KING ALFRED'S BOOK OF LAWS

A Study of the *Domboc* and Its Influence on English Identity, with a Complete Translation

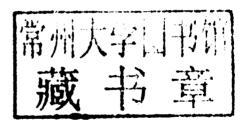
TODD PRESTON



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King Alfred's Book of Laws

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Preface

For students of the early Middle Ages, King Alfred is a figure who looms large at the intersection of literature and history. Most famously, Alfred is the ruler who brought learning back to England at the end of the ninth century after the depredations of decades of Viking invasion. As a result, analysis of Alfred's canon has focused heavily on his religious and philosophical texts, with his law code, or *Domboc*, receiving relatively scant notice until fairly recently. However, the *Domboc* is a fascinating text in itself, which can tell us a great deal about how Alfred ruled his people, and how he was perceived in subsequent centuries.

This book analyzes King Alfred's *Domboc* (literally "judgment-book") as an important foundation narrative for both the Anglo-Saxons and, later, the English. Alfred's text serves as a key illustration of the interconnected processes of forging royal, cultural, and national identities through legislation. Its goal is to delineate an Alfredian theory of law in the context of contemporary kingship literature. This will be accomplished by arguing that both the act and content of legislation are essential elements of kingship, instrumental in forging royal and national identities through political and ideological self-fashioning. In its analysis of the original incarnation of Alfred's *Domboc*, the study focuses on the prevalence and dominance of *bot* (compensatory feud) language throughout the text. In contrast to Alfred's received reputation as a thoroughly Christian king, the monarch's specific language choices in legislation forward royal and national images primarily identified by secular cultural forces.

This text also examines the influence of Alfred's law code following his death at the beginning of the tenth century. An investigation of the texts and contexts of the reappearance of Alfred's *Domboc* in the late eleventh and early twelfth centuries illuminates the role the *Domboc* plays in the formation and strategic invocations of national identity in the wake

of conquest. Law collections *I-II Cnut* (following the Danish conquest), and the *Instituta Cnuti* and the *Quadripartitus* (following the Norman conquest), use the *Domboc* to facilitate the transition to post-conquest rule and legitimize their dominion over the Anglo-Saxons. Conversely, the compilers of the twelfth-century *Textus Roffensis* employ the *Domboc*'s connection to an Anglo-Saxon past in an effort to confirm their pre-conquest claims to rights and holdings. In the sixteenth century, Protestant reformers use the *Domboc* to tie the English Church and English common law to an authorizing native past. Archbishop Matthew Parker's Protestant reform tract *A Testimonie of Antiquitie*, and William Lambarde's collection of English law, the *Archaionomia*, both employ the *Domboc* to link their religious and legal campaigns to validating Anglo-Saxon precedent.

In examining the texts and contexts surrounding the appearances of King Alfred's *Domboc* from its inception to its eventual publication in print, I have attempted to bring together the major voices in the fields of early English law and literature. However, one stumbling block I came across early in my studies was a lack of a complete English translation of the *Domboc* in a single source, which would include Alfred's entire prologue as well as the complete codes of Alfred and the appended law code of his royal forbear, King Ine. To help remedy that difficulty, the above analysis is followed by an unannotated diplomatic edition and translation of the text of the *Domboc* from Cambridge, Corpus Christi College 173, the earliest and one of the most complete manuscripts of the law-book. Not intended as a scholarly edition of the *Domboc*, this translation is meant only to serve as an initial ready reference to the contents of the law code.

As in any endeavor of this nature, both thanks and apologies are in order. As for thanks, many belong to my colleagues at the Pennsylvania State University and Lycoming College for their support in my writing of the manuscript, but the most belong to the unstinting encouragement of my wife and boys: Susan, Michael, and Jack. As for apologies, they are from me for any lapses in translation or interpretation in the following text, which are surely all my own.

