state of affairs. But the
Danish invasions had shaken Anglo-Saxon civilization to its
foundations, the powers of the two northern kingdoms of the Tri-
archy were broken forever. Mercia and Northumbria were pros-
trate; wave after wave of barbarism had swept over them. They

were ravished and broken, the last vestige of their tribal pride
gone forever. Wessex only had survived the deluge and even
there lawlessness and disorder were evident. Society had been
loosened from its old bonds by slaughter and rapine of the Norse-
men. The King's government and that of his "eorldormen" and
"thegns" alone had sustained themselves through the struggle.
It was the work of Alfred and his two immediate successors that
established the monarchy on a new and firmer basis than it had
ever known before.(15) Alfred had the kind of mind which loved
to devise new and better ways of doing things. But, if we may
judge from the Preamble to his laws, in affairs of state where
custom was strong and men were suspicious of violent change, he
was ready to be cautious and curb his inventive faculty.

> "I have not dared to presume to set down in
> writing many laws of my own for I cannot tell what
> innovations of mine will meet the approval of my suc-
> cessors."(16)

The first problem that absorbed Alfred's attention
was that of making his position more secure against future Dan-
ish attacks. In the defense of Saxon England he instituted
four principal changes. 1. He reorganized the principal fight-
ing force, the national "fyrd". This was a militia force com-
posed of the ordinary freemen as it had been in the days when
Tacitus wrote about the ways and customs of the Germans. It

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15. Cf. R. Hodgkin, A History of the Anglo-Saxons, p. 601.
16. Idem.

could be held together for only the briefest of campaigns, because long absence of the "ceorls" from their farms would bring their families to the verge of starvation. Alfred met the difficulty by dividing the "fyrd" into two halves, which relieved each other at fixed periods. 2. Alfred increased the number of nobles, that is, the "thegns", who fought on horseback; the mobility of the Danes made it necessary to have cavalry--the "thegnage" provided this necessary type of forces. 3. He fortified towns strategically situated, and either he or Edward the Elder arranged a system to provide for the garrisoning. To each fortified town a district was attached, in which certain of his new nobles, the "thegns", were required to reside and keep up military retainers so as to provide a permanent force or garrison to keep the Danes in check and to see that order was maintained in the entire neighborhood. 4. Alfred began the construction of a navy, although it appears to have played but a small part in his principal campaigns.(17) So much for Alfred's more easily summarized reforms that are known to every schoolboy.

By a series of diplomatic marriages he bound the old Royal families of the Mercians and Northumbrians to his own family with the time-honored ties of blood relationship. Having drawn unto his family all the Royal blood of the "Angle-

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17. W. Lunt. History of England, p. 47.

cynne" he was thus in a better position to establish the line
of Cerdic in a secure dynastic position.(18)

The greatest existing primary source of Alfred's reign
is his laws. Many motives appear to have induced him to draw up
his book of Dooms. He had the examples of his great predecess-
ors--Aethelbert of Kent, Ine of Wessex, and Offa of Mercia.
Across the Channel, Charlemagne was issuing his capitularies of
Frankish law. Since there had been no lawgiver in Wessex for
two hundred years, it was evidently time to revise the dooms.
The Danish Wars had caused much disorder and uncertainty. And
so Alfred, perhaps about 893 A.D., set to work. He found that
there was much conflict between the Mosiac Law and the Christian
creed. This troubled him. And, as an introduction to his Codes,
he wrote along Biblical lines in the Preface.(19) This Scriptural

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18. Cf. Asser, Life of Alfred, Translator, L.C.Jane, p. 7:
    "853--this year Aethelwulf (father of Alfred), King of
    the West Saxons, after Eastertide, gave his daughter to
    Burhead, King of the Mercians, to be his Queen." Also,
    the entry for the year 868 in the same work: "In the
    year of the Incarnation of the Lord, eight hundred and
    sixty-eight, which was the twentieth year from the birth
    of Alfred, the same reverenced King Alfred sought and ob-
    tained a wife from Mercia...she was the daughter of the
    eorldorman of Gaini...her mother was of the royal stock
    of the Kings of Mercia." Also, cf. genealogical table,
    p. 155. Aethelfreda, daughter of Alfred, was married to
    Ethelred of Mercia, the Mercian royal line was in turn
    intermarried with the Northumbrian house of the line
    Aelle and Ida. Cf. geneology tables in W. Searle, Anglo-
    Saxon Bishops, Kings, and Nobles; R. Hodgkin, The History
    of the Anglo-Saxons, p. 720; Oman, Op. cit., Appendices.
19. Cf. B. Lees, Alfred the Great, Chapter VII, pp. 200-
    274.

introduction was characteristic of him; it was no mere display of learning. It had a purpose; and that purpose was, by drawing attention to the conflict of laws and by emphasizing the Golden Rule, to remind his people that there should be a place for equity as well as legality. Neither customary law nor the decrees of previous legislators were sufficient in themselves for perfect justice. The good judge--that is, the good president of the folk-moot--must study, and use his wits.(20)

There were other aims in compiling the Codes and Alfred has stated something of this in the Preamble:

> "Now I, Alfred, King, have gathered together these laws which our ancestors held should be written out, those which seem good to me. But many, those which did not seem good, I have rejected by the advice of my Witan, and in other cases I have ordered changes to be introduced."(21)

Accordingly, Alfred collected from the Dooms of Ine of Wessex, Offa of Mercia, and Aethelbert of Kent. In Codes, however, Alfred only half-assimilates the various elements. There is an attempt to assimilate or combine West Saxon and Kentish Codes but he did not attempt a corresponding assimilation of the Mercian law. It would have been unwise, he seems to have deemed, to make too sudden a mixture of Anglian and Saxon customs. Alfred described himself as "Angul-Saxonum Rex", but still he

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20. Cf. R. Hodgkin, Op. cit., p. 602.
21. Cf. Idem.; also, Lees, Op. cit., p. 210; C. Plummer, The Life and Times of Alfred the Great, passim.

realized that there were still three Englands: a Northumbrian north, a Mercian center, and a Wessex south. Alfred was, first of all, "King of the West Saxons". In truth, this division of the English into three territorial divisions remained even until the days of Harold Godwinson, last of the Saxon Kings. When the central government was in the hands of a weak King, like Aethelred the Unready, or a King of disputed rights, like Harold of the house of Godwin, England tended to fall into three divisions, as enumerated above. In fact, it was this in a measure that lead to the downfall of the Saxon monarchy before the assaults of William the Bastard in 1066 A.D.

A close study of the dooms of Alfred suggest in some measure the chief problems that the ninth century kingship of the "Angelcynne" faced. We see in the laws that Alfred laid stress on two or three principles.

First, the stability of society must be preserved by upholding the authority of the lords over the "ceorls". It is an idea that Alfred stressed time after time. In his Preamble he stated that for the offence of treason to a lord the bishops and Witan of old

> "...dare not assign any mercy because God Almighty
> had judged none to them who despised Him...and
> Christ commanded that a lord should be loved as
> oneself".

The authority of all classes of lords, ecclesiastical and lay, were duly protected in a way that they never had been before. In other words, Alfred's Codes show that lords, both spiritual

and temporal, occupied a position of much greater importance than ever before among the Anglo-Saxon folk. As in France, the assaults of the Vikings had increased the power of the lords. The movement to feudal lordship was in a measure paralleling that same movement among the Franks, but in England the "thegns" and "eorldormen" had not that spirit of feudal independence that was so marked in the territories of the Caeolingians. Between the development of lordship in England and France there were many similarities but vast differences.

Monarchy itself was the second principle on which the stability of society rested. Alfred's Codes had little to say directly about this; the whole strengthening of lordship was directed toward the strengthening of the monarchy.(22)

The keeping of pledges and contracts are much emphasized in Alfred's dooms. This in itself is a movement toward the binding of all ranks of society by bonds of lordship and land similar to the feudal movement on the Continent.(23)

From Asser's Life of Alfred we learn that the King sent special envoys analogous to the "missi Dominici" of Karl der Gross or Charlemagne to supervise the administration of the shire and hundred courts. However, just what Asser meant by the term "fideles" is uncertain. It sould seem to indicate a strengthening of the monarchy on all sides.(24)

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22. Lees. Op. cit., Chapter VII, pp. 200-74.
23. Dooms of Alfred, Chapter I, Part I: "In the first place we enjoin you as a matter of supreme importance, that every man shall abide carefully by his oath and pledge." (Attenborough's Translation, p. 63.)
24. Cf. R. Hodgkin, Op. cit., p. 606.