Perhaps the most intimate picture we have of King Alfred's (871–899) practice of law comes from the Fonthill Letter. In the letter, the writer depicts Alfred hearing a legal case as "cing stod, ðwoh his honda, æt Weardoran innan don bur" ([the] king stood, [and] washed his hands, within the chamber at Wardour).2 This rather informal portrait of the king, hands dripping into a washbasin as he hears the particulars of the case, is key to understanding the way in which law functioned for Alfred, his people, and those who would claim Alfred's legal legacy in the future. Alfred's law, although part of an abstract continuum of legislation from a real or imagined past through the present and into the future, was also a living text, operating at the intersection of the regal and the commonplace. The Anglo-Saxons were a people of law, and that legislation had a direct connection to their lives. Moreover, Alfred not only refashioned this law in response to the distinct needs of his kingship and his people in his *Domboc*, or lawbook, but his legislation was also recontextualized and redeployed by those who came after the Anglo-Saxons for their own particular purposes. As David Pratt notes of the king, "every age has reinterpreted his ninth-century memory" (Political Thought 1) to suit their own purposes or needs. Alfred's stature as a ruler and as a symbol of Anglo-Saxon ideals and culture therefore makes him and his *Domboc* a productive locus for an inquiry into the function of Anglo-Saxon lawmaking for both the Anglo-Saxons themselves as well as their cultural and political heirs.

Whereas previous studies of the literary canon of Alfred, King of Wessex have focused on his translations of, and prefaces to, such texts as Pope Gregory's *Regula pastoralis* and Boethius' *Consolation of Philosophy*, an investigation of Alfred's *Domboc* shows the important role the text plays in defining both king and kingdom.³ Historically, scholars have generally undervalued the *Domboc* as a crucial element of the king's canon.⁴ How-

ever, an analysis of the contents and uses of King Alfred's law-book will demonstrate that the *Domboc* was an important source of cultural identity for the Anglo-Saxons and, eventually, the English as a nation. To this end, the *Domboc* will be examined as a literary text in a series of significant historical contexts: the late ninth century, the twelfth century, and the late sixteenth century.

The late ninth century was the period of Alfred's reign and the initial inscription of the *Domboc*, which most likely dates to within three or four years on either side of the year 890. ⁵ The text consists of a historical preface, Alfred's complete law code, and the appended law code of Ine (688–726). In this original incarnation of the text, the *Domboc* operates as a foundation narrative for the Anglo-Saxons as both a legislative product of Alfred's kingship and an expression of Anglo-Saxon culture. Positioning the king as the ultimate arbiter of Anglo-Saxon legislation, the text presents legislation as a means to recount the religious and political origins of the Anglo-Saxon people while providing a set of laws representative of their culture's core values. A close reading of the *Domboc* reveals the concept of financial compensation, represented through the Anglo-Saxon term *bot*, to be an important marker of Anglo-Saxon cultural identity. Investigating the role of *bot* in the laws is central to an understanding of the text's function as a cultural and political statement of national identity.

The link between the law-book and national identity forms the basis for the *Domboc*'s reappearance in the late eleventh and early twelfth centuries. The importance of this period to the present study hinges upon *Domboc*'s utility in the wake of conquest. Both the Danish conquerors of the eleventh century and the Norman conquerors of the twelfth century seized upon the *Domboc* as a text linking legislation to an authorizing past. They used the law-book to legitimize their respective claims to rule. Cnut (1016–1035), for example, initiates his reign over the Anglo-Saxons by issuing a law code (*I-II Cnut*) containing excerpts of Alfred's *Domboc*. This legislative correlation of Cnut's rule with that of the earlier Anglo-Saxons ameliorated the shock of conquest and legitimized the new king's rule through association with the Anglo-Saxon royal line.

Anglo-Normans of the twelfth century followed the Danish example of post-conquest legislation by issuing the *Instituta Cnuti* (c. 1080), which collected and expanded upon *I-II Cnut*, including yet more excerpts from the *Domboc* to again tie the current administration to an Anglo-Saxon precedent. The entire text of the *Domboc* also surfaced in Norman legal

encyclopedias of the time, such as the *Quadripartitus* (c. 1100), in an effort to establish the continuity of rule from Anglo-Saxon to Norman administrations. Yet the conquered native Old English speaking scribes of the twelfth century also reproduced Alfred's law-book in combination with other legal and historical texts in an effort to legitimize both real and spurious pre-conquest claims to rights and holdings. Such was the case of Rochester Priory's *Textus Roffensis* (c. 1123), a manuscript combining a legal encyclopedia, royal genealogy, and cartulary with the aim of bolstering the priory's claims to pre-conquest entitlements.