Kemble saw in Alfred's laws the tendencies to turn
the monarchy into kind of a dictatorship--rather overdrawn;
the monarchy was much too weak to assume such a position. If
we sum up the changes produced in the Alfredian period, we may
say that the monarchy and the whole class of lords were strength-
ened. The treason law, in which we see the spirit of the age
expressed, was but a symptom of the change. The aristocracy of
land was advanced because the monarchy needed this class to in-
sure protection and some semblance of order. As the whole class
of lordship was raised in power so the monarchy was elevated.
The King was necessary to the new territorial semi-feudal state.
The full workings of the movement were not apparent to times of
Alfred's successors, Edward, Athelstan, and Edgar.

To state definitely the powers and prerogatives of
the Saxon monarch at the time of the death of Alfred or at any
other specific time is most difficult. One may consider the
opinions of Turner and Kemble who gave more attention to this
phase of the kingship than any other historians.

Speaking of the rights of the Anglo-Saxon monarch
about the time of the death of Alfred, Turner stated the King's
privileges, powers, and rights thus:

> "He was to be prayed for and voluntarily
> honored; his word was to be taken without oath; he
> had the high prerogative of pardoning certain crim-
> inals; his 'mundbyrd' and his 'wer' were larger than
> those of any other individual in the Kingdom; his
> safety was protected by high penalties; his was the
> privilege to buy and sell overseas without hindrance;
> he had the right to take the 'wer' of a freeman
> thief, to mitigate penalties or remit them; his

tribunal was the last court of appeal; he was the intensive superintendent of the laws; he could claim all fines; the Jews were his special property; the high executive officers of his realm, the eorldormen, the thegns and the 'gerefas' could be displaced by his will; he convoked the councils of the Witan; his was the right to summon the fighting men together and to be the supreme commander in war."(25)

Turner quotes specific examples from the documents to support each statement. The references are to documents in D. Wilkins' Leges Anglo-Saxonical and, as the volume is now long out of print, it is not of any value to give the references here.

Kemble's classifications are more clear-cut and specific. A summary is given below. The Royal rights are not stated in any particular sequence; surely not in order of importance.

1. The Right of Forfeiture and Escheat(26)

As the Royal power became centralized and civilization progressed, crime came to be regarded as an offence to society and the old pecuniary fines and "wergelds" were deemed insufficient to suppress disorder, so payment of fines and forfeitures to the King became an established custom.

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25. Turner. Op. cit., Vol. III, p. 172.
26. J. Kemble. Anglo-Saxons in England, Vol. II, p. 60.

2. The Royal Right of Treasure Trove(27)

The Saxon monarch had the right to claim for himself any treasure that might be found in his realm. In our day and age this seems a peculiar right, but in view of the fact that in heathen times it had been customary to bury treasures with the dead this right can be easily understood.

3. The Royal Right of "Convivium" or "Pastus"(28)

The King had the right to visit all parts of his realm to consider the peace, welfare and happiness of all freemen in all the communities; on such periodical journeys to the monarch belonged the right to claim harbor for himself and his suite.(29)

4. The Right of Palfreys(30)

The King had the right to claim horses at any village to carry himself and his suite to the next village.

5. The Right of "Vigilia"(31)

The Saxon King could claim a guard to watch over his person when he was in any community. Also he could claim men to aid him in the hunt.

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27. Idem.
28. Ibid., p. 63.
29. Cf. W. Morris, The Constitutional History of England to 1216, p. 64.
30. Kemble. Op. cit., p. 65.
31. Ibid., p. 66.

6. The Right of "Aedificates"(32)

The monarch could claim assistance from all freemen in the repairing of Royal roads, fortresses or residences.

7. The Control of the Mint(33)

The King, together with the Witan, had the control over the minting of all coinage.

8. The Right of Royal Forests(34)

The Saxon Kings claimed the right to maintain forests for their personal hunting grounds.

9. The Right of Protection of Strangers(35)

To the Saxon monarch belonged the right of protection over all strangers within the realm and the right to foreigners' "wergelds". Jews came under this classification.

10. The Right to License Castles and Bridges(36)

After the days of Alfred (or at least his son, Edward the Elder), no one was permitted to construct a fortified stronghold or a bridge without the King's consent; this, no doubt, aimed at the Danes of the Danelaw region and sounds like the work of Edward I.

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32. Idem.
33. Ibid., p. 69.
34. Ibid., p. 78.
35. Ibid., p. 88.
36. Ibid., p. 75.

11.   The Right of Wardship(37)

The official guardian of widows and orphans of the
freemen, particularly those well-born, was the King.

12.   The Right of "Heriot" Custom(38)

The horses and arms, in the strict theory of the
"comitatus", had been the gift or loan of the "comites" from
the chief, and were to be returned at the death of the vassal
in order that they might furnish some other adventurer with the
instruments of service.   Heriot was only paid by "thegns" and
"eorldormen".   The tax on inheritances claimed by the late Sax-
on Kings originated from this.

13.   The Right of Control over Mines(39)

Mines, such as existed, were under the King's control.

14.   The Right of Control over Public Markets, Roads,etc.(40)

The right to permit navigation on rivers, to hold pub-
lic markets, etc., belonged to the King.

15.   The Right of Maintenance and Livery(41)

The King alone had the right to a standing army.

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37.   Ibid., p. 96.
38.   Ibid., p. 98.
39.   Idem.; Cf. Dip. Cod. Nos. 77, 374, 1002.
40.   Idem.
41.   Ibid., p. 100.

16.   The Right to Summons and Dismiss the Witan.(42)

Such a classification of the King's supposed rights
means little.   The powers of the Saxon Kings were quite unde-
finable in so many sentences.   However, the summary is sugges-
tive of what the rights may have been.   Kemble brought forth
many examples where the King exercised each of the prerogatives.

From the time of Alfred onward, the Royal family of
Wessex came to hold many large manorial estates.(43)   In fact,
it would seem that the King was the greatest landholder in all
England with the exception of the Church.   The returns from
these widely scattered agricultural estates added much to the
independence and prestige of the King in the times of Athel-
stane and Edmund the Magnificent.   The rapid decline of the
monarchy in the times of Eadwig, Edward the Martyr, and Aethel-
red the Unready witnessed a wholesale dissipation of these Royal
estates.   The final breakdown of the Royal family of Wessex came
in some measure from impoverishment of the kingship by the dis-
sipations of the weaklings that came from the line of Cerdic in
the tenth and eleventh centuries.

In contrast with the earliest phases of English king-
ship, that of the ninth and tenth centuries appears as a rapid

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42.   Cf.   F. Liebermann, The National Assembly in Anglo-Saxon
      Times, passim.
43.   Morris.   Op. cit., p. 64.

growth of Royal power, of the invention of new ties between
King and people, of the merging of the ancient tribal kingdoms
into the territorial monarchy of the new kingdom of England.
Alfred's reign marks the beginning of the period of the recon-
ciliation of laws under a common kingly right, of the appear-
ance of the frames of provincial government which were to be
final; in short, of the rudiments of a territorial and polit-
ical kingdom.

The very effort to throw off the virus of the Norse-
men's attacks had given rise to some semblance of unity among
the "Anglecynn" and had brought into being some of the elements
of a stable state. The successors of Alfred, his son and grand-
son, possessed of a semi-uniform legal and administrative system
in the shire and hundred, of a partially complete monopoly of
the higher criminal pleas, and an agreed national peace, were
vastly stronger than any dynasty which had gone before them.
However, only a strong King could hold the England of Alfred
and Edward together. If the King was a weakling, a child, or
one of disputed rights, all the old forces of disunion again
came to life. England fell into a Wessex-Kentish south, a
Mercian-Anglian center and a Northumbrian north. Consider the
reigns of Edward the Martyr, Aethelred the Unready and Harold
of the alien house of Godwin.

It is all but impossible to say what type of govern-
ment and society would have eventually evolved had the struc-
ture as established by Alfred and his son, Edward, been allowed

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to work out its own fate. Even by the time of the Norman Invasion its true bent was not fully decided. It had lordship but not tenure, in the true feudal sense; its nobles of blood had died out and its official notables had not become recognized as a stable hereditary aristocracy.(44) If it had ever reached the phase that is considered true feudalism it would have done so but slowly in the absence of foreign intervention. It is very likely that since by the time of Alfred it had made the transition from the tribal to the territorial kingdom and developed a stable and fairly uniform local and provincial administration,(45) a strong succession of native Kings might have guided it to become a kingdom of the Scandinavian type but with a more closely knit community and a more complex government. Under weak Kings it would not have survived but would have been again divided, for none but an able ruler could hold the provincial nationalism of Northumbria and Mercia in abeyance.