However, foreign conquest has not been the only impetus to reproduce the *Domboc*. The late sixteenth century marks the first time Old English texts, and Alfred's law in particular, came into print (as opposed to earlier manuscript transmissions). The impetus for printing Alfred's laws was the transfer of English royal power from the Catholic Mary I (1553–1558) to the Protestant Elizabeth I (1558–1603). At this time the *Domboc* appeared in both a religious tract, Archbishop Parker's *A Testimonie of Antiquitie* (1566), and also a legal encyclopedia, William Lambarde's *Archaionomia* (1568). This re-emergence of the *Domboc* signals the significant role Alfred's text played in invoking a connection to Anglo-Saxon roots in the negotiation of English national identity during the Reformation.

At each of these points on the timeline, Alfred's *Domboc* served particular literary, cultural, political, and religious ends. Each new audience and regime used the *Domboc* to its own best advantage. As such, the text provides a window on the way law functions in the creation and maintenance of governmental administrations. Further, Alfred's *Domboc* can serve as a point of entry into the relationship between legal texts and authority, as the law code significantly participates in the establishment of royal and ecclesiastical legitimization. An investigation of the law code offers insight into a kind of secular, royal authority that is not entirely negotiated through Carolingian models of kingship, nor completely mediated by Christianity.⁶ Rather, the significant redeployments of the laws help to define an important aspect of English rule: the making and perpetuation of a perceived native/indigenous Germanic approach to Anglo-Saxon royal authority.⁷

The *Domboc*, therefore, functions as a foundation narrative through the interconnected processes of forging both royal and national identities. As such, legislation is a means by which a king can forward an image of himself and his realm, establishing both the social order as well as an identity

for himself and his subjects. As Pratt helpfully summarizes, "Law as written text gave force to shared identity, in multiple accounts of ethnic or corporate unity" (Political Thought 215). This process of self-identification depends upon both the larger action of enacting legislation and the particulars of that legislation's content. Subsequently, an examination of the significant occasions of the Domboc's textual history (its earliest manuscript context, its redeployment following the Danish and Norman conquests, and its first appearance in print in the sixteenth century), demonstrates how people reproduced the Domboc to serve particular social, political, and institutional ends contingent upon that identifiably Anglo-Saxon national identity. In essence, the Domboc emerges as a document that is continually used as part of a project to reconfigure an English/Anglo-Saxon national identity that is both drawn from the past even as it is shaped by contemporary circumstances.

To best understand the *Domboc*'s functions over the years, it is necessary to consider a number of fundamental problems in the study of Anglo-Saxon laws. First, legal historians usually agree that laws were recorded as part of a dispute or issue that demanded the restatement of an existing verbal statute, or as a summation of unwritten conventions.⁸ Therefore, the extant laws do not represent a complete code, but only a record of those laws demanding special attention. However, this model of legislation is only partial. It does not obviate the political function of the issuing of a law code. Disseminating his law code was a significant political act that helped to secure Alfred's place among great English kings.⁹ Even when a law code was inscribed as an adjunct to unwritten norms, its very inscription served as a powerful political statement.

Further, of those laws that were put into writing, the codes either do not necessarily agree with one another or are now represented only by fragments. In some cases, complete codes are lost from the existing manuscript record, even though their prior existence is recognized in surviving documents. Additionally, these remaining codes and fragments are not necessarily the initial, legal recordings of the laws directly from a ruler or legislative body. Rather, both time and place separated these laws from their probable royal or legislative inception. Moreover, the extant laws are copies that were generally produced and stored at religious houses, not legislative institutions. They were also usually copied a good deal later than the enactment or inscription of their exemplars. Anything said about Anglo-Saxon law codes must be tentative in light of these difficulties.

All of the above caveats certainly apply to the study of Alfred's law code. However, these difficulties do not necessarily preclude an interpretation of the significance of the *Domboc*'s production and reproductions. The fact that its extant laws may not reflect the complete written and oral record of the laws of Alfred's reign, in fact, may provide important clues as to what kinds of law carried enough import to be committed to the relatively costly vehicle of manuscript inscription. In the same vein, the preservation of entire or partial codes over time can serve as testimony not only to the serendipity of manuscript survival, but also to the significance of some of their contents or overarching ideology.

Alfred's *Domboc*, for example, survived the centuries at least partly due to multiple copying (nineteen extant manuscripts). These manuscript copies of the *Domboc* appear, however, specifically in centuries marked by conquest or substantial internal changes that threaten cultural cohesiveness. When the culture is challenged, from within or without, the law-book, as a cultural icon, serves as a link to a common ancestry that provides continuity for the conquered and stability for the secular and clerical leaders wielding the text. Finally, the preservation of the surviving manuscripts in ecclesiastical settings highlights the importance of the content of the text even while it clarifies the relationships between sacred and secular authorities, emphasizing the co-dependence of one upon the other.

The *Domboc* contains laws of both clerical and secular concern. The text begins with an Old English translation of large sections from the Decalogue (Exodus 20:1–17, 23). Sections of the Book of the Covenant (Exodus 21:2–16, 18–22:11, 16–29, 31–23:9) follow, expanding on material in the Decalogue. These sections are followed by Alfred's history of the law of God as it passed from Moses to Christ, from Christ to the apostles, and finally from the apostles to holy bishops and wise men. Alfred then tells how secular rulers adapted these laws and how he "togædere gegaderode" (gathered together) (*Af El.* 49.9) the laws of which he and his councillors approved.

The laws gathered in the *Domboc* are primarily concerned with managing disruptions of the social order through conditional restitution. Most establish the payment for compensation in an if-then formula. For example: "Gif hwa ymb cyninges feorh sierwe [...] sie he his feores scyldig 7 ealles þæs ðe he age" (If anyone plots against the king's life [...] let him be liable of his life and all that he owns) (*Af.* 4). Fully half of the laws pertain to specific bodily injuries: "Gif him mon aslea oþer eare of, geselle

XXX scill. to bote" (If a man strikes off another man's ear, give 30 shillings to compensate) (Af. 46). Alfred follows his laws with the laws of another West Saxon king, Ine. Alfred likely includes Ine's laws in the *Domboc* because of the source and content of the older law code. As opposed to earlier extant Kentish laws like those of Æthelberht (reigned 560–616) or Wihtræd (reigned 691–725), Ine's code is a West Saxon law code, just like Alfred's. As such, its inclusion is in keeping with Alfred's interest in authorizing origins. Moreover, the content of Ine's code complements Alfred's laws.

Most of Ine's code has the same conditional if-then structure as Alfred's laws, with perhaps more of an emphasis in content on theft and managing slaves. For example: "Gif hwa stalie, swa his wif nyte 7 his bearn, geselle LX scill. to wite. Gif he ðonne stalie on gewitnesse ealles his hierdes, gongen hie ealle on ðeowot" (If anyone steals without his wife and children knowing, he pays 60 shillings to the king. If he then steals with his whole household knowing, they all go into slavery) (*Ine* 7–7.1). Ine's laws, then, serve as an appropriate complement to Alfred's law code in both form and content.

In addition to its content, the *Domboc*'s manuscript history also helps to illustrate the function of Alfred's law-book over time. Of Alfred's laws in Old English, six extant manuscripts survive:

- Cambridge, Corpus Christi College 173 (the "Parker Chronicle")
- Cambridge, Corpus Christi College 383
- London, British Library Cotton Nero A. i
- · London, British Library Cotton Otho B. xi
- London, British Library Burney 277
- Rochester Cathedral Library A. 3. 5 (the Textus Roffensis)13

Additionally, Alfred's law code was twice translated into Latin:

- Instituta Cnuti III¹⁴
 - Rochester Cathedral Library A. 3. 5
 - London, British Library Cotton Titus A. 27
 - Paris, Bibliothèque Nationale, Colbert 3,860
 - Oxford, Bodleian, Rawlinson C. 641
- Quadripartitus15
 - London, British Library Cotton Domitian viii
 - London, British Library Royal 11.B.ii

- London, British Library Additional 49366
- London, British Library Cotton Titus A.xxvii
- Manchester, John Rylands Library, Lat 420
- London Collection¹⁶
 - ★ London, British Library Cotton Claudius D.ii
 - ★ Manchester, John Rylands Library, Lat 155
 - ★ Cambridge, Corpus Christi College MSS 70+258
 - ★ Oxford, Oriel College, 46

The extant manuscripts of the Old English text give testament to the varied survivals of the law code. Cambridge, Corpus Christi College (CCCC) 173, the *Parker Chronicle*, contains the earliest copy of the law code (c. 890–1000), and is one of the two complete manuscript versions, including all 120 sections, as numbered in the manuscripts. The only other manuscript to contain a complete copy is Rochester A.3.5, the *Textus Roffensis*, the latest copy of the laws (c. 1122). Aside from these two complete texts, the *Domboc*'s textual life was more troubled.