44. For further discussion of the basic differences between Anglo-Saxon nobility and Norman feudal barons, consult F. Stenton, The First Century of English Feudalism; particularly Chapter IV.
45. Discussion of many phases of local and provincial administration has been entirely passed over in this essay. For a study of the Anglo-Saxon Borough, consult, C. Stephenson, Borough and Town, Chapter III, pp. 47-72.

CONCLUSION

The earliest ties that formed the basis of the principal Anglo-Saxon institutions were those of kinship. The most primitive idea as to the nation was that of kindred, enlarged past all rememberable degrees of relationship, but holding to a tradition of common ancestry, human or divine. The society founded on these bonds of kinship fell into two principal castes: the free and the noble, the "ceorl" and the "eorl", to which some of the blood-kinships added a third--the half-free and servile; the "laets"(1) and "theows".(2) Life was equalitarian within the birth-grades of the folk. Those below the freeman enjoyed the same privileges as the freeman but at a lower price. Lordship was inherent in the basic structure of this society. Nobles of birth and ancestry existed from a dim

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1. No discussion of the position of the "laets" in Kentish society has been given in this essay; the question is very controversial and has been avoided here for that reason. For discussions of the probable position of the "laets", cf. W. Stubbs, Constitutional History of England, Vol.I, pp.48-50; H. Chadwick, Studies on Anglo-Saxon Institutions, p. 112.
2. The whole question of the "theows" or "thralls" has been omitted in this discussion. The questions connected with these are discussed at length in the works of Stubbs, Chadwick, and Seebohm. A very readable, although not extremely scholarly account of the unfree classes in Anglo-Saxon society is to be found in J. Thrupp, The Anglo-Saxon Home, pp. 119-40.

legendary past, declined in the period of the Migration and tended to vanish except in legal phraseology when families and tribes became Heptarchial nations. Nobles of the sword, service and office appeared before the Invasion, flourished in the times of unrest that accompanied the Conquest and established themselves as a landed aristocracy of wealth and office after the Consolidation. With the completion of the Settlement, the ties of kinship gave place to new ties of neighborhood and community. The bonds between neighbors and between lord and man came to be regarded by way of fiction as analogous to blood relationship. The blood relationship groups vanished, absorbed into the new territorial kingdoms of the Triarchy. After dreary ages of endless wars, Wessex appeared as lord of all the southeast. The Viking inroads swept away the powers of Mercia and Northumbria and the Kings of Wessex established a national kingdom, embracing in a limited measure all the Anglo-Saxon folk. From Alfred's time onward, lordship was permeating every phase of life but true feudal tenure remained absent. A fairly stable and uniform territorial administration existed after the ninth century, based primarily on the old customary folk ways. The feeling that the King was the natural lord of all Englishmen was of slow growth and not deeply held, even when Harold of the family of Godwin fell at Hastings. The creation of an English nation, of crown and subjects, of a general peace of the King's laws was the work commenced by Alfred and continued but not completed, even at the time of the Norman Conquest.

In these chapters the growth of the principal institutions of the Anglo-Saxons has been treated at some length; truly most incoherent in places, but all accounts of this age must, in some measure, be inconclusive and unsatisfactory for there is so much that can be discerned but dimly through the mist of ages. Anglo-Saxon institutions were not static but forever underwent change; the changes are hard to discern from the documents because the legal phraseology only indicated a change when the transition itself was complete and finished.

The Victorians were possessed of great zeal for the study of Saxon history and loud in their praise of all things Teutonic. Romantic-minded to a degree only less than Turner they threw over the primitive institutions of the pre-Norman English--the mantle of representative government, local self-rule and every other phase of chaste, democratic dignity and simple rustic virtue. Now, however, the color had faded; the mid-Victorian legends about the freedom and virtues of the early Nordic peoples have lost their appeal--indeed, democracy itself has lost its glamor. During the past three decades new writers have offered new interpretations of old data. In this more or less general treatment an effort has been made to combine the views of the Victorians with those of contemporary writers; likewise to bind together the ideas of the specialists with those of the general historians. To shape and cut the whole has presented many difficulties. It is to be hoped that the reader will keep these facts in mind and bear with the vagueness and incoherence found throughout.

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PRIMARY SOURCES

THE CONTINENTAL PERIOD (THE EARLY GERMANS)

Caesar, Julius. De Bello Gallico.
    Editions by Dinter, Holmes, Johnston, Stanford, Reiss, Jane, etc.
    All are satisfactory. Caesar's Commentaries are discussed in the evaluation of sources.

Tacitus. The Germania.
    Furneaux, H. Cornelia Tacti de Germania, Oxford, University Press, 1894.
    Many satisfactory editions exist; Furneaux is the best. The value of The Germania as a primary source has been treated in the first chapter.

THE ANGLO-SAXON PERIOD

Anglo-Saxon Chronicle, The.
        The Anglo-Saxon Chronicle, as it is commonly called,
is really a series of distinct chronicles, written at dif-
ferent times but all with a common basis. The five exist-
ing chronicles are: The Winchester Chronicle, The Peter-
borough Chronicle, The Canterbury Chronicle, and, The Ab-
ingdon Chronicle. There are four standard editions:
Earle's, Thorpe's, Plummer's, and Gile's. Plummer's is
in some ways the best. The translation by J. Ingram in
the Everyman Series is quite dependable.
        The value of the Chronicle as a primary source has
been discussed.

Annales Cambriae.
        Three editions exist: Ithel's, Phillimore's, Stevenson's.
        The Welsh Annals are of little real value here.

Asser's Life of Alfred the Great.
        Best editions: Gile's, Conybeare's, Cooke's, Jane's.
        Asser's work has a limited value for the period of
Alfred.

Attenborough, F. The Laws of the Earliest Anglo-Saxon Kings,
        Editor-Translator, F. Attenborough, Cambridge, University
        Press, 1922.
        This is a good edition of the early dooms down to the
time of Athelstan.

Bede. Historia ecclesiastica gentis Anglorum.
        In Plummer's edition of Bede's Work, together with The
        History of Abbots, and, The Epistle to Ecgherht.

Bede. Opera Historica, 2 vols., Oxford, Clarendon Press, 1896.
        Several other editions and translations exist.
        An estimate of Bede's work has been given.

Gildas. De Excidio et Conquesto Britanniae, Editor, J. Steven-
        son, London, English Historical Society Press, 1838; Editor,
        J. Mommsen, Monumenta Germaniae Historica, Auch., Ant.XIII,
        1-85, 1898.
        Not of much value here.

Haddan, A., and, Stubbs, W. Councils and Ecclesiastical Docu-
        ments Relating to Great Britain and Ireland, 3 vols., Ox-
        ford, Clarendon Press, 1869-78.
        Most of the charters belong to a later period.

Harmer, F.   Select English Historical Documents of the Ninth
     and Tenth Centuries, Cambridge, University Press, 1914.
          Cf. remarks above.

Hearne, T.   Hemingi Chartularium ecclesiae Wigorniensis, 2 vols.,
     Oxford, Clarendon Press, 1723.
          Now out of print and very rare. Referred to in treat-
     ise as Heming Documents.

Hoare, R.   Registrum Wiltunense Saxonicum et Latinum, London,
     1827.
          All these documents are requoted in Kemble's Codex.

Heroic Poems: Beowulf, Tinnesbuck, Walhere, Deor, Widseth,
     The Wanderer, The Seafarer, and Lesser Fragments.
          There are numerous editions of Beowulf and a few of
     the lesser known poems. Sweet, Wyatt, Earle, Bright,
     Sedgefield, Craigie, Chadwick, Chambers, Kershaw, and
     Gordon are among the best editors.
          The value of these poems has been given.

Kemble, J.   Codex Diplomaticus Aevi Saxonica, 6 vols., London,
     English Historical Society, 1839-40.
          Contains 1,369 documents; among the best collections.

Liebermann, F.   Die Gesetze der Angelsachsen, 3 vols., Halle,
     Max Niemeyer, 1903-16.
          Liebermann's collection contains all the texts that
     are given in Schmid's Gesetze and some additional docu-
     ments. It is one of the most complete editions of the
     dooms.

Monumenta Germaniae Historica.   Auspicus Societas Aperiendis
     Fontibus Rerum Germanicarum Medii Aevi, Edidit, G.H.Pertz,
     Hanover, 1826; later series, Editor, T. Mommsen, et al,
     Berlin, 1877, and since.
          This is the greatest single collection of documents
     pertaining to early Medieval Germanic history existing.