British Library (BL) Cotton Otho B. xi, for example, was severely damaged in the Cotton Library fire of 1731. Luckily, its readings were salvaged thanks to a mid-sixteenth-century transcription by Laurence Nowell. BL Cotton Nero A. i. contains only the capitula to the laws. CCCC 383 contains, as numbered in the manuscripts, Alfred's law sections 4 (partial) through 37 (partial) and sections 39 (partial) through the end of Alfred's code (section 43). This manuscript also preserves Ine's code in its entirety. Finally, BL Burney 277 contains the very end of Ine's prologue (section 44) through Ine's law section 47 (partial). BL Burney 277 should be considered a manuscript of Alfred's laws, even though it contains only a segment of Ine's code, as Ine's code is known elsewhere only through its transmission with Alfred's law code. These fragmentary survivals of Alfred's law-book in Old English show the susceptibility of early texts to the ravages of time.

Yet Alfred's *Domboc* had an added bulwark against the vagaries of manuscript survival: its reproduction in Latin legal compilations. Just as Alfred chose "þa ðe me ryhtoste ðuhton, ic þa heron gegaderode" (those [laws] that seemed to me the rightest, [and] I gathered together those [laws] herein) (49.9), so the compilers of the Latin *Quadripartitus* and the *Instituta Cnuti* gathered Alfred's law code into their own.²³ Of course, the interpretation of a compilation can be problematic. Just as there is a ques-

tion as to what role Alfred himself played in the actual writing of the texts attributed to him, so there needs to be caution in assuming that the various compilations of his law code reflect a single, identifiable intelligence.²⁴ The governing methodologies behind the compilation of a given manuscript can range from "grab bags, with texts [...] collected and copied into a manuscript for no discernable reason" to texts where "there clearly is an organizational principle behind the arrangement of texts in an Old English codex" (F. C. Robinson 23–24).

To interpret every collocation of texts as necessarily meaningful is as dubious as ignoring the possibilities of codicological commentary. Especially in its Latin incarnations, Alfred's code coexists with other legal codes in a way that begs comparison with them. His *Domboc* is presented in its entirety in all the *Quadripartitus* manuscripts, with the exceptions of John Rylands Library, MS Lat 420, and Cotton Domitian viii. The latter manuscript is incomplete, ending after only one quire in the midst of Alfred's code. The former lacks its initial two quires, picking up the text with Ine's code as appended to Alfred's.²⁵ In both cases, it may be safe to assume the remainder of Alfred's code would be found in the missing quires. Alternately, Alfred's laws are more selectively incorporated into the *Instituta Cnuti*, suggesting the compiler's focus on particular laws over wholesale reproduction of the text.

The specific content of the laws plays an important function in defining Alfred's role as king and the identity of his realm. Therefore, an examination of the laws both as a cohesive whole and as individual statutes will demonstrate their significance in the fashioning of Alfred's kingship. Further, such an investigation of this legislation's manuscript contexts and initial print incarnations will show their link to contemporary and subsequent ideas of West Saxon and English national identities.

A close examination of the manuscripts of the codes and their subsequent redeployments can help to reveal the implied associations between legal material and clerical, genealogical, and historical narratives. Thus, the law code can be seen to be working both within and against traditional conceptions of genre, revealing the possible forms and functions of early medieval prose more fully. More specifically, such an investigation can trace the function of legislation through its hybrid literary and official employments of the vernacular. The law code, in this fashion, serves as a nexus of language and ideology. This intersection accounts for Alfred's continued portrayal as a kind of Anglo-Saxon Renaissance man, as

anachronistic a label as it may be, while simultaneously demanding a closer appraisal of the historical moment in which this work was compiled. In turn, a closer appraisal must also be made of the continuing invocations of that historical moment over the centuries. Finally, an inquiry into the presentation of the laws of King Alfred can explain how their several representations figure in the continuing negotiations of an English national, cultural, and literary identity.