Monumenta Historica Britannica.   Vol. I to the Norman Conquest,
     Prepared by H. Petrie and J. Sharp, London, 1848.
          These volumes are long out of print, existing copies
     are very rare; all the documents are to be found in other
     collections.

Napier, A., and, Stevenson, W.   The Crawford Collection of Early
     Charters and Documents now in the Bodlein Library, Oxford,
     Clarendon Press, 1895.
          Nineteen documents, 739-1150 A.D.; very elaborate
     notes.

Nennuis. Nennu Historia Brittonum, Editor, J. Stevenson, Lon-
     don, English Historical Society, 1838.
          Gile's translation is the best. This has no value
     for the present thesis.

Norse Poetry.
          Corpus Poeticum Boreale, Editors, G. Vigfusson and F. Y.
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               This is a standard early edition.
          There are many editions and translations of the Norse
     Poetry. Kershaw's translations were used here.
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     shire Archaelogical and Natural History Society, 1911.
          The documents are to be found in other collections.

Stubbs, W. Select Charters, Oxford, Clarendon Press, 1875;
     rev. ed., 1921.
          Few of the Charters belong to this early a period.

Thorpe, B. Diplomatarum Anglicum Aevi Saxonici, London, Mac-
     millan, 1865.
          325 documents covering the period 605-1066 A.D. with
     a translation of the Anglo-Saxon.

Thorpe, B. Aelfric Homilies, 2 vols., with Translation, Lon-
     don, R. Taylor, for Aelfric Society, 1844-46.
          Of no particular value here.

Whitelock, D. Anglo-Saxon Wills, Cambridge, University Press,
     1933.
          Miss Whitelock's collection of wills is the most com-
     plete in this special field.

Wilkins, D. Leges Anglo-Saxonical, London, Longman, Greene and
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          This is the earliest of the better known series of
     documents that have been published. Wilkins' collection
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          These essays represent sound scholarship although
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          General treatment of Medieval economic history.

Bright, W. Chapters of Early English Church History, Oxford,
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          Among the best histories of the Church in Saxon times.

Cam, H. Local Government in Francia and England, London, Meth-
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          Compact treatment of local institutions.

Cambridge Medieval History. Cf. Bibliography, General References.

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          Valuable for the early period.

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Chadwick, H. The Heroic Age, Cambridge, University Press, 1912.
          Shows the value of the Heroic Poetry as source mater-
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Chambers, R.M. England before the Norman Conquest, London, Long-
     man, Greene and Company, 1928.
          A narrative; much source material included.

Dopsch, A. The Economic and Social Foundations of European Civ-
     ilization, New York, Harcourt, Brace and Company, 1937.
          The work of a German historian embodying a tremendous
     amount of historical learning.

Elton, C. Origins of English History, London, Quaretch, 1870.
          Treats the very earliest age.

Freeman, E.A. History of the Norman Conquest, Oxford, Clarendon
     Press, 1875-79.
          Chapter III, Vol. I, has a value for its treatment of
     Saxon institutions. Freeman believed little change had
     taken place since Saxon times.

Giles, J. Life and Times of Alfred the Great, London, Bell,1848.
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Gummere, F.B Germanic Origins, New York, Scribners' Sons, 1892.
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        Fullest treatment of the Witan yet written.

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        Chapter I deals with the Saxon Period.

Lunt, W. History of England, New York, Harper, 1928.
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Maine, H.J.S.Ancient Law, New York, 1873.
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Maitland, F.W. Domesday Book and Beyond, Cambridge, University
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        Economic study of the eleventh century conditions.

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            A work of note in its day; now quite out-of-date.

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            The geneology tables are particularly good.

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    Greene and Company, 1896.
        Much of Seebohm's work has been discredited; however,
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than was imported in the keels of the Germanic invaders
did much to offset the distinctly Germanist interpreta-
tions of Stubbs and Kemble.

Seebohm, F. Tribal Custom in Anglo-Saxon Law, London, Longman,
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Stubbs, W. Constitutional History of England, Vol. I, Oxford,
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Petit-Dutailles' Studies throw light on some of the more
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        Today Turner's works cannot be considered as reliable
    secondary source material. Nevertheless these monumental
    volumes cannot be passed over by any student of Saxon his-
    tory. The section on the Witanagemot, Book VIII, Vol. II,
    is among the best accounts of the Witan to be found any-
    where. The treatment of Alfred the Great is hardly sur-
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