Accordingly, the first chapter provides contexts for the subsequent reading of the *Domboc* by examining the intersections of kingship, law, and national identity in ninth-century Wessex, the time of its creation and original inscription. For Alfred, lawmaking is more than the mere codification of legal statutes. Both the act and the content of legislation are essential functions of kingship, instrumental in forging royal and national identities. Alfred's debt to both native and continental models of kingship emphasizes the codification of law as an essential function of kingship. Comparisons of Alfred's Domboc to Bede's Historia ecclesiastica, Asser's Vita Alfredi, Einhard's Vita Karoli, the Old English Exodus, and earlier Anglo-Saxon legislation illuminate the model of royal legislation Alfred tries to forward in his text. The codification of law in the Domboc emerges as having both specific political and ideological functions. Politically, the Domboc establishes the king's administrative station and governmental function. Ideologically, the Domboc forwards a West-Saxon national identity dependent upon a Mosaic model of covenant.

The next chapter shows that Alfred's *Domboc* is primarily indebted to the secular cultural practice of adjudication dependent upon the *bot* system. This is a system of compensation based on remuneration for social transgressions. The *Domboc* builds a cumulative case for the importance of Anglo-Saxon cultural practice to Alfred's kingship and kingdom, as evidenced by the pervasive use of the language of *bot*. Alfred translates portions of the Old and New Testaments in terms of the *bot* system. He also reconciles the cultural roles of lord and king through the mechanics of the *bot* system. His dependence upon the *bot* system in legislation also mediates his relationship to prior rulers as legislators. This reliance upon a culturally identifiable Anglo-Saxon form of jurisprudence lays the foundation for future incarnations of the text.

The third chapter investigates the reappearance of Alfred's *Domboc* in the late eleventh and early twelfth centuries, illuminating the role the *Domboc* plays in the formation and strategic invocations of national iden-

tity. Alfred's promotes a West-Saxon national identity through his use of kingship and kinship terminology in the text's historical preface. This may explain why the *Domboc*, in whole or in part, appears in the laws of Cnut (*I-II Cnut*), William the Conqueror (reigned 1066–87) (*Instituta Cnuti*), and Henry I (reigned 1100–35) (*Quadripartitus*) following the Danish and Norman conquests of the Anglo-Saxons. The representation of the king and his realm through their specific connection to an Anglo-Saxon national identity is in turn employed by these later rulers as a legitimizing link to a native royal authority. Finally, the case of Rochester Cathedral's *Textus Roffensis* serves as an example of the reproduction of Alfred's *Domboc* for specific institutional ends that are contingent upon the text's expression of a legitimizing national identity.

The final chapter provides an analysis of the circumstances surrounding the *Domboc's* first appearances in print, excerpted in Matthew Parker's 1566 A Testimonie of Antiquitie and printed fully in William Lambarde's 1568 Archaionomia. Parker's and Lambarde's texts are two of a number of reproductions of Anglo-Saxon texts executed by the archbishop's circle in the mid-1560s that directly participate in the formation of a Protestant English national identity. Through the transcriptions and editions of the archbishop and his circle, these men invoke Alfred's law code in the interests of redefining the English nation by recalling the king's connection to a native legitimizing authority.

Parker's main project in the *Testimonie* is to foster the study of early English history and language in an effort to reinforce the foundations of the recently established Church of England. Thus, his collection includes texts that serve as both religious inspiration and nationalistic propaganda. The *Domboc* extract is instrumental in this effort and should be read in this context as a conduit through which a particularly Anglo-Saxon royal authority is called upon at a critical juncture of the redefinition of English national identity. Both Lambarde and Parker reproduce the text to supply their countrymen with a link to an authorizing native past. For Parker, that link is to the practices of the early English Church that coincide with Protestant doctrine. For Lambarde, the *Domboc* supplies a connection to early English law, emphasizing the native legislation over a Roman model. Both translator-editors manipulate the text in the service of promoting a specific Anglo-Saxon cultural heritage for the religion and law of Elizabethan England.

Alfred's Domboc, then, emerges as a critical element of the king's